



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
BOARD OF DENTAL PRACTICE  
143 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0143

## TELEDENTISTRY STAKEHOLDER MEETING AGENDA

March 25, 2022

**Location:**

In accordance with Title 1, Section 403-B of the Maine Revised Statutes and the [Board Member Remote Participation Policy](#) adopted by the Board on September 10, 2021, board members may participate remotely in meetings under certain circumstances and using certain methods of remote participation.

On February 1, 2022, the Board Chair issued an Emergency Declaration whereby due to circumstances described in the declaration for this meeting to be held remotely. There will be no physical location where members of the public may attend this meeting, however, members of the public may attend the meeting remotely via Zoom as it has successfully done since April 2020.

Information to listen in to this meeting will be posted on the Board's website at: <https://www.maine.gov/dental/board-information/board-meetings.html>

**Time:**

9:00 a.m. – 12:00 p.m.

**Contact:**

Phone: 207-287-3333  
TTY Users Call Maine Relay 711  
E-mail: [dental.board@maine.gov](mailto:dental.board@maine.gov)

- I. Convene Stakeholder Meeting
- II. Introduction of Participants
- III. Identify Scope of Work and Timeline
- IV. Review Statutory Language (PL 2021, c. 233)
- V. Consider Teledentistry Resources
- VI. Discussion of Draft Language for Maine Teledentistry
- VII. Adjourn

**MAINE BOARD OF DENTAL PRACTICE**  
**TELEDENTISTRY STAKEHOLDER MEETING MATERIALS – MARCH 25, 2022**  
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# Maine Board of Dental Practice

## Stakeholder Participation Process for Teledentistry Pursuant to Public Law 2021, c. 223

March 25, 2022

### **I. Background**

During the 130<sup>th</sup> First Special Session, the Maine State Legislature enacted emergency legislation authorizing the use of teledentistry for dental professionals licensed under the Dental Practice Act which became effective June 16, 2021. In part, the enabling legislation provides:

#### **§18394. Teledentistry**

An individual licensed under this chapter may provide oral health care services and procedures authorized under this chapter or by rule using teledentistry. The board shall adopt by rule guidelines and practice standards for the use of teledentistry, including, but not limited to, practice requirements for protecting patient rights and protocols for referrals, quality and safety, informed consent, patient evaluation, treatment parameters, patient records, prescribing, supervision and compliance with data exchange standards for the security and confidentiality of patient information. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

In anticipation of proposing and adopting an agency rule in 2022, the Maine Board of Dental Practice (“the Board”) is convening a group of stakeholders to assist in identifying teledentistry guidelines and practice standards to ensure public safety and protection. The stakeholder meetings will be co-chaired by sitting members of the Board, and other participants will soon be identified to ensure appropriate stakeholder involvement.

### **II. Stakeholder Process – Role of Participants**

Individual participation in the Board’s stakeholder process is paramount to ensuring that a comprehensive and thorough dialogue regarding regulatory issues impacting dental professionals is achieved. To date, the use of stakeholder meetings has been positive, and it is the Board’s sincere hope that its work on teledentistry regulations will be as engaging and productive.

Below is a list of known stakeholders who have identified a commitment to work with the Board on teledentistry regulations:

Dr. Emily Scholl	Dental Board Member, Co-chair
Kathryn Walker Norris, RDH, EFDA	Dental Board Member, Co-chair
Dr. Heather Keeling	MDA, Representative
Lorraine Klug, RDH, IPDH	MDHA, Representative
Joe Adkins, Denturist	MLDA, Representative
Joleen Lee, RDH	UMA, Dental Hygiene Program

Dr. Albert Abena  
Marji Harmer-Beem, RDH, Director  
Becca Matusovich, Executive Director  
Dr. Kailee Williams  
Judy Feinstein, MSPH  
Courtney Vannah, IPDH, MS, MPH  
Beth Pearce, Oral Health Program Manager  
Diane Johanson, Legislative Liaison  
Bonnie Vaughan, IPDH, MEd, MBA

UNE, Dental Doctoral Program  
UNE, Dental Hygiene Program  
Partnership for Children’s Oral Health  
Community Dental Center, Waterville  
Maine Oral Health Coalition  
Medical Care Development, Inc.  
Maine Primary Care Association  
Preti Flaherty

Board of Dental Practice Staff

Penny Vaillancourt, Executive Director  
Teneale Johnson, Executive Secretary

**III. Scope of Work – Discussion/Identify Issues**

The stakeholder meetings are designed to solicit discussion, comments and recommendations from participants to be forwarded to the Board for consideration as part of its rulemaking process specific to adopting regulations governing the use of teledentistry.

Board staff will disseminate, collect and draft documents for review and discussion in advance of each stakeholder meeting. A draft document outlining the discussion, comments and recommendations will be presented to the stakeholder group prior to submitting to the Board for consideration.

All stakeholder meetings will be conducted in public using the platform Zoom which will be made available to the public and all participants.

**IV. Proposed Timeline of Stakeholder Work**

- |  |   |
|--|---|
| A. March 25 <sup>th</sup> and April 1, 2022: | Stakeholder meetings                        |
| B. April 15 and/or May 20, 2022:             | Presentation to the Board on Recommendation |
| C. May – July, 2022                          | APA Rulemaking Process                      |

STATE OF MAINE

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TWO THOUSAND TWENTY-ONE

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H.P. 42 - L.D. 76

**An Act To Amend the Dental Practice Act To Define "Supervision" and  
Authorize Teledentistry**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, the sole purpose of the Board of Dental Practice is to protect the public health and welfare by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency; and

**Whereas**, pursuant to Public Law 2019, chapter 388, section 11, the Board of Dental Practice issued a legislative report dated January 31, 2020, making recommendations to further revise the Dental Practice Act by revising existing supervision and scopes of practice provisions, to consider technological advances such as the use of teledentistry to provide greater flexibility in the delivery of dental services and to improve access to dental care in Maine; and

**Whereas**, LD 2146, An Act To Implement the Recommendations of the Board of Dental Practice Related to the Definitions of "Supervision" and "Teledentistry," was introduced during the Second Regular Session of the 129th Legislature, but was not enacted due to the existing state of civil emergency due to the COVID-19 pandemic; and

**Whereas**, substantive policy decisions such as authorizing the use of teledentistry and refining scopes of practice, including levels of supervision, are appropriate for the legislative process, not an administrative rule-making process; and

**Whereas**, immediate enactment of this legislation is necessary to authorize dental professionals to fully exercise their scopes of practice and use available technologies to provide care; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 32 MRSA §18302, sub-§18**, as enacted by PL 2015, c. 429, §21, is amended to read:

**18. Direct supervision.** "Direct supervision" means the supervision required ~~by the board by rule~~ of those tasks and procedures requiring the physical presence of the supervisor in the practice setting at the time such tasks or procedures are being performed. In order to provide direct supervision of patient treatment, the supervisor must at least identify or diagnose the condition to be treated, and authorize the treatment procedure prior to implementation and examine the condition after treatment and prior to the patient's discharge.

**Sec. 2. 32 MRSA §18302, sub-§22**, as enacted by PL 2015, c. 429, §21, is amended to read:

**22. General supervision.** "General supervision" means the supervision ~~required by the board by rule~~ of those tasks and procedures ~~when that do not require~~ the physical presence of the supervisor ~~is not required~~ in the practice setting while procedures are being performed but do require the tasks and procedures to be performed with the prior knowledge and consent of the supervisor.

**Sec. 3. 32 MRSA §18302, sub-§35** is enacted to read:

**35. Supervision.** "Supervision" means either direct supervision or general supervision as determined by the tasks and procedures that are being performed in accordance with this chapter.

**Sec. 4. 32 MRSA §18302, sub-§36** is enacted to read:

**36. Supervisor.** "Supervisor" means an individual licensed by the board and authorized to provide supervision under this chapter.

**Sec. 5. 32 MRSA §18302, sub-§37** is enacted to read:

**37. Teledentistry.** "Teledentistry," as it pertains to the delivery of oral health care services, means the use of interactive, real-time visual, audio or other electronic media for the purposes of education, assessment, examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by individuals licensed under this chapter and includes synchronous encounters, asynchronous encounters, remote patient monitoring and mobile oral health care in accordance with practice guidelines specified in rules adopted by the board.

**Sec. 6. 32 MRSA §18342, sub-§6, ¶D**, as enacted by PL 2015, c. 429, §21, is amended to read:

D. A statement from the ~~sponsoring~~ supervising dentist that demonstrates that the level of supervision and control of the services to be performed by the applicant are adequate and that the performance of these services are within the applicant's dental knowledge and skill.

**Sec. 7. 32 MRSA §18371, sub-§2, ¶E**, as enacted by PL 2015, c. 429, §21, is amended to read:

E. An individual with a resident dentist license may provide dental services only under the supervision of ~~the sponsoring a~~ a dentist and in accordance with the level of supervision and control for which the license was issued by the board.

**Sec. 8. 32 MRSA §18371, sub-§3**, as amended by PL 2017, c. 388, §15, is repealed and the following enacted in its place:

**3. Delegation authorized.** A dentist may delegate to an unlicensed person or a licensed person activities related to dental care and treatment that are delegated by custom and usage as long as those activities are under the supervision or control of the dentist. A dentist who delegates activities to an unlicensed person as described is legally liable for the activities of that unlicensed person and the unlicensed person in this relationship is considered the dentist's agent.

**Sec. 9. 32 MRSA §18371, sub-§4**, as amended by PL 2017, c. 288, Pt. A, §35, is further amended to read:

**4. Delegation not authorized.** A dentist may not delegate any dental activity not listed in subsection 3 or 6 to an unlicensed person activities related to dental care or treatment that require a license under this chapter. A dentist may not delegate to a licensed person activities related to dental care or treatment that are outside the scope of practice of that licensed person.

**Sec. 10. 32 MRSA §18373, sub-§1**, as amended by PL 2017, c. 388, §17, is further amended to read:

**1. Scope of practice; direct supervision.** An expanded function dental assistant may perform under the ~~direct~~ general supervision of a dentist all of the activities that may be delegated by a dentist to an unlicensed person pursuant to section 18371, subsection 3, ~~paragraph C.~~ An expanded function dental assistant may also perform the following activities authorized under the ~~direct~~ general supervision of a dentist:

- A. Apply cavity liners and bases as long as the dentist:
  - (1) Has ordered the cavity liner or base; and
  - (2) Has checked the cavity liner or base prior to the placement of the restoration; and
  - (3) ~~Has checked the final restoration prior to patient dismissal;~~
- B. Apply pit and fissure sealants after an evaluation of the teeth by the dentist at the time of sealant placement;
- C. Apply supragingival desensitizing agents to an exposed root surface or dentinal surface of teeth;
- D. Apply topical fluorides recognized for the prevention of dental caries;
- E. ~~Cement provisional or temporary crowns and bridges and remove excess cement;~~
- F. ~~Perform pulp vitality tests;~~
- G. Place and contour amalgam, composite and other restorative materials prior to the final setting or curing of the material;
- I. Place and remove gingival retraction cord;
- K. Size, place and cement or bond orthodontic bands and brackets with final inspection by the dentist;

~~L. Supragingival polishing.—A dentist or a dental hygienist must first determine that the teeth to be polished are free of calculus or other extraneous material prior to polishing. Dentists may permit an expanded function dental assistant to use only using a slow-speed rotary instrument and rubber cup.—Dentists may allow an expanded function dental assistant to use high-speed, power-driven handpieces or instruments to contour or finish newly placed composite materials; and~~

~~M. Obtain impressions for athletic mouth guards, provisional or temporary crowns and bridges.~~

HH. Contour or finish restorative materials using a high-speed, power-driven handpiece or instrument.

**Sec. 11. 32 MRSA §18373, sub-§2**, as amended by PL 2017, c. 388, §17, is repealed.

**Sec. 12. 32 MRSA §18374**, as amended by PL 2017, c. 388, §§18 and 19, is further amended to read:

**§18374. Dental hygienist**

**1. Scope of practice; direct supervision.** A dental hygienist and faculty dental hygienist may perform the following ~~procedures~~ under the direct supervision of a dentist:

A. Administer local anesthesia or nitrous oxide analgesia, as long as the dental hygienist or faculty dental hygienist has authority to administer the relevant medication pursuant to section 18345, subsection 2, paragraph D or E;

~~B. Irrigate and dry root canals;~~

~~C. Record readings with a digital caries detector and report them to the dentist for interpretation and evaluation;~~

~~D. Remove socket dressings;~~

~~E. Take cytological smears as requested by the dentist; and~~

~~F. Obtain impressions for nightguards and occlusal splints.~~

**2. Scope of practice; general supervision.** A dental hygienist and faculty dental hygienist may perform under the general supervision of a dentist all of the activities that may be delegated to an unlicensed person pursuant to section 18371, subsection 3, ~~except the activities in section 18371, subsection 3, paragraph C, subparagraphs (6), (17) and (19).~~ A dental hygienist and faculty dental hygienist may also perform the following procedures under the general supervision of a dentist:

A. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse;

C. Apply desensitizing agents to teeth;

D. Apply fluoride to control caries;

F. Apply sealants;

J. Expose and process radiographs;

~~O. Interview patients and record complete medical and dental histories;~~



- ~~R. Obtain bacterial sampling when treatment is planned by the dentist;~~
- S. Perform all procedures necessary for a complete prophylaxis, including root planing;
- U. Perform complete periodontal and dental restorative charting;
- X. Perform oral inspections, recording all conditions that should be called to the attention of the dentist;
- ~~Y. Perform postoperative irrigation of surgical sites;~~
- ~~CC. Place and remove gingival retraction cord without vasoconstrictor;~~
- GG. Place localized delivery of chemotherapeutic agents when treatment is planned by the dentist;
- JJ. Place temporary restorations as an emergency procedure, as long as the patient is informed of the temporary nature of the restoration; and
- ~~LL. Prepare tooth sites and surfaces with a rubber cup and pumice for banding or bonding of orthodontic brackets. This procedure may not be interpreted as a preparation for restorative material;~~
- TT. Smooth and polish amalgam restorations; and
- ~~VV. Obtain impressions for study casts, athletic mouth guards, custom trays, bleaching trays, fluoride trays, opposing models, retainers and stents.~~

**3. Limitation.** An individual with a faculty dental hygienist license may provide the services described in this section only as part of the education program for which the license was issued by the board.

**Sec. 13. 32 MRSA §18377, sub-§1,** as amended by PL 2019, c. 388, §10, is further amended to read:

**1. Scope of practice.** A dental therapist may perform the following procedures in limited practice settings, if authorized by a written practice agreement with a dentist licensed in this State pursuant to subsection 3.

- A. To the extent permitted in a written practice agreement, a dental therapist may provide the care and services listed in this paragraph only under the direct supervision of the supervising dentist:
  - (1) Perform oral health assessments, pulpal disease assessments for primary and young teeth, simple cavity preparations and restorations and simple extractions;
  - (2) Prepare and place stainless steel crowns and aesthetic anterior crowns for primary incisors and prepare, place and remove space maintainers;
  - ~~(3) Provide referrals;~~
  - (4) Administer local anesthesia and nitrous oxide analgesia;
  - ~~(5) Perform preventive services;~~
  - (6) Conduct urgent management of dental trauma, perform suturing, extract primary teeth and perform nonsurgical extractions of periodontally diseased permanent teeth if authorized in advance by the supervising dentist; and

(7) Provide, dispense and administer anti-inflammatories, nonprescription analgesics, antimicrobials, antibiotics and anticaries materials;

(8) ~~Administer radiographs; and~~

(9) ~~Perform other related services and functions authorized by the supervising dentist and for which the dental therapist is trained.~~

B. To the extent permitted in a written practice agreement, a dental therapist may provide the care and services ~~listed in~~ identified in section 18371, subsection 3 and section 18374, subsections 1 and 2 under the general supervision of the supervising dentist.

**Sec. 14. 32 MRSA §18394** is enacted to read:

**§18394. Teledentistry**

An individual licensed under this chapter may provide oral health care services and procedures authorized under this chapter or by rule using teledentistry. The board shall adopt by rule guidelines and practice standards for the use of teledentistry, including, but not limited to, practice requirements for protecting patient rights and protocols for referrals, quality and safety, informed consent, patient evaluation, treatment parameters, patient records, prescribing, supervision and compliance with data exchange standards for the security and confidentiality of patient information. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

STATE OF MAINE

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S.P. 50 - L.D. 791

**An Act Regarding Telehealth Regulations**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** in response to COVID-19, the Governor has declared a state of civil emergency and, pursuant to that proclamation, the Governor has issued an executive order authorizing licensed health care providers to provide telehealth services until the end of the state of civil emergency; and

**Whereas,** this legislation permits licensed health care providers to provide telehealth services on an ongoing basis as long as they act within the scope of practice of their licenses in accordance with any requirements and restrictions imposed by law and in accordance with standards of practice; and

**Whereas,** this legislation authorizes the licensing boards for these health care providers to adopt rules to establish standards of practice and restrictions for telehealth services; and

**Whereas,** it is important that this legislation take effect as soon as possible so that the rules can be adopted in an expedient manner; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**PART A**

**Sec. A-1. 22 MRSA §3173-H, sub-§1, ¶D,** as amended by PL 2019, c. 649, §1, is further amended to read:

D. "Telehealth," as it pertains to the delivery of MaineCare services, means the use of ~~interactive visual and audio or other electronic media for the purpose of consultation and education concerning and diagnosis, treatment, care management and self-management of a patient's physical and mental health~~ information technology and

~~includes real-time interaction between the patient and the patient's provider, electronic consultation between health professionals regarding the patient, synchronous encounters, asynchronous encounters, store and forward transfers and remote patient monitoring. "Telehealth" includes telephonic services when interactive telehealth services are unavailable or when a telephonic service is medically appropriate for the underlying covered service telemonitoring.~~

**Sec. A-2. 22 MRSA §3173-H, sub-§1, ¶E**, as amended by PL 2019, c. 649, §1, is further amended to read:

E. "Telemonitoring," as it pertains to the delivery of MaineCare services, means the use of information technology to remotely monitor a patient's health status via electronic means ~~through the use of clinical data while the patient remains in a residential setting~~, allowing the provider to track the patient's health data over time. ~~Telemonitoring may or may not take place in real time~~ be synchronous or asynchronous.

**Sec. A-3. 22 MRSA §3173-H, sub-§6** is enacted to read:

**6. Consent for telehealth and telemonitoring services.** A patient may provide verbal, electronic or written consent for telehealth and telemonitoring services under this section.

**Sec. A-4. 24-A MRSA §4316, sub-§1**, as amended by PL 2019, c. 649, §3, is further amended to read:

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Mobile health device" means a wearable device used to track health and wellness, including, but not limited to, a heart rate and respiratory monitor, an electrocardiogram monitor and a glucose monitor.

A-1. "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as amended.

B. "Store and forward transfers" means transmission of an enrollee's recorded health history through a secure electronic system to a provider.

B-1. "Asynchronous encounters" means the interaction or consultation between an enrollee and the enrollee's provider or between providers regarding the enrollee through a system with the ability to store digital information, including, but not limited to, still images, video, audio and text files, and other relevant data in one location and subsequently transmit such information for interpretation at a remote site by health professionals without requiring the simultaneous presence of the patient or the health professionals.

B-2. "Synchronous encounters" means a real-time interaction conducted with interactive audio or video connection between an enrollee and the enrollee's provider or between providers regarding the enrollee.

C. "Telehealth," as it pertains to the delivery of health care services, means the use of ~~interactive real-time visual and audio or other electronic media for the purpose of consultation and education concerning and diagnosis, treatment, care management and self-management of an enrollee's physical and mental health~~ information technology

and includes ~~real-time interaction between the enrollee and the telehealth provider, synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring. "Telehealth" does not include the use of audio-only telephone, facsimile machine, e-mail or texting.~~

D. "Telemonitoring," as it pertains to the delivery of health care services, means the use of information technology to remotely monitor an enrollee's health status via electronic means ~~through the use of clinical data while the enrollee remains in a residential setting,~~ allowing the provider to track the enrollee's health data over time. Telemonitoring may ~~or may not take place in real time~~ be synchronous or asynchronous.

E. ~~"Telephonic services," as it pertains to the delivery of health care services, means the use of telephone communication by a provider at a distance for the purpose of diagnosis, disease monitoring or treatment.~~

**Sec. A-5. 24-A MRSA §4316, sub-§2,** as corrected by RR 2019, c. 2, Pt. A, §28, is amended to read:

**2. Parity for telehealth services.** A carrier offering a health plan in this State may not deny coverage on the basis that the health care service is provided through telehealth if the health care service would be covered if it were provided through in-person consultation between an enrollee and a provider and as long as the provider is acting within the scope of practice of the provider's license and in accordance with rules adopted by the board, if any, that issued the provider's license related to standards of practice for the delivery of a health care service through telehealth. Coverage for health care services provided through telehealth must be determined in a manner consistent with coverage for health care services provided through in-person consultation. If an enrollee is eligible for coverage and the delivery of the health care service through telehealth is medically appropriate, a carrier may not deny coverage for telehealth services. A carrier may offer a health plan containing a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to a comparable service provided through in-person consultation. A carrier may not exclude a health care service from coverage solely because such health care service is provided only through a telehealth encounter, as long as telehealth is appropriate for the provision of such health care service.

**Sec. A-6. 24-A MRSA §4316, sub-§3, ¶G** is enacted to read:

G. The carrier may not place any restriction on the prescribing of medication through telehealth by a provider whose scope of practice includes prescribing medication that is more restrictive than any requirement in state and federal law for prescribing medication through in-person consultation.

**Sec. A-7. 24-A MRSA §4316, sub-§5,** as enacted by PL 2019, c. 289, §2, is repealed.

**Sec. A-8. 24-A MRSA §4316, sub-§10** is enacted to read:

**10. Network adequacy.** The availability of health care services through telehealth may not be considered for the purposes of demonstrating the adequacy of a carrier's network pursuant to section 4303, subsection 1 and Bureau of Insurance Rule Chapter 850: Health Plan Accountability.

## PART B

Sec. B-1. 32 MRSA §69 is enacted to read:

### §69. Telehealth services

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between an individual and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the individual and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of an individual's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between an individual and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor an individual's health status via electronic means, allowing the person licensed under this chapter to track the individual's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. B-2. 32 MRSA c. 9, sub-c. 6 is enacted to read:

### SUBCHAPTER 6

## TELEHEALTH SERVICES

### §566. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

### §567. Telehealth services permitted

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

### §568. Confidentiality

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

### §569. Professional responsibility

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

### §570. Rulemaking

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-3. 32 MRSA §1533** is enacted to read:

**§1533. Telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between an individual and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the individual and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of an individual's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between an individual and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor an individual's health status via electronic means, allowing the person licensed under this chapter to track the individual's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The director shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-4. 32 MRSA c. 31, sub-c. 7** is enacted to read:

**SUBCHAPTER 7**

**TELEHEALTH SERVICES**



### **§2266. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

### **§2267. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

### **§2268. Confidentiality**

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

### **§2269. Professional responsibility**

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

### **§2270. Rulemaking**

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-5. 32 MRSA §2287** is enacted to read:

**§2287. Telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-6. 32 MRSA c. 34-A, sub-c. 6** is enacted to read:

**SUBCHAPTER 6**

**TELEHEALTH SERVICES**

**§2447. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

#### **§2448. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

#### **§2449. Confidentiality**

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

#### **§2450. Professional responsibility**

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

#### **§2450-A. Rulemaking**

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-7. 32 MRSA c. 36, sub-c. 8** is enacted to read:

### **SUBCHAPTER 8**

## TELEHEALTH SERVICES

### §2600-AA. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

### §2600-BB. Telehealth services permitted

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

### §2600-CC. Confidentiality

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

### §2600-DD. Professional responsibility

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

### §2600-EE. Rulemaking

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-8. 32 MRSA §3120** is enacted to read:

**§3120. Telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-9. 32 MRSA c. 48, sub-c. 4** is enacted to read:

**SUBCHAPTER 4**

**TELEHEALTH SERVICES**

### **§3300-AA. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

### **§3300-BB. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

### **§3300-CC. Confidentiality**

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

### **§3300-DD. Professional responsibility**

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

### **§3300-EE. Rulemaking**

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-10. 32 MRSA c. 51, sub-c. 4** is enacted to read:

## SUBCHAPTER 4

### TELEHEALTH SERVICES

#### **§3661. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

#### **§3662. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

#### **§3663. Confidentiality**

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

#### **§3664. Professional responsibility**

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

#### **§3665. Rulemaking**

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions

for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-11. 32 MRSA c. 56, sub-c. 4** is enacted to read:

#### **SUBCHAPTER 4**

#### **TELEHEALTH SERVICES**

##### **§3841. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

##### **§3842. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

##### **§3843. Confidentiality**

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

##### **§3844. Professional responsibility**



All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**§3845. Rulemaking**

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-12. 32 MRSA §4879** is enacted to read:

**§4879. Telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and

appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-13. 32 MRSA c. 81, sub-c. 5** is enacted to read:

## **SUBCHAPTER 5**

### **TELEHEALTH SERVICES**

#### **§6231. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a client and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the client and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a client's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a client and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a client's health status via electronic means, allowing the person licensed under this chapter to track the client's health data over time. Telemonitoring may be synchronous or asynchronous.

#### **§6232. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

#### **§6233. Confidentiality**

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

#### **§6234. Professional responsibility**

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

### **§6235. Rulemaking**

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-14. 32 MRSA c. 83, sub-c. 4** is enacted to read:

## **SUBCHAPTER 4**

### **TELEHEALTH SERVICES**

#### **§7071. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a client and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the client and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a client's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a client and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a client's health status via electronic means, allowing the person licensed under this chapter to track the client's health data over time. Telemonitoring may be synchronous or asynchronous.

#### **§7072. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

#### **§7073. Confidentiality**

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**§7074. Professional responsibility**

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**§7075. Rulemaking**

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-15. 32 MRSA §9714** is enacted to read:

**§9714. Telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that

apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-16. 32 MRSA §9863** is enacted to read:

**§9863. Telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules

adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-17. 32 MRSA §9916** is enacted to read:

**§9916. Telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between an individual and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the individual and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of an individual's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between an individual and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor an individual's health status via electronic means, allowing the person licensed under this chapter to track the individual's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-18. 32 MRSA c. 113-B, sub-c. 7** is enacted to read:

**SUBCHAPTER 7**

## TELEHEALTH SERVICES

### **§12611. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

### **§12612. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

### **§12613. Confidentiality**

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

### **§12614. Professional responsibility**

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

### **§12615. Rulemaking**

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. B-19. 32 MRSA c. 117, sub-c. 15 is enacted to read:

## SUBCHAPTER 15

### TELEHEALTH SERVICES

#### §13848. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

#### §13849. Telehealth services permitted

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

#### §13849-A. Confidentiality

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

#### §13849-B. Professional responsibility

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

#### §13849-C. Rulemaking



The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-20. 32 MRSA §13868** is enacted to read:

**§13868. Telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between a client and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the client and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of a client's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a client and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor a client's health status via electronic means, allowing the person licensed under this chapter to track the client's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-21. 32 MRSA §14363** is enacted to read:

**§14363. Telehealth services**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between an individual and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the individual and the person licensed under this chapter.

B. "Store and forward transfer" means the transmission of individual's records through a secure electronic system to a person licensed under this chapter.

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between an individual and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

E. "Telemonitoring" means the use of information technology to remotely monitor an individual's health status via electronic means, allowing the person licensed under this chapter to track the individual's health data over time. Telemonitoring may be synchronous or asynchronous.

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

**5. Rulemaking.** The commissioner shall adopt rules governing telehealth services by persons licensed under this chapter. These rules shall establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. B-22. 32 MRSA c. 137, sub-c. 4** is enacted to read:

**SUBCHAPTER 4**

**TELEHEALTH SERVICES**

**§17401. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Asynchronous encounter.** "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter.

**2. Store and forward transfer.** "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter.

**3. Synchronous encounter.** "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider.

**4. Telehealth services.** "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.

**5. Telemonitoring.** "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous.

#### **§17402. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this subchapter and in accordance with standards of practice.

#### **§17403. Confidentiality**

When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

#### **§17404. Professional responsibility**

All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

#### **§17405. Rulemaking**

The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

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## ADA Policy on Teledentistry

Teledentistry refers to the use of telehealth systems and methodologies in dentistry. Telehealth refers to a broad variety of technologies and tactics to deliver virtual medical, health, and education services. Telehealth is not a specific service, but a collection of means to enhance care and education delivery.

Teledentistry can include patient care and education delivery using, but not limited to, the following modalities:

**Synchronous (live video):** Live, two-way interaction between a person (patient, caregiver, or provider) and a provider using audiovisual telecommunications technology.

**Asynchronous (store and forward):** Transmission of recorded health information (for example, radiographs, photographs, video, digital impressions and photomicrographs of patients) through a secure electronic communications system to a practitioner, who uses the information to evaluate a patient's condition or render a service outside of a real-time or live interaction.

**Remote patient monitoring (RPM):** Personal health and medical data collection from an individual in one location via electronic communication technologies, which is transmitted to a provider (sometimes via a data processing service) in a different location for use in care and related support of care.

**Mobile health (mHealth):** Health care and public health practice and education supported by mobile communication devices such as cell phones, tablet computers, and personal digital assistants (PDA).

**General Considerations:** While in-person (face to face) direct examination has been historically the most direct way to provide care, advances in technology have expanded the options for dentists to communicate with patients and with remotely located licensed dental team members. The ADA believes that examinations performed using teledentistry can be an effective way to extend the reach of dental professionals, increasing access to care by reducing the effect of distance barriers to care. Teledentistry has the capability to expand the reach of a dental home to provide needed dental care to a population within reasonable geographic distances and varied locations where the services are rendered.

In order to achieve this goal, services delivered via teledentistry must be consistent with how they would be delivered in-person. Examinations and subsequent interventions performed using teledentistry must be based on the same level of information that would be available in an in-person environment, and it is the legal responsibility of the dentist to ensure that all records collected are sufficient for the dentist to make a diagnosis and treatment plan. The treatment of patients who receive services via teledentistry must be properly documented and should include providing the patient with a summary of services. A dentist who uses teledentistry shall have adequate knowledge of the nature and availability of local dental resources to provide appropriate follow-up care to a patient following a teledentistry encounter. A dentist shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in case of emergency.

As the care provided is equivalent to in person care, insurer reimbursement of services provided must be made at the same rate that it would be made for the services when provided in person, including reimbursement for the teledentistry codes as appropriate.

**Patients' Rights:** Dental patients whose care is rendered or coordinated using teledentistry modalities have the right to expect:

1. That any dentist delivering, directing or supervising services using teledentistry technologies will be licensed in the state where the patient receives services, or be providing these services as otherwise authorized by that state's dental board.
2. Access to the licensure and board certification qualifications of the oral health care practitioner who is providing the care in advance of the visit.
3. That the delivery of services through teledentistry technologies will follow evidence-based practice guidelines, to the degree they are available, as a means of ensuring patient safety, quality of care and positive health outcomes.
4. That they will be informed about the identity of the providers collecting or evaluating their information or providing treatment, and of any costs they will be responsible for in advance of the delivery of services.
5. That relevant patient information will be collected prior to performing services using teledentistry technologies and methods including medical, dental, and social history, and other relevant demographic and personal information.
6. That the provision of services using teledentistry technologies will be properly documented and the records and documentation collected will be provided to the patient upon request.
7. That services provided using teledentistry technologies and methods include care coordination as a part of a dental home and that the patient's records be made available to any entity that is serving as the patient's dental home.
8. That the patient will be actively involved in treatment decisions, will be able to choose how they receive a covered service, including considerations for urgency, convenience and satisfaction and without such penalties as higher deductibles, co-payments or coinsurance relative to that of in-person services.
9. That the dentist shall determine the delivery of services using teledentistry technologies and all services are performed in accordance with applicable laws and regulations addressing the privacy and security of patients' private health information.

**Quality of Care:** The dentist is responsible for, and retains the authority for ensuring, the safety and quality of services provided to patients using teledentistry technologies and methods. Services delivered via teledentistry should be consistent with in-person services, and the delivery of services utilizing these modalities must abide by laws addressing privacy and security of a patient's dental/medical information.

**Supervision of Allied Dental Personnel:** The extent of the supervision of allied dental personnel should conform to the applicable dental practice act in the state where the patient receives services and where the dentist is licensed. The dentist should be knowledgeable regarding the competence and qualifications of the allied personnel utilized, and should have the capability of immediately contacting both the allied dental personnel providing service and the patient receiving services. All services delivered by allied dental personnel should be consistent with the ADA Comprehensive Statement on Allied Dental Personnel.

**Licensure:** Dentists and allied dental personnel who deliver services through teledentistry modalities must be licensed or credentialed in accordance with the laws of the state in which the patient receives service. The delivery of services via teledentistry must comply with the state's scope of practice laws, regulations or rules. Teledentistry cannot be used to expand the scope of practice or change permissible duties of dental auxiliaries. The American Dental Association opposes a single national federalized system of dental licensure for the purposes of teledentistry.

**Reimbursement:** Dental benefit plans and all other third-party payers, in both public (e.g. Medicaid) and private programs, shall provide coverage for services using teledentistry technologies and methods (synchronous or asynchronous) delivered to a covered person to the same extent that the services would be covered if they were provided through in-person encounters. Coverage for services delivered via teledentistry modalities will be at the same levels as those provided for services provided through in-person encounters and not be limited or restricted based on the technology used or the location of either the patient or the provider as long as the health care provider is licensed in the state where the patient receives service.

**Technical Considerations:** Dentists are encouraged to consider conformance with applicable data exchange standards to facilitate delivery of services via teledentistry modalities. These include, but are not limited to, Digital Imaging and Communications in Medicine (DICOM) standards when selecting and using imaging systems, X12/HL7 for the exchange of information and ICD-9/10-CM/SNOMED/SNODENT for documentation consistency.

*Policy updated in 2020.*

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## Comparison of State Statutes and Regulations That Address Requirements and Permissible Practices for Teledentistry or Telehealth Conducted by Oral Health Practitioners

The chart below provides a brief comparison of common state teledentistry/telehealth policies. It is meant to be a quick reference guide to whether or not a state's laws and regulations address these topics. A statement of "yes" means that state statutes and regulations include the topic or allow the practitioners to utilize the method of teledentistry/telehealth in question. A statement of "no" means that state statutes and regulations specifically prohibit the practice in question. A statement of "not addressed" means that state laws and regulations do not address the topic in question. This document only focuses on state statutes and regulations and does not include analysis of temporary rules or opinions.

This document is intended to provide an overview of state teledentistry/telehealth policies as they apply to oral health care providers. Because this analysis focuses only on laws as they apply to oral health care providers, it may not include telehealth policies that apply to other groups of health care practitioners.

This document is meant to be a companion to the compilations of state teledentistry and telehealth laws that can be found [here](#). Please refer to the compendiums for more information on source materials.

Research is current as of September 2021. This document is intended for educational purposes only and should not be considered legal advice. Please contact Phil Mauller at [maullerp@adea.org](mailto:maullerp@adea.org) with any updates or information that may be relevant to this document.

State	Is Teledentistry Defined	Telehealth Laws and Regs Include Oral Health Professionals	Synchronous	Asynchronous	Remote Monitoring	Out of State Practitioners	Requires Provider Patient Relationship	Requires Informed Consent	Allows Specified Practices to be Delegated to Members of Dental Team
Alabama	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed
Alaska	No	See note <sup>1</sup>	Yes	Yes	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed
Arizona	Yes	Teledentistry is separate from other state telehealth laws	Yes	Yes	Not addressed	No	Not addressed	Yes	Yes
Arkansas	No	Yes	Yes	Yes	Yes	Permitted to provide "episodic consultation"	Yes <sup>2</sup>	Yes	Not addressed
California	No	Yes	Yes	Yes	Not addressed	No	Yes <sup>3</sup>	Yes	Yes
Colorado	"Telehealth supervision" is defined in dental practice act	Yes	Yes	Yes	Yes	No	See note <sup>4</sup>	See note <sup>5</sup>	Yes
Connecticut	No	Yes <sup>6</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Not addressed
Delaware	Dental board regulations define telehealth and telemedicine	Yes	Yes	Yes	Yes	No	Yes <sup>7</sup>	Yes	Not addressed
District of Columbia	No	Yes <sup>8</sup>	Yes	Not addressed	Not addressed	Not addressed	Not addressed	Medicaid patients only	Not addressed
Florida	Yes	Yes	Yes	Yes	Yes	Yes <sup>9</sup>	No	Not addressed	Not addressed



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State	Is Teledentistry Defined	Telehealth Laws and Regs Include Oral Health Professionals	Synchronous	Asynchronous	Remote Monitoring	Out of State Practitioners	Requires Provider Patient Relationship	Requires Informed Consent	Allows Specified Practices to be Delegated to Members of Dental Team
Georgia	No	Yes <sup>10</sup>	Yes	Yes	Yes	Not addressed	Not addressed	Not addressed	Not addressed
Hawaii	No	Yes <sup>8</sup>	Yes	Yes	Yes	No	Yes	Not addressed	Not addressed
Idaho	See note <sup>11</sup>	Yes	Yes	Yes	Yes	No	Yes <sup>12</sup>	Yes	Not addressed
Illinois	Yes	Yes	Yes	Yes	Yes	No	Not addressed	Not addressed	Not addressed
Indiana	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Not addressed
Iowa	Yes	Yes	Not addressed	Not addressed	Not addressed	No	Yes	Yes	Yes
Kansas	No	No	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed
Kentucky	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Louisiana	Yes	Yes	Yes	Yes	Not addressed	No <sup>13</sup>	Not addressed	Yes	Yes
Maine	Yes	No	Yes	Yes	Yes	No	Not addressed	Yes	Not addressed
Maryland	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Not addressed
Massachusetts	No	Yes	Yes	Yes	Yes	Not addressed	Not addressed	Yes	Not addressed
Michigan	No	Yes	Yes	Yes	Not addressed	No	Not addressed	Yes	Not addressed
Minnesota	No	Yes <sup>9</sup>	Yes	Yes	See Note <sup>14</sup>	No	Not addressed	Not addressed	Not addressed
Mississippi <sup>15</sup>	No	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed
Missouri	No	Yes <sup>9</sup>	Yes	Yes	Under specified circumstances	No with exceptions <sup>16</sup>	Not addressed	Not addressed	Not addressed

Research is current as of September 2021. This document is intended for educational purposes only and should not be considered legal advice. Please contact Phil Mauller at [maullerp@adea.org](mailto:maullerp@adea.org) with any updates or information that may be relevant to this document.

State	Is Teledentistry Defined	Telehealth Laws and Regs Include Oral Health Professionals	Synchronous	Asynchronous	Remote Monitoring	Out of State Practitioners	Requires Provider Patient Relationship	Requires Informed Consent	Allows Specified Practices to be Delegated to Members of Dental Team
Montana	No	Yes	Yes	Yes	Not addressed	No	Not addressed <sup>17</sup>	Not addressed	Not addressed
Nebraska	Yes	Yes	Yes	Yes	Yes	Medicaid will reimburse under conditions	Yes	Required for Medicaid	Not addressed
Nevada	No	Yes	Yes	Yes	Not addressed	No	See note <sup>18</sup>	See note <sup>19</sup>	Not addressed
New Hampshire	No	Yes	Yes	Yes	Yes	No	Not addressed	Not addressed	Not addressed
New Jersey	No	Yes	Yes	Yes	Yes	No	Yes	See note <sup>20</sup>	Not addressed
New Mexico	Yes	Yes	Yes	Yes	Not addressed	No	Not addressed	Not addressed	Yes <sup>21</sup>
New York	No	Yes	Yes	Yes	No <sup>22</sup>	No	Yes	Not addressed	Not addressed
North Carolina	Yes	No	Yes	Yes	Not addressed	No	Yes	Yes	Yes
North Dakota	See note <sup>23</sup>	Yes	Yes	Yes	Yes	No	May be established through telehealth	Not addressed	Not addressed
Ohio	Yes <sup>24</sup>	Yes	Yes	No	No	See note <sup>25</sup>	Not addressed	See note <sup>26</sup>	Yes
Oklahoma	Yes	Yes	Yes	Yes	Yes	No	Not addressed	See note <sup>27</sup>	No
Oregon	Yes	Yes	Yes	Yes	Yes	See note <sup>28</sup>	For Medicaid Reimbursement	Yes	Not addressed
Pennsylvania	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed
Rhode Island	Telemedicine is defined	Yes	Yes	Yes	Not addressed	No	Not addressed	Not addressed	Not addressed

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State	Is Teledentistry Defined	Telehealth Laws and Regs Include Oral Health Professionals	Synchronous	Asynchronous	Remote Monitoring	Out of State Practitioners	Requires Provider Patient Relationship	Requires Informed Consent	Allows Specified Practices to be Delegated to Members of Dental Team
	under dental practice act								
South Carolina	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed
South Dakota	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Not addressed
Tennessee	Yes	Yes	Yes	Yes	Not addressed	See note <sup>29</sup>	Yes	See note <sup>30</sup>	Yes
Texas	Yes	Yes	Yes	Yes	Not addressed	No	Yes	Yes	Yes
Utah	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Vermont	No	Yes	Yes	Yes	Not addressed	Study committee created to examine	Not addressed	Yes	Not addressed
Virginia	Yes	See note <sup>31</sup>	Yes	Yes	Not addressed	No	Yes	Yes	Not addressed
Washington	No	Yes <sup>8</sup>	Yes	Yes	Not addressed	No	See note <sup>32</sup>	Yes	Not addressed
West Virginia	No	Yes	Yes	Yes	Yes	Yes <sup>33</sup>	Yes	Not addressed	Not addressed
Wisconsin	No	Yes <sup>8</sup>	Yes	Yes	Yes	See note <sup>34</sup>	Not addressed	Not addressed	Not addressed
Wyoming	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed

<sup>1</sup>Alaska statutes and regulations do not specifically authorize the practice of teledentistry or telehealth by oral health care practitioners. The state Medicaid system does reimburse a medical service covered by Medicaid and provided within the scope of the provider’s license. Businesses providing telemedicine services must also register with the Department of Commerce, Community and Economic Development.

<sup>2</sup> Requirement for a “professional relationship” is exempted in emergency situations where the life or health of the patient is in danger or imminent danger; or simply providing information of a generic nature, not meant to be specific to an individual patient.

Research is current as of September 2021. This document is intended for educational purposes only and should not be considered legal advice. Please contact Phil Mauller at [maullerp@adea.org](mailto:maullerp@adea.org) with any updates or information that may be relevant to this document.

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<sup>3</sup> California also requires any individual, partnership, corporation, or other entity that provides dental services through telehealth to make available the name, telephone number, practice address, and California state license number of any dentist involved in the provision of services to a patient prior to the rendering of services and when requested by a patient.

<sup>4</sup> Health benefit and dental plans are prohibited from requiring a covered person to have a previously established patient-provider relationship with a specific provider in order for the covered person to receive medically necessary telehealth services from the provider.

<sup>5</sup> Informed consent is required for Medicaid patients.

<sup>6</sup> Connecticut law temporarily includes dentists who are (1) in-network providers for fully-insured health plans or (2) Connecticut Medical Assistance Program providers under the definition of "telehealth provider". Legislation that included dentists who meet definition of "telehealth provider" will expire on June 30, 2023.

<sup>7</sup> Exceptions to patient relationship requirement apply under specified circumstances. See Title 24 [Chapter 60 § 6005](#) of the Delaware Code for more information.

<sup>8</sup> This state does not specifically authorize or prohibit oral health practitioners from using telehealth or teledentistry through laws or statutes. State law does, however, require Medicaid and private insurers to reimburse providers for telehealth services. Oral health providers are included under the definition of providers entitled to reimbursement. For more information, please review relevant statutes and regulations.

<sup>9</sup> Out-of-state oral health providers who wish to provide services in the state must register with the state dental board. The requirement to register does not apply when a practitioner licensed in another state provides telehealth services in response to an emergency medical condition as defined, or in consultation with a health care professional licensed in this state who has ultimate authority over the diagnosis and care of the patient.

<sup>10</sup> Georgia does not specifically authorize or prohibit oral health practitioners from using telehealth or teledentistry. State law does, however, require private insurers to reimburse for oral health practitioners when telehealth is used.

<sup>11</sup> Idaho does not define the term "teledentistry", but the Idaho Board of Dentistry has issued regulations regulating the practice of telehealth by dentists.

<sup>12</sup> Requirement for a "professional relationship" is exempted in an emergency situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm.

<sup>13</sup> An exception to the requirement that the provider of teledentistry services hold a Louisiana license is when a Louisiana licensed dentist with an in-person relationship with a patient consults an expert with a valid dental license in another United States jurisdiction for advice regarding the patient's treatment or diagnosis; in this case the expert consulted need not have a Louisiana license.

<sup>14</sup> "Telemonitoring" is not included under the definition of telehealth under Medicaid statutes, but state statutes do require health carriers to provide coverage for "telemonitoring" under specified circumstances.

<sup>15</sup> This state defines telemedicine and establishes practices for reimbursement of certain telemedicine services in its insurance code. State law does not clearly establish that oral health providers that are permitted to practice telemedicine.

<sup>16</sup> Permits out-of-state practitioners to (1) conduct informal consultations outside of the context of a contractual relationship, and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation; (2) furnish health care services in case of an emergency or disaster, provided that, no charge is made for the medical assistance; or (3) episodic consultation on request to a physician in the state.

<sup>17</sup> State law specifically states a previously established patient-provider relationship is not necessary under reimbursement requirements for private insurance. Provider-patient relationships are not addressed in other telehealth laws.

<sup>18</sup> A bona fide relationship, which may be established through telehealth, is required for some prescriptions.

<sup>19</sup> Informed consent is not required, but third-party payers are prohibited from requiring informed consent.

<sup>20</sup> Affirmative consent is required for the transfer of medical information to a primary care provider following the provision of telehealth.

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<sup>21</sup> The definition of teledentistry includes dental hygienists and dental therapists.

<sup>22</sup> New York limits the practice of remote patient monitoring to specified conditions and only permits physicians, nurse practitioners, and midwives, with whom a patient has a substantial and ongoing relationship to order remote patient monitoring.

<sup>23</sup> The term “teledentistry” is not defined in North Dakota statutes and regulations. Statute does outline permissible practices and requirements for dentists who practice telehealth.

<sup>24</sup> Ohio requires dentists to obtain a teledentistry permit before they can practice teledentistry.

<sup>25</sup> Medicaid reimbursement laws include “a dentist practicing in a state other than Ohio who meets the requirements established by the dental examining board in that state” under the definition of “provider of dental services.”

<sup>26</sup> Ohio requires informed consent to be obtained before the placement of interim therapeutic restorations or the application of silver diamine fluoride, when services are provided under a teledentistry permit and the patient is not examined in person by the authorizing dentist.

<sup>27</sup> Informed consent must be obtained from parent/guardian when telehealth services are provided to minors enrolled in Medicaid.

<sup>28</sup> Dentists providing Medicaid services must be licensed to practice dentistry within the State of Oregon or within the contiguous area of Oregon and must be enrolled as a Health Systems Division provider.

<sup>29</sup> Out-of-state practitioners can practice telehealth while providing healthcare services on a volunteer basis through a free clinic.

<sup>30</sup> Consent can be implied and can be “created by mutual consent and mutual communication, except in an emergency, between the patient and the provider.” “The duties and obligations created by the relationship do not arise until the healthcare provider: (1) Affirmatively undertakes to diagnose or treat the patient; or (2) Affirmatively participates in the diagnosis or treatment.”

<sup>31</sup> Virginia law requires private payers to provide reimbursement for telehealth services. Eligible providers are not defined in this law.

<sup>32</sup> Washington will require the establishment of a provider-patient relationship for audio only telehealth services beginning in 2023.

<sup>33</sup> Out-of-state practitioners must register as an interstate telehealth practitioner with the appropriate board in West Virginia.

<sup>34</sup> Providers who are granted a temporary credential during the period covered by a national emergency declared by the U.S. president in response to the 2019 novel coronavirus or during the 30 days immediately after the national emergency ends may provide telehealth services under W.S.A. 440.094 to residents of the state. Individuals granted a temporary credential while applying for a permanent state license by reciprocity under W.S.A. 440.094 may provide telehealth services for residents of the state.



THE VOICE OF  
DENTAL EDUCATION

# Compilation of State Laws and Regulations Addressing Teledentistry or Telehealth Conducted by Oral Health Practitioners

## States A-I

This document is a compilation of state statutes and regulations that address teledentistry or telehealth conducted by oral health practitioners. Each state’s laws and regulations may be divided into three parts: requirements and permissible practices, Medicaid reimbursement and private payer reimbursement. Some states do not address all three of these topic areas and as a result, a state may have fewer sections.

Because this analysis only focuses on laws as they apply to oral health care providers, it may not include telehealth policies that apply to other groups of health care practitioners.

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## Alabama

Alabama statutes and regulations do not address teledentistry or telehealth conducted by oral health professionals. The [Center for Connected Health Policy](#) has assembled an overview of telehealth laws in the state.

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# Alaska

## Requirements and Permissible Practices

### [12 AAC 02.600. Application for placement on the telemedicine business registry; changes of information](#)

(a) To be registered on the telemedicine business registry established and maintained under [AS 44.33.381](#), and before providing telemedicine services to a recipient located in this state, a business performing telemedicine services must submit to the department (1) a complete registration on a form provided by the department; the registration must include the business's name, address, and contact information; (2) a copy of the business's valid business license issued under [AS 43.70](#) and [12 AAC 12](#); and (3) the applicable fee established in [12 AAC 02.106](#).

(b) A business performing telemedicine services must register with the name it is using to perform telemedicine services in this state. A business operating under multiple names to perform telemedicine services shall file a separate registration for each name. (c) If the name, address, or contact information of a business on the telemedicine business registry changes, the business performing telemedicine services must submit to the department, not later than 30 days after the change or termination, (1) a complete report, on a form provided by the department, of each change; and (2) the applicable fee established in [12 AAC 02.106](#).

(d) A business that fails to comply timely with (c) of this section may not perform telemedicine services in this state and must submit a new application under (a) of this section before resuming the provision of telemedicine services to a recipient located in this state. (e) If a business terminates the performance of telemedicine services in this state, the business shall notify the department, requesting that the department remove the business from the telemedicine business registry. If a business gives notification under this subsection, the business must submit a new application under (a) of this section before resuming the provision of telemedicine services to a recipient located in this state. (f) In this section, "telemedicine services" has the meaning given in [AS 44.33.381](#).

### Medicaid Reimbursement

#### **Alaska Statutes [Sec. 47.05.270. Medical assistance reform program.](#)**

(a) The department shall adopt regulations to design and implement a program for reforming the state medical assistance program under [AS 47.07](#). The reform program must include

...

(3) expanding the use of telehealth for primary care, behavioral health, and urgent care;

...

(c) The department shall identify the areas of the state where improvements in access to telehealth would be most effective in reducing the costs of medical assistance and improving access to health care services for medical assistance recipients. The department shall make efforts to improve access to telehealth for recipients in those locations. The department may enter into agreements with Indian Health Service providers, if necessary, to improve access by medical assistance recipients to telehealth facilities and equipment.

...

(e) In this section, "telehealth" means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of health care data through audio, visual, or data communications, performed over two or more locations between providers who are physically separated from the recipient or from each other or between a provider and a recipient who are physically separated from each other.

### [7 AAC 110.620. Scope](#)

(a) The department will pay for medical services furnished through telemedicine applications as an alternative to traditional methods of delivering services to Medicaid recipients as provided in [AS 47.07](#).

(b) For a provider to receive payment under [7 AAC 110.620](#) - [7 AAC 110.639](#), the provider's use of telemedicine applications must comply with the standards set out in [AS 47.07](#) and [7 AAC 105 - 7 AAC 160](#) for the medical service provided by the type of provider, including

- (1) provisions that affect the efficiency, economy, and quality of service; and
- (2) coverage limitations.

### [7 AAC 110.625. Telemedicine applications; limitations](#)

(a) The department will pay a provider for a telemedicine application if the provider provided the medical services through one of the following methods of delivery in the specified manner:

- (1) live or interactive; to be eligible for payment under this paragraph, the service must be provided through the use of camera, video, or dedicated audio conference equipment on a real-time basis; medical services provided by a telephone that is not part of a dedicated audio conference system or by a facsimile machine are not eligible for payment under this paragraph;
- (2) store-and-forward; to be eligible for payment under this paragraph, the service must be provided through the transference of digital images, sounds, or previously recorded video from one location to another to allow a consulting provider to obtain information, analyze it, and report back to the referring provider;
- (3) self-monitoring or testing; to be eligible for payment under this paragraph, the services must be provided by a telemedicine application based in the recipient's home, with the provider only indirectly involved in the provision of the service.

(b) The department will only make a payment for a telemedicine application if the service is limited to

- (1) an initial visit;
- (2) a follow-up visit;
- (3) a consultation made to confirm a diagnosis;
- (4) a diagnostic, therapeutic, or interpretive service;
- (5) a psychiatric or substance abuse assessment;
- (6) psychotherapy; or
- (7) pharmacological management services on an individual recipient basis.

### [7 AAC 110.630. Conditions for payment](#)

(a) The department will pay for telemedicine applications provided by a treating, consulting, presenting, or referring provider for a medical service covered by Medicaid and provided within the scope of the provider's license.

(b) A treating or consulting provider must use applicable modifiers as described in [7 AAC 145.050](#) for billing for a telemedicine application.

(c) A presenting, referring, or consulting provider is subject to the conditions for payment that are described in [7 AAC 145.005](#).

(d) A presenting provider is only eligible to receive Medicaid payment for a live or interactive telemedicine application as described in [7 AAC 110.625\(a\)\(1\)](#).

### [7 AAC 110.635. Exclusions](#)

(a) The department will not pay for the following services provided by telemedicine application:

...

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- (3) durable medical equipment services;
- (4) transportation services;
- (5) accommodation services;

...

(b) The department will pay only for professional services for a telemedicine application of service. The department will not pay for the use of technological equipment and systems associated with a telemedicine application to render the service.

#### [7 AAC 110.639. Definitions](#) In [7 AAC 110.620](#) - [7 AAC 110.639](#)

- (1) "consulting provider" means a provider who evaluates the recipient and appropriate medical data or images through a telemedicine mode of delivery upon recommendation of the referring provider;
- (2) "presenting provider" means a provider who
  - (A) introduces a recipient to a consulting provider for examination, observation, or consideration of medical information; and
  - (B) may assist in the telemedicine consultation;
- (3) "referring provider" means a provider who evaluates a recipient, determines the need for a consultation, and arranges the services of a consulting provider for the purpose of diagnosis or treatment;
- (4) "telemedicine" means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of medical data, audio, visual, or data communications that are performed over two or more locations between providers who are physically separated from the recipient or from each other.

#### [7 AAC 145.270. Telemedicine payment rates](#)

- (a) The department will pay for a service rendered by a consulting or referring provider by a telemedicine application in accordance with [7 AAC 145.020](#).
- (b) Payment to the presenting provider is limited to the rate established for brief evaluation and management of an established patient.
- (c) The department will pay the receiving provider in the same manner as payment is made for the same service provided through traditional mode of delivery, not to exceed 100 percent of the rate established under [7 AAC 145.050](#).
- (d) In this section, "consulting provider," "presenting provider," "referring provider," and "telemedicine" have the meanings given in [7 AAC 110.639](#).

### Private Payer Reimbursement

#### [Sec. 21.12.050. Health and health care insurance defined.](#)

(a) Health insurance is insurance of human beings (1) against bodily injury, disablement, or death by accident or accidental means; (2) against the resulting expenses of the injury, disablement, or death; (3) against disablement or expense resulting from sickness or childbirth; (4) against expense incurred in prevention of sickness; (5) for dental care; and (6) including every insurance that applies to injury, disablement, or death. Transaction of health insurance includes disability insurance and stop-loss insurance but does not include workers' compensation insurance. Health care insurance described in (b) of this section is a type of health insurance under this subsection.

(b) Health care insurance means that part of health insurance that provides, delivers, arranges for, pays for, or reimburses any of the costs of medical care.

#### **Sec. 21.42.422. Coverage for telehealth.**

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*Alaska, continued*

(a) A health care insurer that offers, issues for delivery, or renews in the state a health care insurance plan in the group or individual market shall provide coverage for benefits provided through telehealth by a health care provider licensed in this state and may not require that prior in-person contact occur between a health care provider and a patient before payment is made for covered services.

(b) In this section,

(1) "health care insurer" means a person transacting the business of health care insurance, including an insurance company licensed under [AS 21.09](#), a hospital or medical service corporation licensed under [AS 21.87](#), a fraternal benefit society licensed under [AS 21.84](#), a health maintenance organization licensed under [AS 21.86](#), the Comprehensive Health Insurance Association described in [AS 21.55.010](#), a multiple employer welfare arrangement, a church plan, and a governmental plan, except for a nonfederal governmental plan that elects to be excluded under 42 U.S.C. 300gg-21(a)(2) (Health Insurance Portability and Accountability Act of 1996);

(2) "telehealth" has the meaning given in [AS 47.05.270](#)(e).

# Arizona

## Requirements and Permissible Practices

### [AZ ST 32-1201. Definitions](#)

...

24. "Teledentistry" means the use of data transmitted through interactive audio, video or data communications for the purposes of examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by dentists and dental providers in settings permissible under this chapter or specified in rules adopted by the board.

### [AZ ST 32-1291.01. Expanded function dental assistants; training and examination requirements; duties](#)

...

C. An expanded function dental assistant may place interim therapeutic restorations under the general supervision and direction of a licensed dentist following a consultation conducted through teledentistry.

...

### [AZ ST 36-3611. Definitions](#)

In this article, unless the context otherwise requires:

1. "Board" means the state board of dental examiners.
2. "Dental provider" means a dental hygienist, affiliated practice dental hygienist or dental assistant who is licensed pursuant to title 32, chapter 11.
3. "Dentist" means a person who is licensed in the general practice of dentistry pursuant to title 32, chapter 11.
4. "Health care decision maker" has the same meaning prescribed in section 12-2801.
5. "Teledentistry" means the use of data transmitted through interactive audio, video or data communications for the purposes of examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by dentists and dental providers in settings permissible under title 32, chapter 11 or specified in rules adopted by the board.

### [36-3612. Delivery of care through teledentistry; requirements; exceptions](#)

A. Except as provided in subsection E of this section, before a dentist or dental provider delivers care through teledentistry, the dentist or dental provider shall obtain verbal or written informed consent from the patient or the patient's health care decision maker. If the informed consent is obtained verbally, the dentist or dental provider shall document the consent on the patient's record.

B. In any teledentistry interaction, the patient is entitled to all existing confidentiality protections pursuant to section 12-2292.

C. All reports resulting from a teledentistry consultation are part of a patient's dental record as prescribed in section 32-1264.

D. In any teledentistry interaction, the dissemination of any images or information identifiable to a specific patient for research or educational purposes may not occur without the patient's consent, unless authorized by state or federal law.

E. The consent requirements of this section do not apply to the transmission of diagnostic images to another health care provider or dental specialist or the reporting of diagnostic test results by that specialist.

### [36-3613. Scope of article](#)

This article applies to the practice of teledentistry within this state. This article does not expand, reduce or otherwise amend the licensing requirements of title 32, chapter 11 for dentists or dental providers.

## Medicaid Reimbursement

### [36-2907. Covered health and medical services; modifications; related delivery of service requirements; definition](#)

A. Subject to the limitations and exclusions specified in this section, contractors shall provide the following medically necessary health and medical services:

...

7. Early and periodic health screening and diagnostic services as required by section 1905(r) of title XIX of the social security act for members who are under twenty-one years of age.

...

### [36-2907.13. Arizona health care cost containment system; teledentistry](#)

In addition to services provided pursuant to section 36-2907, subsection A, paragraph 7, the Arizona health care cost containment system administration shall implement teledentistry services for enrolled members who are under twenty-one years of age.

# Arkansas

## Requirements and Permissible Practices

### 17-80-401. Title.

This subchapter shall be known and may be cited as the "Telemedicine Act".

### 17-80-402. Definitions. as amended by [SB 703](#), [HB 1063](#), and [HB 1068](#)

As used in this subchapter:

- (1) "Distant site" means the location of the healthcare professional delivering services through telemedicine at the time the services are provided;
- (2) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;
- (3) (A) "Originating site" means a site at which a patient is located at the time healthcare services are provided to him or her by means of telemedicine;  
(B) "Originating site" includes the home of a patient;
- (4) "Professional relationship" means at minimum a relationship established between a healthcare professional and a patient when:
  - (A) The healthcare professional has previously conducted an in-person examination of the patient and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;
  - (B) The healthcare professional personally knows the patient and the patient's relevant health status through an ongoing personal or professional relationship and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;
  - (C) The treatment is provided by a healthcare professional in consultation with, or upon referral by, another healthcare professional who has an ongoing professional relationship with the patient and who has agreed to supervise the patient's treatment, including follow-up care;
  - (D) An on-call or cross-coverage arrangement exists with the patient's regular treating healthcare professional or another healthcare professional who has established a professional relationship with the patient;
  - (E)(i) A relationship exists in other circumstances as defined by rule of the Arkansas State Medical Board for healthcare professionals under its jurisdiction and their patients; or  
(ii) A relationship established under rules of the Arkansas State Medical Board may be utilized for telehealth certification; or
  - (F) A relationship exists in other circumstances as defined by rule of a licensing or certification board for other healthcare professionals under the jurisdiction of the appropriate board and their patients if the rules are no less restrictive than the rules of the Arkansas State Medical Board;
  - (G)(i) The healthcare professional who is licensed in Arkansas has access to a patient's personal health record maintained by a healthcare professional and uses any technology deemed appropriate by the healthcare professional, including the telephone, with a patient located in Arkansas to diagnose, treat, and if clinically appropriate, prescribe a noncontrolled drug to the patient.
    - (ii) For purposes of this subchapter, a health record may be created with the use of telemedicine and consists of relevant clinical information required to treat a patient, and is reviewed by the healthcare professional who meets the same standard of care for a telemedicine visit as an in-person visit;

(5) "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a healthcare professional at a distant site for use in the treatment and management of medical conditions that require frequent monitoring;

(6) "Store-and-forward technology" means the asynchronous transmission of a patient's medical information from a healthcare professional at an originating site to a healthcare professional at a distant site; and

(7)(A) "Telemedicine" means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient.

(B) "Telemedicine" includes store-and-forward technology and remote patient monitoring.

(C) "Telemedicine" does not include the use of audio-only electronic technology by a physician to renew a written certification that was previously issued to the same patient; or

(8) "Telehealth certification" means the electronic assessment of a patient by a practitioner in connection with an application for a registry identification card under § 5 of Arkansas Constitution, Amendment 98, also known as the "Arkansas Medical Marijuana Amendment of 2016".

#### 17-80-403. Establishment of professional relationship. as amended by [HB 1063](#)

(a)(1) A healthcare professional at a distant site shall not utilize telemedicine with respect to a patient located in Arkansas unless a professional relationship exists between the healthcare professional and the patient or the healthcare professional otherwise meets the requirements of a professional relationship as defined in § 17-80-402.

(2) The existence of a professional relationship is not required in the following circumstances:

(A) Emergency situations where the life or health of the patient is in danger or imminent danger; or

(B) Simply providing information of a generic nature, not meant to be specific to an individual patient.

(b) If the establishment of the professional relationship is permitted via telemedicine under § 17-80-402(4)(E) or § 17-80-402(4)(F), telemedicine may be used to establish the professional relationship only for situations in which the standard of care does not require an in-person encounter.

(c) "Professional relationship" does not include a relationship between a healthcare professional and a patient established only by the following:

(1) An internet questionnaire;

(2) An email message;

(3) Patient-generated medical history;

(4) Text messaging;

(5) A facsimile machine; or

(6) Any combination of means listed in subdivisions 7 (c)(1)-(5) of this section.

#### 17-80-404. Appropriate use of telemedicine.

(a)(1) A professional relationship shall be established in compliance with § 17-80-403 to provide healthcare services through telemedicine.

(2) Once a professional relationship is established, a healthcare professional may provide healthcare services through telemedicine, including interactive audio, if the healthcare



services are within the scope of practice for which the healthcare professional is licensed or certified and the healthcare services otherwise meet the requirements of this subchapter.

(3) A licensing or certification board shall not permit the use of telemedicine in a manner that is less restrictive than the use of telemedicine authorized by the Arkansas State Medical Board.

(b)(1) Regardless of whether the healthcare professional is compensated for the healthcare services, if a healthcare professional seeks to provide healthcare services to a minor through telemedicine in a school setting and the minor is enrolled in the Arkansas Medicaid Program, the healthcare professional shall:

- (A) Be the designated primary care provider of the minor;
- (B) Have a cross-coverage arrangement with the designated primary care provider of the minor; or
- (C) Have authorization from the designated primary care provider of the minor.

(2) If the minor does not have a designated primary care provider, subdivision (b)(1) of this section does not apply.

(3) If a minor is enrolled in a health benefit plan as defined in § 23-79-1601 that is not part of the Arkansas Medicaid Program, the terms and conditions of the health benefit plan shall control.

(4) The designation of a primary care provider for a minor remains the right of a parent or legal guardian in accordance with § 20-9-601 et seq.

(c) Healthcare services provided by telemedicine, including without limitation a prescription through telemedicine, shall be held to the same standard of care as healthcare services provided in person.

(d)(1) A healthcare professional who is treating patients in Arkansas through telemedicine shall be fully licensed or certified to practice in Arkansas and is subject to the rules of the appropriate state licensing or certification board.

(2) The requirement in subdivision (d)(1) of this section does not apply to the acts of a healthcare professional located in another jurisdiction who provides only episodic consultation services.

(e) A healthcare professional shall follow applicable state and federal law, rules, and regulations for:

- (1) Informed consent;
- (2) Privacy of individually identifiable health information;
- (3) Medical recordkeeping and confidentiality; and
- (4) Fraud and abuse.

#### 17-80-405. Liability — Noncompliance.

(a) If a decision is made to provide healthcare services through telemedicine, the healthcare professional accepts responsibility and liability for the care of the patient.

(b) Noncompliance with this subchapter is a violation of the practice act of the healthcare professional.

#### 17-80-406. Rules.

State licensing and certification boards for a healthcare professional shall amend their rules where necessary to comply with this subchapter.

#### 17-80-407. Construction.

This subchapter does not:

(1) Alter existing state law or rules governing a healthcare professional's scope of practice; or

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- (2) Authorize drug-induced, chemical, or surgical abortions performed through telemedicine.

## Medicaid Reimbursement and Private Payer Reimbursement

**23-79-1601. Definitions.** as amended by [HB 1063](#) and [HB 1068](#)

As used in this subchapter:

(1) "Distant site" means the location of the healthcare professional delivering healthcare services through telemedicine at the time the services are provided;

(2)(A) "Health benefit plan" means:

(i) An individual, blanket, or group plan, policy, or contract for healthcare services issued or delivered by an insurer, health maintenance organization, hospital medical service corporation, or self-insured governmental or church plan in this state; and

(ii) Any health benefit program receiving state or federal appropriations from the State of Arkansas, including the Arkansas Medicaid Program, the Health Care Independence Program [expired], commonly referred to as the "Private Option", and the Arkansas Works Program, or any successor program.

(B) "Health benefit plan" includes:

(i) Indemnity and managed care plans; and

(ii) Nonfederal governmental plans as defined in 29 U.S.C. § 1002(32), as it existed on January 1, 2015.

(C) "Health benefit plan" does not include:

(i) Disability income plans;

(ii) Credit insurance plans;

(iii) Insurance coverage issued as a supplement to liability insurance;

(iv) Medical payments under automobile or homeowners insurance plans;

(v) Health benefit plans provided under Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(vi) Plans that provide only indemnity for hospital confinement;

(vii) Accident-only plans;

(viii) Specified disease plans; or

(ix) Long-term-care-only plans;

(x) Stand-alone dental or vision benefit plans;

(3) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(4)(A) "Originating site" means a site at which a patient is located at the time healthcare services are provided to him or her by means of telemedicine;

(B) "Originating site" includes the home of a patient;

(5) "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a healthcare professional at a distant site for use in the treatment and management of medical conditions that require frequent monitoring;

(6) "Store-and-forward technology" means the asynchronous transmission of a patient's medical information from a healthcare professional at an originating site to a healthcare professional at the distant site; and

(7)(A) "Telemedicine" means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient.

(B) "Telemedicine" includes store-and-forward technology and remote patient monitoring.

(C) For the purposes of this subchapter, "telemedicine" does not include the use of:

(i)(a) Audio-only communication, unless the audio-only communication is real time, interactive, and substantially meets the requirements for a healthcare service that would otherwise be covered by the health benefit plan.

(b) As with other medical services covered by a health benefit plan, documentation of the engagement between patient and provider via audio-only communication shall be placed in the medical record addressing the problem, content of conversation, medical decision-making, and plan of care after the contact.

(c) The documentation described in subdivision (7)(C)(i)(b) of this section is subject to the same audit and review process required by payers and governmental agencies when requesting documentation of other care delivery such as in-office or face-to-face visits;

(ii) A facsimile machine;

(iii) Text messaging; or

(iv) Email.

### 23-79-1602. Coverage for telemedicine.

(a)(1) This subchapter applies to all health benefit plans delivered, issued for delivery, reissued, or extended in Arkansas on or after January 1, 2016, or at any time when any term of the health benefit plan is changed or any premium adjustment is made thereafter.

(2) Notwithstanding subdivision (a)(1) of this section, this subchapter applies to the Arkansas Medicaid Program on and after January 1, 2016.

(b) A healthcare professional providing a healthcare service provided through telemedicine shall comply with the requirements of the Telemedicine Act, § 17-80-401 et seq.

(c)(1) A health benefit plan shall provide coverage and reimbursement for healthcare services provided through telemedicine on the same basis as the health benefit plan provides coverage and reimbursement for health services provided in person, unless this subchapter specifically provides otherwise.

(2) A health benefit plan is not required to reimburse for a healthcare service provided through telemedicine that is not comparable to the same service provided in person.

(3) A health benefit plan may voluntarily reimburse for healthcare services provided through means described in § 23-79-1601(7)(C).

(d)(1) A health benefit plan shall provide a reasonable facility fee to an originating site operated by a healthcare professional or a licensed healthcare entity if the healthcare professional or licensed healthcare entity is authorized to bill the health benefit plan directly for healthcare services.

(2) The combined amount of reimbursement that a health benefit plan allows for the compensation to the distant site and the originating site shall not be less than the total amount allowed for healthcare services provided in person.

(3) Payment for healthcare services provided through telemedicine shall be provided to the distant site and the originating site upon submission of the appropriate procedure codes.

(4) This section does not:

(A) Prohibit a health benefit plan from paying a facility fee to a provider at the distant site in addition to a fee paid to the healthcare professional; or

- (B) Require a health benefit plan to pay more for a healthcare service provided through telemedicine than would have been paid if the healthcare service was delivered in person.
- (e) A health benefit plan shall not impose on coverage for healthcare services provided through telemedicine:
- (1) An annual or lifetime dollar maximum on coverage for services provided through telemedicine other than an annual or lifetime dollar maximum that applies to the aggregate of all items and services covered;
  - (2) A deductible, copayment, coinsurance, benefit limitation, or maximum benefit that is not equally imposed upon all healthcare services covered under the health benefit plan; or
  - (3) A prior authorization requirement for services provided through telemedicine that exceeds the prior authorization requirement for in-person healthcare services under the health benefit plan.
  - (4) A requirement for a covered person to choose any commercial telemedicine service provider or a restricted network of telemedicine-only providers rather than the covered person's regular doctor or provider of choice; or
  - (5) A copayment, coinsurance, or deductible that is not equally imposed upon commercial telemedicine providers as those imposed on network providers.
- (f) This subchapter does not prohibit a health benefit plan from:
- (1) Limiting coverage of healthcare services provided through telemedicine to medically necessary services, subject to the same terms and conditions of the covered person's health benefit plan that apply to services provided in person; or
  - (2)
    - (A) Undertaking utilization review, including prior authorization, to determine the appropriateness of healthcare services provided through telemedicine, provided that:
      - (i) The determination of appropriateness is made in the same manner as determinations are made for the treatment of any illness, condition, or disorder covered by the health benefit plan whether the service was provided in-person or through telemedicine; and
      - (ii) All adverse determinations for healthcare services, medications, or equipment prescribed by a physician are made by a physician who possesses a current and valid unrestricted license to practice medicine in Arkansas.
    - (B) Utilization review shall not require prior authorization of emergent telemedicine services.
- (g)
- (1) A health benefit plan may adopt policies to ensure that healthcare services provided through telemedicine submitted for payment comply with the same coding, documentation, and other requirements necessary for payment as an in-person service other than the in-person requirement.
  - (2) If deemed necessary, the State Insurance Department may promulgate rules containing additional standards and procedures for the utilization of telemedicine to provide healthcare services through health benefit plans if the additional standards and procedures do not conflict with this subchapter or § 17-80-117 and are applied uniformly by all health benefit plans.
- (h) A health benefit plan shall not prohibit a healthcare professional from charging a patient enrolled in a health benefit plan for healthcare services provided by audio-only communication that are not reimbursed under the health benefit plan.

# California

## Requirements and Permissible Practices

### [Cal.Bus. & Prof.Code § 138 Requirement that licentiates provide notice of licensing to clients or customers](#)

Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its licensees, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

### [Cal.Bus. & Prof.Code § 1611.3](#)

§ 1611.3 Compliance with provisions requiring licentiates to give notice of licensing to clients or customers; notification and contents of notice.

The board shall require that the notice required under Section 138 includes a provision that the board is the entity that regulates dentists and dental assistants and provides the telephone number and internet website of the board. The board shall require the notice to be posted in a conspicuous location accessible to public view and accessible electronically for patients receiving dental services through telehealth.

### [Cal.Bus. & Prof.Code § 1683.1](#)

§ 1683.1. Provision of dental services through telehealth; provision of information regarding dentist providing services

(a) Any individual, partnership, corporation, or other entity that provides dental services through telehealth shall make available the name, telephone number, practice address, and California state license number of any dentist who will be involved in the provision of services to a patient prior to the rendering of services and when requested by a patient.

(b) A violation of this section shall constitute unprofessional conduct.

### [Cal.Bus. & Prof.Code § 1684.5](#)

**§ 1684.5 Treatment of patient not of record; unprofessional conduct; procedures allowed by dental auxiliary; written notification that care was provided at direction of authorizing dentist; limits on number of dental auxiliaries dentist may supervise; application of section; exceptions**

(a) In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for any dentist to perform or allow to be performed any treatment on a patient who is not a patient of record of that dentist. A dentist may, however, after conducting a preliminary oral examination, require or permit any dental auxiliary to perform procedures necessary for diagnostic purposes, provided that the procedures are permitted under the auxiliary's authorized scope of practice. Additionally, a dentist may require or permit a dental auxiliary to perform all of the following duties prior to any examination of the patient by the dentist, provided that the duties are authorized for the particular classification of dental auxiliary pursuant to Article 7 (commencing with Section 1740):

(1) Expose emergency radiographs upon direction of the dentist.

(2) If the dental auxiliary is a registered dental assistant in extended functions, a registered dental hygienist, or a registered dental hygienist in alternative practice, determine and perform radiographs for the specific purpose of aiding a dentist in completing a

comprehensive diagnosis and treatment plan for a patient using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist pursuant to Sections 1753.55, 1910.5, and 1926.05. A dentist is not required to review patient records or make a diagnosis using telehealth.

...

[Cal.Bus. & Prof.Code § 1753.55](#)

(a) A registered dental assistant in extended functions is authorized to perform the additional duties as set forth in subdivision (b) pursuant to the order, control, and full professional responsibility of a supervising dentist, if the licensee meets one of the following requirements:

(1) Is licensed on or after January 1, 2010.

(2) Is licensed prior to January 1, 2010, has successfully completed a board-approved course in the additional procedures specified in paragraphs (1), (2), (5), and (7) to (11), inclusive, of subdivision (b) of Section 1753.5, and passed the examination as specified in Section 1753.4.

(b)(1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental assistant in extended functions shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:

(A) In a dental office setting.

(B) In public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.

(2) Place protective restorations, which for this purpose are identified as interim therapeutic restorations, and defined as a direct provisional restoration placed to stabilize the tooth until a licensed dentist diagnoses the need for further definitive treatment. An interim therapeutic restoration consists of the removal of soft material from the tooth using only hand instrumentation, without the use of rotary instrumentation, and subsequent placement of an adhesive restorative material. Local anesthesia shall not be necessary for interim therapeutic restoration placement. Interim therapeutic restorations shall be placed only in accordance with both of the following:

(A) In either of the following settings:

(i) In a dental office setting, under the direct or general supervision of a dentist as determined by the dentist.

(ii) In public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.

(B) After the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.

(c) The functions described in subdivision (b) may be performed by a registered dental assistant in extended functions only after completion of a program that includes training in performing those functions, or after providing evidence, satisfactory to the board, of having completed a board-approved course in those functions.

(d) No later than January 1, 2018, the board shall adopt regulations to establish requirements for courses of instruction for the procedures authorized to be performed by a registered **dental** assistant in extended functions pursuant to this section using the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 172 through the Office of Health Planning and Development. The board shall submit to the committee proposed

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regulatory language for the curriculum for the Interim Therapeutic Restoration to the committee for the purpose of promulgating regulations for registered dental hygienists and registered dental hygienists in alternative practice as described in Section 1910.5. The language submitted by the board shall mirror the instructional curriculum for the registered dental assistant in extended functions. Any subsequent amendments to the regulations that are promulgated by the board for the Interim Therapeutic Restoration curriculum shall be submitted to the committee.

(e) The board may issue a permit to a registered dental assistant in extended functions who files a completed application, including the fee, to provide the duties specified in this section after the board has determined the registered dental assistant in extended functions has completed the coursework required in subdivision (c).

(f) This section shall become operative on January 1, 2018.

### Cal.Bus. & Prof.Code § 1910.5

#### **§ 1910.5. Additional duties registered dental hygienists are authorized to perform; training; adoption of regulations for courses of instruction**

(a) In addition to the duties specified in Section 1910, a registered dental hygienist is authorized to perform the following additional duties, as specified:

(1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental hygienist shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:

(A) In a dental office setting.

(B) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.

## Medicaid Reimbursement

### Cal.Welf. & Inst.Code § 14132.72

#### **§ 14132.72. Telehealth; medical services without in-person contact; barriers to in-person visits; type of setting where services are provided; use of telehealth not to be required if inappropriate; all-county letters, provider bulletins, and instructions**

(a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the provider.

(c) In-person contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telehealth, subject to reimbursement policies adopted by the department to compensate a licensed health care provider who provides health care services through telehealth that are otherwise reimbursed pursuant to the Medi-Cal program. Nothing in this section or the Telehealth Advancement Act of 2011 shall be construed to conflict with or supersede the provisions of Section 14091.3 of this code or any other existing state laws or regulations related to reimbursement for services provided by a noncontracted provider.

- (d) The department shall not require a health care provider to document a barrier to an in-person visit for Medi-Cal coverage of services provided via telehealth.
- (e) For the purposes of payment for covered treatment or services provided through telehealth, the department shall not limit the type of setting where services are provided for the patient or by the health care provider.
- (f) Nothing in this section shall be interpreted to authorize the department to require the use of telehealth when the health care provider has determined that it is not appropriate.
- (g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

**Cal.Welf. & Inst.Code § 14132.723**

**§ 14132.723. Services provided during or immediately following a state of emergency; reimbursement for telehealth services, telephonic services, or covered benefit services provided somewhere off premises of clinic; federal approval and funds required to implement this section**

- (a)(1) Notwithstanding any other law, neither face-to-face contact nor a patient's physical presence on the premises shall be required for services provided by an enrolled community clinic to a Medi-Cal beneficiary during or immediately following a state of emergency, as described in Section 8628.5 of the Government Code.
  - (2) Notwithstanding any other law, the department may apply paragraph (1) to services provided by another enrolled fee-for-service Medi-Cal provider, clinic, or facility during or immediately following a state of emergency.
- (b) For purposes of this section, the following terms have the following meanings:
  - (1)(A) "Enrolled community clinic" means a community clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code, an intermittent clinic exempt from licensure under subdivision (h) of Section 1206 of the Health and Safety Code, a clinic operated by the state or any of its political subdivisions, including, but not limited to, the University of California or a city or county that is exempt from licensure under subdivision (b) of Section 1206 of the Health and Safety Code, a tribal clinic exempt from licensure under subdivision (c) of Section 1206 of the Health and Safety Code, or an outpatient setting conducted, maintained, or operated by a federally recognized Indian tribe, tribal organization, or urban Indian organization, as defined in Section 1603 of Title 25 of the United States Code, that is certified, as applicable, and enrolled in good standing as a Medi-Cal provider or, in the case of an intermittent site, is added to a parent clinic's provider master file under Section 14043.15.
    - (B) An outpatient setting that operates as a federally qualified health center (FQHC) or a rural health center (RHC) shall qualify as an enrolled community clinic, regardless of its license type or license-exempt status.
  - (2) "Immediately following" means up to 90 calendar days, as deemed appropriate by the department, following the termination of the proclaimed state of emergency, as described in Section 8629 of the Government Code. Under extraordinary circumstances, including, but not limited to, the destruction of an enrolled location, as described in subdivision (a), the department may extend, in its discretion or at the direction of the Governor, the period of time immediately following the termination of a state of emergency beyond 90 calendar days and for as long as is necessary for the health and safety of the public.
  - (3)(A) "Premises" means either of the following, as applicable:
    - (i) A site located within the four walls of the enrolled community clinic, and at the address listed either on the primary care clinic license or in the provider master file.

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- (ii) A site located within the four walls of the enrolled fee-for-service Medi-Cal provider, clinic, or facility, and at the address listed either on its license or in the provider master file.
  - (B) For purposes of an FQHC or RHC, "premises" include a site located outside of the four walls of the FQHC or RHC, and at an address other than the address listed on its license or in the provider master file, but within the boundaries of the proclamation declaring the state of emergency.
  - (4) "Telehealth" has the same meaning as provided in Section 2290.5 of the Business and Professions Code.
  - (5) "Telephonic services" means health services provided via telephone with audio component only.
- (c) The following services shall be reimbursable when provided by an enrolled community clinic, an enrolled fee-for-service Medi-Cal program provider, clinic, or facility approved by the department pursuant to paragraph (2) of subdivision (a) during or immediately following a state of emergency for any dates of service on or after the date that the department obtains federal approvals and federal matching funds to implement these provisions pursuant to subdivision (f).
- (1) Telehealth services, including services provided by the enrolled community clinic or approved enrolled provider, clinic, or facility at a distant site location, whether on or off the premises, to a Medi-Cal beneficiary located at an originating site, which includes the beneficiary's home, temporary shelter, or any other location, if the services are provided somewhere located within the boundaries of the proclamation declaring the state of emergency.
  - (2) Telephonic services.
  - (3) Covered benefit services that are otherwise reimbursable to an FQHC or RHC, but that are provided somewhere off the premises, including, but not limited to, at a temporary shelter, a Medi-Cal beneficiary's home, or any location other than the premises, but within the boundaries of the proclamation declaring the state of emergency.
- (d) For purposes of paragraph (1) of subdivision (c), and consistent with Section 14132.72, the department shall ensure its reimbursement policies reflect the intent of the Legislature to authorize reimbursement for telehealth services appropriately provided by an enrolled community clinic, or, if approved by the department pursuant to paragraph (2) of subdivision (a), by an enrolled fee-for-service Medi-Cal provider, clinic, or facility, respectively, during or immediately following a state of emergency. This subdivision does not limit reimbursement for, or coverage of, or reduce access to, services provided through telehealth on or before the enactment of this section.
- (e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.
- (f) This section shall be implemented only to the extent that both of the following occur:
- (1) The department obtains any federal approvals necessary to implement this section.
  - (2) The department obtains federal matching funds to the extent permitted by federal law.

[Cal.Welf. & Inst.Code § 14132.724](#)

**§ 14132.724. Guidance and instructions for reimbursement for services provided pursuant to Section 14132.723 posted to department's internet website; federal approval required for state plan amendments or waivers to implement this section**

- (a) On or before July 1, 2020, the department shall issue, and shall publish on its internet website, guidance for enrolled community clinics and other enrolled fee-for-service Medi-Cal
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providers, clinics, or facilities that are subject to Section 14132.723 in order to facilitate reimbursement for services provided pursuant to Section 14132.723, whether those services are provided at a health facility, a shelter, the Medi-Cal beneficiary's home, or any other location within the boundaries of the emergency proclamation for the state of emergency, as described in Section 8628.5 of the Government Code. This guidance shall include, at a minimum, all of the following information:

- (1) Instructions, including examples, describing how enrolled community clinics and other enrolled fee-for-service Medi-Cal providers, clinics, or facilities submit claims for telehealth or telephonic services, as described in Section 14132.723, to Medi-Cal beneficiaries located outside the premises of the enrolled community clinic or other enrolled fee-for-service Medi-Cal provider, clinic, or facility during or immediately following a state of emergency.
  - (2) Direction to Medi-Cal managed care plans on paying any claims submitted in accordance with the guidance issued under this section, including that Medi-Cal managed care plans contracting with the department under the Medi-Cal program are responsible for ensuring their delegated payers comply with all applicable federal and state laws, regulations, contract requirements, and any department-issued guidance related to the provision of services by enrolled community clinics or other providers, clinics, or facilities during or immediately following a state of emergency.
  - (3)(A) Identification of services, provided during or immediately following a state of emergency, that may be provided solely through a telephonic visit, and identification of services that require other forms of telehealth, such as a live, synchronous video interaction, asynchronous store and forward, or an interactive telecommunications system.
    - (B) Identification of telephonic, facsimile, email, or remote patient monitoring devices that may be used and reimbursed as part of a Medi-Cal covered service, including, but not limited to, laboratory, x-ray, or physician services, subject to any required federal approvals or waivers sought under subdivision (d).
  - (4) Policies for ensuring prompt payment of claims submitted by enrolled community clinics or other enrolled fee-for-service Medi-Cal providers, clinics, or facilities for services provided during or immediately following a state of emergency, including, but not limited to, the temporary waiver of documentation requirements and streamlined billing or appeal processes for commonly owned entities.
- (b) For purposes of this section, the following terms have the following meanings:
- (1) "Asynchronous store and forward" has the same meaning as provided in Section 2290.5 of the Business and Professions Code.
  - (2) "Immediately following" has the same meaning as provided in Section 14132.723.
  - (3) "Interactive telecommunications system" has the same meaning as provided in Section 410.78 of Title 42 of the Code of Federal Regulations.
  - (4) "Premises" has the same meaning as provided in Section 14132.723.
  - (5) "Telehealth" has the same meaning as provided in Section 2290.5 of the Business and Professions Code.
- (c) The department shall seek federal approval of any necessary state plan amendments or waivers to implement this section, including, but not limited to, any demonstration program or similar opportunities allowing a telephonic visit to be used as a substitute for other forms of telehealth, such as synchronous video interaction, asynchronous store and forward, or an interactive telecommunications system.
- (d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action. The department shall adopt regulations by
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January 1, 2024, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

**§ 14132.725. Health care services provided by asynchronous store and forward; face-to-face contact no longer required; billing and reimbursement policies; implementation**

(a) To the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for health care services provided by asynchronous store and forward, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code. Services appropriately provided through the store and forward process are subject to billing and reimbursement policies developed by the department.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

### Private Payer Reimbursement

**Cal. Health & Safety Code § 1345**

**§ 1345. Definitions**

As used in this chapter:

...

(f) "Health care service plan" or "specialized health care service plan" means either of the following:

(1) Any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for those services, in return for a prepaid or periodic charge paid by or on behalf of the subscribers or enrollees.

(2) Any person, whether located within or outside of this state, who solicits or contracts with a subscriber or enrollee in this state to pay for or reimburse any part of the cost of, or who undertakes to arrange or arranges for, the provision of health care services that are to be provided wholly or in part in a foreign country in return for a prepaid or periodic charge paid by or on behalf of the subscriber or enrollee.

...

**Cal. Health & Safety Code § 1374.13**

**§ 1374.13. Telehealth; medical services without in-person contact; type of setting where services are provided; health care service plan and Medi-Cal managed care plan contracts with the department; use of telehealth not to be required if inappropriate**

(a) For the purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) A health care service plan shall not require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups, and pursuant to Section 1374.14.

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(d) A health care service plan shall not limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups, and pursuant to Section 1374.14.

(e) This section shall also apply to health care service plan contracts and Medi-Cal managed care plan contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any other law, this section does not authorize a health care service plan to require the use of telehealth if the health care provider has determined that it is not appropriate.

### Cal.Health & Safety Code § 1374.14

#### **§ 1374.14. Telehealth services; requirements for health care service plan contracts**

(a)(1) A contract issued, amended, or renewed on or after January 1, 2021, between a health care service plan and a health care provider for the provision of health care services to an enrollee or subscriber shall specify that the health care service plan shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an enrollee or subscriber appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment.

(2) This section does not limit the ability of a health care service plan and a health care provider to negotiate the rate of reimbursement for a health care service provided pursuant to a contract subject to this section. Services that are the same, as determined by the provider's description of the service on the claim, shall be reimbursed at the same rate whether provided in person or through telehealth. When negotiating a rate of reimbursement for telehealth services for which no in-person equivalent exists, a health care service plan and the provider shall ensure the rate is consistent with subdivision (h) of Section 1367.

(3) This section does not require telehealth reimbursement to be unbundled from other capitated or bundled, risk-based payments.

(b)(1) A health care service plan contract issued, amended, or renewed on or after January 1, 2021, shall specify that the health care service plan shall provide coverage for health care services appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers.

(2) This section does not alter the obligation of a health care service plan to ensure that enrollees have access to all covered services through an adequate network of contracted providers, as required under Sections 1367, 1367.03, and 1367.035, and the regulations promulgated thereunder.

(3) This section does not require a health care service plan to cover telehealth services provided by an out-of-network provider, unless coverage is required under other provisions of law.

(c) A health care service plan may offer a contract containing a copayment or coinsurance requirement for a health care service delivered through telehealth services, provided that the copayment or coinsurance does not exceed the copayment or coinsurance applicable if the

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same services were delivered through in-person diagnosis, consultation, or treatment. This subdivision does not require cost sharing for services provided through telehealth.

(d) Services provided through telehealth and covered pursuant to this chapter shall be subject to the same deductible and annual or lifetime dollar maximum as equivalent services that are not provided through telehealth.

(e) The definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code apply to this section.

(f) This section shall not apply to Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) of, Chapter 8 (commencing with Section 14200) of, or Chapter 8.75 (commencing with Section 14591) of, Part 3 of Division 9 of the Welfare and Institutions Code.

### [Cal.Ins.Code § 10123.85](#)

§ 10123.85. Telehealth; medical services without in-person contact; type of setting where services are provided; health care service plan contracts with department; use of telehealth not to be required if inappropriate

(a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) A health insurer shall not require that in-person contact occur between a health care provider and a patient before payment is made for the services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the policyholder or contractholder and the insurer, and between the insurer and its participating providers or provider groups, and pursuant to Section 10123.855.

(d) A health insurer shall not limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided by telehealth, subject to the terms and conditions of the contract between the policyholder or contractholder and the insurer, and between the insurer and its participating providers or provider groups, and pursuant to Section 10123.855.

(e) Notwithstanding any other law, this section does not authorize a health insurer to require the use of telehealth if the health care provider has determined that it is not appropriate.

# Colorado

## Requirements and Permissible Practices

Article 220. Dentists and Dental Hygienists (Pts. 1 — 6)  
Part 1. General Provisions (§§ 12-220-101 — 12-220-108)  
[C.R.S. 12-220-104. Definitions - rules.](#)

...

(15) "Telehealth supervision" means indirect supervision by a dentist of a dental hygienist performing a statutorily authorized procedure using telecommunications systems.

[C.R.S. 12-220-505 Interim therapeutic restorations by dental hygienists - permitting process - rules - subject to review.](#)

(1) Upon application, accompanied by a fee in an amount determined by the director, the board shall grant a permit to place interim therapeutic restorations to any dental hygienist applicant who:

- (a) Holds a license in good standing to practice dental hygiene in Colorado; and
- (b) Has completed a course developed at the postsecondary educational level that complies with the rules adopted by the board. The course must be offered under the direct supervision of a member of the faculty of a Colorado dental or dental hygiene school accredited by the Commission on Dental Accreditation or its successor agency. All faculty responsible for clinical evaluation of students must be dentists with a faculty appointment at an accredited Colorado dental or dental hygiene school.
- (c) and (d) Repealed.

(2) Repealed.

(3) A dental hygienist shall not use local anesthesia for the purpose of placing interim therapeutic restorations.

(4)

- (a) A dental hygienist may place an interim therapeutic restoration only after a dentist provides a diagnosis, treatment plan, and instruction to perform the procedure.
- (b) If a supervising dentist authorizes a dental hygienist to perform an interim therapeutic restoration placement at a location other than the dentist's practice location, the dental hygienist shall provide the patient or the patient's representative with written notification that the care was provided at the direction of the supervising dentist. The dental hygienist shall include in the written notification the dentist's name, practice location address, and telephone number.
- (c) A dental hygienist who obtains a dentist's diagnosis, treatment plan, and instruction to perform an ITR utilizing telehealth shall notify the patient of the patient's right to receive interactive communication with the distant dentist upon request.

(5) A dental hygienist who obtains a permit pursuant to this section may place interim therapeutic restorations in a dental practice setting under the direct or indirect supervision of a dentist or through telehealth supervision for purposes of communication with the dentist.

(6)

- (a) A dentist shall not supervise more than five full-time equivalent dental hygienists who place interim therapeutic restorations under telehealth supervision unless granted a waiver by the board pursuant to subsection (6)(b) of this section. For purposes of patient referral for follow-up care, a dentist who supervises a dental hygienist who provides interim therapeutic restorations under telehealth supervision must have an active license in good standing

issued by the board and a physical practice location in Colorado or within reasonable proximity of the location where the interim therapeutic restoration is placed.

(b) The board shall promulgate rules creating a process for a dentist to seek a waiver from the supervision limit specified in subsection (6)(a) of this section. At a minimum, the rules must specify the application process and waiver requirements.

(7) A dental hygienist shall inform the patient or the patient's legal guardian, in accordance with board rules, that the patient should follow up with a dentist as appropriate.

(8) Repealed.

### **3 CCR 709-1:1.25. Placement of Interim Therapeutic Restorations by Dental Hygienists**

This Rule is promulgated pursuant to sections 12-20-204, 12-220-105(3), 12-220-106, 12-220-504(1)(d) and 12-220-505, C.R.S.

A. Once issued a permit by the Board, a dental hygienist may place interim therapeutic restorations in a dental practice setting under "direct supervision" as defined in section 12-220-104(7), C.R.S or "indirect supervision" as defined in section 12-220-104(9), C.R.S., of a dentist with an active license in good standing issued by the Board, or through "telehealth supervision" as defined in section 12-220-104(15), C.R.S., for purposes of communication with the supervising dentist.

B. A dentist shall not supervise more than 5 full-time equivalent dental hygienists who place interim therapeutic restorations under telehealth supervision unless granted a waiver by the Board pursuant to section 12-220-505(6)(b), C.R.S.

#### **1. Application Process**

a. The applicant requesting a waiver must submit a written application on a form approved by the Board detailing the basis for the waiver request.

b. The written request should address why there is good cause to waive the supervision requirement as set forth in section 12-220-505(6)(a), C.R.S., and should include any documentation necessary to support the request.

c. Upon receipt of the waiver request and documentation, the matter will be considered at the next Board meeting. The applicant will receive the Board's decision in writing.

#### **2. Waiver Requirements**

a. Upon a showing of good cause, the Board may permit a waiver of the supervision requirement as set forth in section 12-220-505(6)(a), C.R.S.

b. Factors to be considered in granting such waivers include, but are not limited to:

(1) The quality of protocols setting out the responsibilities of the supervision of the dental hygienist with regard to placing interim therapeutic restorations; and

(2) Any disciplinary history on the part of the supervising dentist or dental hygienist.

c. All such waivers shall be in the sole discretion of the Board. All waivers shall be strictly limited to the terms provided by the Board. The Board reserves the right to withdraw or cancel the waiver upon a finding of disciplinary action. No waivers shall be granted if in conflict with State law.

d. The waiver shall be valid for up to two years, and the dentist must reapply for the waiver every license renewal cycle.

C. In order to be eligible for a permit to place an ITR, a dental hygienist must:

1. Hold a license in good standing to practice dental hygiene in Colorado;

2. Complete a course developed at the postsecondary education level offered under the direct supervision of a member of the faculty of a Colorado dental or dental hygiene school accredited by the Commission on Dental Accreditation (CODA) or its successor agency that complies with the following uniform training standards:

a. Four hours of didactic instruction, including but not limited to:

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- (1) Pulpal anatomy;
  - (2) Principles of adhesive restorative materials;
  - (3) Preparation of the tooth and placement techniques;
  - (4) Diagnostic criteria for interim therapeutic restorations;
  - (5) Evaluation of proper placement and technique; and
  - (6) Protocols for handling sensitivity, complications, or unsuccessful completion and follow-up;
- b. Four hours of laboratory instruction that includes placement of interim therapeutic restorations on typodont teeth;
  - c. Criteria for evaluating competency through placement of interim therapeutic restorations on a minimum of four teeth under direct supervision of faculty; and
  - d. Clinical evaluations of students must be performed by a dentist with a faculty appointment at an accredited Colorado dental or dental hygiene school.
- D. A dental hygienist shall not use local anesthesia for the purpose of placing interim therapeutic restorations.
- E. A dental hygienist shall inform the patient or the patient's legal guardian that the interim therapeutic restorations (ITR) will require routine monitoring and follow up or maintenance with a dentist, as appropriate. This informed consent shall be documented in the patient's records.
- F. Pursuant to 12-220-201(1)(nn), C.R.S., the Board may take disciplinary action against an applicant or licensee for failing to comply with the requirements regarding the placement of interim therapeutic restorations.

## Medicaid Reimbursement

### [C.R.S. 25.5-5-207. Adult dental benefit--adult dental fund--creation--legislative declaration](#)

...

(d) Subject to federal authorization and federal financial participation, on or after July 1, 2016, the diagnosis, development of a treatment plan, instruction to perform an interim therapeutic restoration procedure, or supervision of a dental hygienist performing an interim therapeutic restoration procedure may be provided through telehealth, including store-and-forward transfer, in accordance with section 25.5-5-321.5.

...

### [C.R.S. § 25.5-8-109.5. Telehealth--interim therapeutic restorations--reimbursement--definitions](#)

(1) Subject to federal authorization and financial participation, on or after July 1, 2016, in-person contact between a health care provider and an enrollee is not required under the children's basic health plan for the diagnosis, development of a treatment plan, instruction to perform an interim therapeutic restoration procedure, or supervision of a dental hygienist performing an interim therapeutic restoration procedure. A health care provider may provide these services through telehealth, including store-and-forward transfer, and is entitled to reimbursement for the delivery of those services via telehealth to the extent the services are otherwise eligible for reimbursement under the plan. The services are subject to the reimbursement policies developed pursuant to the children's basic health plan.

### [C.R.S. 25.5-5-320 Telemedicine - reimbursement - disclosure statement - definition - repeal](#)

(1) On or after July 1, 2006, in-person contact between a health-care or mental health-care provider and a patient is not required under the state's medical assistance program for health-care or mental health-care services delivered through telemedicine that are otherwise eligible for reimbursement under the program. The state department shall promulgate rules specifically relating to entities that deliver health-care or mental health-care services exclusively or

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predominately through telemedicine. Any health-care or mental health-care service delivered through telemedicine must meet the same standard of care as an in-person visit. Telemedicine may be provided through interactive audio, interactive video, or interactive data communication, including but not limited to telephone, relay calls, interactive audiovisual modalities, and live chat, as long as the technologies are compliant with the federal "Health Insurance Portability and Accountability Act of 1996", Pub.L. 104-191, as amended. The health-care or mental health-care services are subject to reimbursement policies developed pursuant to the medical assistance program. This section also applies to managed care organizations that contract with the state department pursuant to the statewide managed care system only to the extent that:

- (a) Health care or mental health care services delivered through telemedicine are covered by and reimbursed under the Medicaid per diem payment program; and
  - (b) Managed care contracts with managed care organizations are amended to add coverage of health care or mental health care services delivered through telemedicine and any appropriate per diem rate adjustments are incorporated.
- (2) The reimbursement rate for a telemedicine service shall, as a minimum, be set at the same rate as the medical assistance program rate for a comparable in-person service. The state department may consider setting the reimbursement rate on a monthly basis as well as on a daily or per-visit basis.
- (2.1) For the purposes of reimbursement for services provided by home care agencies, as defined in section 25-27.5-102 (3), the services may be supervised through telemedicine or telehealth.
- (2.5)
- (a) A telemedicine service meets the definition of a face-to-face encounter for a rural health clinic, as defined in the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(2). The reimbursement rate for a telemedicine service provided by a rural health clinic must be set at a rate that is no less than the medical assistance program rate for a comparable face-to-face encounter or visit.
  - (b) A telemedicine service meets the definition of a face-to-face encounter for a medical care program of the federal Indian health service. The reimbursement rate for a telemedicine service provided by a medical care program of the federal Indian health service must be set at a rate that is no less than the medical assistance program rate for a comparable face-to-face encounter or visit.
  - (c) A telemedicine service meets the definition of a face-to-face encounter for a federally qualified health center, as defined in the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(4). The reimbursement rate for a telemedicine service provided by a federally qualified health center must be set at a rate that is no less than the medical assistance program rate for a comparable face-to-face encounter or visit.
- (3) The state department shall establish rates for transmission cost reimbursement for telemedicine services, considering, to the extent applicable, reductions in travel costs by health care or mental health care providers and patients to deliver or to access such services and such other factors as the state department deems relevant.
- (4) A health care or mental health care provider who delivers health care or mental health care services through telemedicine shall provide to each patient, before treating that patient through telemedicine for the first time, the following written statements:
- (a) That the patient retains the option to refuse the delivery of the services via telemedicine at any time without affecting the patient's right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the patient would otherwise be entitled;

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(b) That all applicable confidentiality protections shall apply to the services; and  
(c) That the patient shall have access to all medical information resulting from the telemedicine services as provided by applicable law for patient access to his or her medical records.

(5) Subsection (4) of this section shall not apply in an emergency.

(6)

(a) The state department shall post telemedicine utilization data to the state department's website no later than thirty days after the effective date of this subsection (6) and shall update the data every other month through state fiscal year 2021-22. For state fiscal years 2020-21 and 2021-22, the state department shall compile, summarize, and report on the utilization data to the public through the annual hearing, pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2.

(b) This subsection (6) is repealed, effective July 1, 2022.

(7) As used in this section, "health-care or mental health-care services" includes speech therapy, physical therapy, occupational therapy, dental care, hospice care, home health care, and pediatric behavioral health care.

#### [C.R.S. 25.5-5-321.5 Telehealth - interim therapeutic restorations - reimbursement - definitions \(Effective September 1, 2021\)](#)

(1) Subject to federal authorization and federal financial participation, on or after July 1, 2016, in-person contact between a health care provider and a recipient is not required under the state's medical assistance program for the diagnosis, development of a treatment plan, instruction to perform an interim therapeutic restoration procedure, or supervision of a dental hygienist performing an interim therapeutic restoration procedure. A health care provider may provide these services through telehealth, including store-and-forward transfer, and is entitled to reimbursement for the delivery of those services via telehealth to the extent the services are otherwise eligible for reimbursement under the program when provided in person. The services are subject to the reimbursement policies developed pursuant to the state medical assistance program.

(2) As used in this section:

(a) "Interim therapeutic restoration" has the same meaning as set forth in section 12-220-104 (10).

(b) "Store-and-forward transfer" means the asynchronous transmission of medical or dental information to be reviewed by a dentist at a later time at a distant site without the patient present in real time.

### Private Payer Reimbursement

#### [C.R.S. 10-16-102 Definitions](#)

...

(33) "Health care services" means any services included in or incidental to the furnishing of medical, behavioral, mental health, or substance use disorder; dental, or optometric care; hospitalization; or nursing home care to an individual, as well as the furnishing to any person of any other services for the purpose of preventing, alleviating, curing, or healing human physical illness or injury, or behavioral, mental health, or substance use disorder. "Health care services" includes the rendering of the services through the use of telehealth, as defined in section 10-16-123 (4)(e).

...

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**C.R.S. 10-16-123 Telehealth – definitions**

(1) It is the intent of the general assembly to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a provider without in-person contact with the provider.

(2)

(a) A health benefit plan or dental plan that is issued, amended, or renewed in this state shall not require in-person contact between a provider and a covered person for services appropriately provided through telehealth, subject to all terms and conditions of the health benefit plan or dental plan. Nothing in this section requires the use of telehealth when a provider determines that delivery of care through telehealth is not appropriate or when a covered person chooses not to receive care through telehealth. A provider is not obligated to document or demonstrate that a barrier to in-person care exists to trigger coverage under a health benefit plan or dental plan for services provided through telehealth.

(b)

(I) Subject to all terms and conditions of the health benefit plan or dental plan, a carrier shall reimburse the treating participating provider or the consulting participating provider for the diagnosis, consultation, or treatment of the covered person delivered through telehealth on the same basis that the carrier is responsible for reimbursing that provider for the provision of the same service through in-person consultation or contact by that provider.

(II) A carrier shall not restrict or deny coverage of a health care service that is a covered benefit solely:

(A) Because the service is provided through telehealth rather than in-person consultation or contact between the participating provider or, subject to section 10-16-704, the nonparticipating provider and the covered person where the health care service is appropriately provided through telehealth; or

(B) Based on the communication technology or application used to deliver the telehealth services pursuant to this section.

(III) Section 10-16-704 applies to this subsection (2)(b), and the availability of telehealth services does not modify the requirements imposed on carriers under that section to provide a sufficient network of providers available in the community to provide in-person health care services.

(c) A carrier shall include in the payment for telehealth interactions reasonable compensation to the originating site for the transmission cost incurred during the delivery of health care services through telehealth; except that, for purposes of this subsection (2)(c), the carrier is not required to pay or reimburse for any transmission costs the covered person incurred or originating site fees, regardless of how or by whom the fees are billed, for the delivery of health care services through telehealth to or from the covered person's home or a private residence.

(d) A carrier may offer a health coverage plan or dental plan containing a deductible, copayment, or coinsurance requirement for a health-care service provided through telehealth, but the deductible, copayment, or coinsurance amount must not exceed the deductible, copayment, or coinsurance applicable if the same health-care services are provided through in-person diagnosis, consultation, or treatment.

(e) A carrier shall not:

(I) Impose an annual dollar maximum on coverage for health-care services covered under the health benefit plan or dental plan that are delivered through telehealth, other than an annual dollar maximum that applies to the same services when performed by the same provider through in-person care;

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- (II) Impose specific requirements or limitations on the HIPAA-compliant technologies that a provider uses to deliver telehealth services, including limitations on audio or live video technologies;
  - (III) Require a covered person to have a previously established patient-provider relationship with a specific provider in order for the covered person to receive medically necessary telehealth services from the provider; or
  - (IV) Impose additional certification, location, or training requirements on a provider as a condition of reimbursing the provider for providing health care services through telehealth.
- (f) If a covered person receives health-care services through telehealth, a carrier shall apply the applicable copayment, coinsurance, or deductible amount to the telehealth services under the health benefit plan or dental plan, which copayment, coinsurance, or deductible amount shall not exceed the amounts applicable to those health-care services when performed by the same provider through in-person care.
- (g)
- (I) Repealed.
  - (II) This section does not apply to:
    - (A) Short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts; or
    - (B) Policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the "Social Security Act", as amended, or any other similar coverage under state or federal governmental plans.
  - (h) Nothing in this section prohibits a carrier from providing coverage or reimbursement for health care services appropriately provided through telehealth to a covered person who is not located at an originating site.
- (3) A health benefit plan or dental plan is not required to pay for consultation provided by a provider by telephone or facsimile unless the consultation is provided through HIPAA-compliant interactive audio-visual communication or the use of a HIPAA-compliant application via a cellular telephone.
- (4) As used in this section:
- (a) "Distant site" means a site at which a provider is located while providing health care services by means of telehealth.
  - (b) "Originating site" means a site at which a patient is located at the time health care services are provided to him or her by means of telehealth.
  - (b.5) "Remote monitoring" means the use of synchronous or asynchronous technologies to collect or monitor medical and other forms of health data for individuals at an originating site and electronically transmit that information to providers at a distant site so providers can assess, diagnose, consult, treat, educate, provide care management, suggest self-management, or make recommendations regarding a covered person's health care.
  - (c) "Store-and-forward transfer" means the electronic transfer of a patient's medical information or an interaction between providers that occurs between an originating site and distant sites when the patient is not present.
  - (d) Repealed.
  - (e) "Telehealth" means a mode of delivery of health care services through HIPAA-compliant telecommunications systems, including information, electronic, and communication technologies, remote monitoring technologies, and store-and-forward transfers, to facilitate the assessment, diagnosis, consultation, treatment, education, care management, or self-management of a covered person's health care while the covered person is located at an originating site and the provider is located at a distant site.

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# Connecticut

## Requirements, Permissible Practices and Medicaid Reimbursement

(12) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of a patient's physical, oral and mental health, and includes interaction between the patient at the originating site and the telehealth provider at a distant site, synchronous interactions, asynchronous store and forward transfers or remote patient monitoring, but does not include interaction through (A) facsimile, texting or electronic mail, or (B) audio-only telephone unless the telehealth provider is (i) in-network, or (ii) a provider enrolled in the Connecticut medical assistance program providing such health care or other health services to a Connecticut medical assistance program recipient.

(13) "Telehealth provider" means any person who is (A) an in-network provider or a provider enrolled in the Connecticut medical assistance program providing health care or other health services to a Connecticut medical assistance program recipient through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to such person's profession, and (B) (i) ... dentist licensed under chapter 379 of the general statutes, ... or (ii) an appropriately licensed, certified or registered ... dentist, ... in another state or territory of the United States or the District of Columbia, that provides telehealth services pursuant to his or her authority under any relevant order issued by the Commissioner of Public Health and maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified or registered Connecticut health care providers.

(b) (1) Notwithstanding the provisions of section 19a-906 of the general statutes, during the period beginning on the effective date of this section and ending on June 30, 2023, a telehealth provider may only provide a telehealth service to a patient when the telehealth provider:

(B) Has determined whether the patient has health coverage that is fully insured, not fully insured or provided through Medicaid or the Children's Health Insurance Program, and whether the patient's health coverage, if any, provides coverage for the telehealth service;

(D) Conforms to the standard of care applicable to the telehealth provider's profession and expected for in-person care as appropriate to the patient's age and presenting condition, except when the standard of care requires the use of diagnostic testing and performance of a physical examination, such testing or examination may be carried out through the use of peripheral devices appropriate to the patient's condition; and

(E) Provides the patient with the telehealth provider's license number, if any, and contact information.

(2) Notwithstanding the provisions of section 19a-906 of the general statutes, if a telehealth provider provides a telehealth service to a patient during the period beginning on the effective date of this section and ending on June 30, 2023, the telehealth provider shall, at the time of the telehealth provider's first telehealth interaction with a patient, inform the patient concerning the treatment methods and limitations of treatment using a telehealth platform, including, but

not limited to, the limited duration of the relevant provisions of this section and sections 3 to 7, inclusive, of this act, and, after providing the patient with such information, obtain the patient's consent to provide telehealth services. The telehealth provider shall document such notice and consent in the patient's health record. If a patient later revokes such consent, the telehealth provider shall document the revocation in the patient's health record.

(c) Notwithstanding the provisions of this section or title 20 of the general statutes, no telehealth provider shall, during the period beginning on the effective date of this section and ending on June 30, 2023, prescribe any schedule I, II or III controlled substance through the use of telehealth, except a schedule II or III controlled substance other than an opioid drug, as defined in section 20-14o of the general statutes, in a manner fully consistent with the Ryan Haight Online Pharmacy Consumer Protection Act, 21 USC 829(e), as amended from time to time, for the treatment of a person with a psychiatric disability or substance use disorder, as defined in section 17a-458 of the general statutes, including, but not limited to, medication-assisted treatment. A telehealth provider using telehealth to prescribe a schedule II or III controlled substance pursuant to this subsection shall electronically submit the prescription pursuant to section 21a-249 of the general statutes, as amended by this act.

(d) During the period beginning on the effective date of this section and ending on June 30, 2023, each telehealth provider shall, at the time of the initial telehealth interaction, ask the patient whether the patient consents to the telehealth provider's disclosure of records concerning the telehealth interaction to the patient's primary care provider. If the patient consents to such disclosure, the telehealth provider shall provide records of all telehealth interactions during such period to the patient's primary care provider, in a timely manner, in accordance with the provisions of sections 20-7b to 20-7e, inclusive, of the general statutes.

(f) (1) The provision of telehealth services and health records maintained and disclosed as part of a telehealth interaction shall comply with all provisions of the Health Insurance Portability and Accountability Act of 1996 P.L. 104-191, as amended from time to time, and the rules and regulations adopted thereunder, that are applicable to such provision, maintenance or disclosure.

(2) Notwithstanding the provisions of section 19a-906 of the general statutes and subdivision (1) of this subsection, a telehealth provider that is an in-network provider or a provider enrolled in the Connecticut medical assistance program that provides telehealth services to a Connecticut medical assistance program recipient, may, during the period beginning on the effective date of this section and ending on June 30, 2023, use any information or communication technology in accordance with the directions, modifications or revisions, if any, made by the Office for Civil Rights of the United States Department of Health and Human Services to the provisions of the Health Insurance Portability and Accountability Act of 1996 P.L. 104-191, as amended from time to time, or the rules and regulations adopted thereunder.

(g) Notwithstanding any provision of the general statutes, nothing in this section shall, during the period beginning on the effective date of this section and ending on June 30, 2023, prohibit a health care provider from: (1) Providing on-call coverage pursuant to an agreement with another health care provider or such health care provider's professional entity or employer; (2) consulting with another health care provider concerning a patient's care; (3) ordering care for hospital outpatients or inpatients; or (4) using telehealth for a hospital inpatient, including for the purpose of ordering medication or treatment for such patient in accordance with the Ryan

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Haight Online Pharmacy Consumer Protection Act, 21 USC 829(e), as amended from time to time. As used in this subsection, "health care provider" means a person or entity licensed or certified pursuant to chapter 370, 372, 373, 375, 376 to 376b, inclusive, 378, 379, 380, 381a, 383 to 383c, inclusive, 384b, 397a, 399 or 400j of the general statutes or licensed or certified pursuant to chapter 368d or 384d of the general statutes.

(h) Notwithstanding any provision of the general statutes, no telehealth provider shall charge a facility fee for a telehealth service provided during the period beginning on the effective date of this section and ending on June 30, 2023.

(i) (1) Notwithstanding any provision of the general statutes, no telehealth provider shall provide health care or health services to a patient through telehealth during the period beginning on the effective date of this section and ending on June 30, 2023, unless the telehealth provider has determined whether or not the patient has health coverage for such health care or health services.

(2) Notwithstanding any provision of the general statutes, a telehealth provider who provides health care or health services to a patient through telehealth during the period beginning on the effective date of this section and ending on June 30, 2023, shall:

(i) An amount that is equal to the amount that Medicare reimburses for such health care or health services if the telehealth provider determines that the patient does not have health coverage for such health care or health services; or

(ii) The amount that the patient's health coverage reimburses, and any coinsurance, copayment, deductible or other out-of-pocket expense imposed by the patient's health coverage, for such health care or health services if the telehealth provider determines that the patient has health coverage for such health care or health services.

(3) If a telehealth provider determines that a patient is unable to pay for any health care or health services described in subdivisions (1) and (2) of this subsection, the provider shall offer to the patient financial assistance, if such provider is otherwise required to offer to the patient such financial assistance, under any applicable state or federal law.

(j) Notwithstanding any provision of the general statutes or any regulation adopted thereunder, a telehealth provider may provide telehealth services pursuant to the provisions of this section from any location.

(k) Notwithstanding the provisions of section 19a-906 of the general statutes, during the period beginning on the effective date of this section and ending on June 30, 2023, any Connecticut entity, institution or health care provider that engages or contracts with a telehealth provider that is licensed, certified or registered in another state or territory of the United States or the District of Columbia to provide health care or other health services shall verify the credentials of such provider in the state in which he or she is licensed, certified or registered, ensure that such a provider is in good standing in such state, and confirm that such provider maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified or registered Connecticut health care providers.

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(l) Notwithstanding sections 4-168 to 4-174, inclusive, of the general statutes, from the period beginning on the effective date of this section and ending on June 30, 2023, the Commissioner of Public Health may temporarily waive, modify or suspend any regulatory requirements adopted by the Commissioner of Public Health or any boards or commissions under chapters 368a, 368d, 368v, 369 to 381a, inclusive, 382a, 383 to 388, inclusive, 397a, 398, 399, 400a, 400c, 400j and 474 of the general statutes as the Commissioner of Public Health deems necessary to reduce the spread of COVID-19 and to protect the public health for the purpose of providing residents of this state with telehealth services from out-of-state practitioners.

(5) The practitioner demonstrates, in a form and manner prescribed by the commissioner, that such practitioner does not have the technological capacity to issue electronically transmitted prescriptions. For the purposes of this subsection, "technological capacity" means possession of a computer system, hardware or device that can be used to electronically transmit controlled substance prescriptions consistent with the requirements of the federal Controlled Substances Act, 21 USC 801, as amended from time to time. The provisions of this subdivision shall not apply to a practitioner when such practitioner is prescribing as a telehealth provider, as defined in section 19a-906,[or] section 1 of public act 20-2 of the July special session or section 1 of this act, as applicable, pursuant to subsection (c) of section 19a-906,[or] subsection (c) of section 1 of public act 20-2 of the July special session or subsection (c) of section 1 of this act, as applicable.

### Private Payer Reimbursement

(6) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of an insured's physical, oral and mental health, and includes interaction between the insured at the originating site and the telehealth provider at a distant site, synchronous interactions, asynchronous store and forward transfers or remote patient monitoring, but does not include interaction through (A) facsimile, texting or electronic mail, or (B) audio-only telephone if the telehealth provider is out-of-network; and

(7) "Telehealth provider" means any person who (A) provides health care or other health services through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to such person's profession, and (B) is (i) a ... dentist licensed under chapter 379 of the general statutes, ... or (ii) an in-network and appropriately licensed, certified or registered ... dentist, ... in another state or territory of the United States or the District of Columbia, that provides telehealth services pursuant to his or her authority under any relevant order issued by the Commissioner of Public Health and maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified or registered Connecticut health care providers.

(b) Notwithstanding any provision of the general statutes, each individual health insurance policy that provides coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general statutes that is effective at any time during the period beginning on the effective date of this section and ending on June 30, 2023, shall, at all times that the policy remains in effect during such period, provide coverage for medical advice, diagnosis, care or treatment provided through telehealth, to the same extent coverage is provided for such advice, diagnosis, care or treatment when provided to the insured in person. The policy Research data are current as of September 2021. This document is intended for educational purposes only and should not be considered legal advice. Please contact Phil Mauller at [maullerp@adea.org](mailto:maullerp@adea.org) with any updates or information that may be relevant to this document.



shall not, at any time during such period, exclude coverage for a service that is appropriately provided through telehealth because such service is provided through telehealth or a telehealth platform selected by an in-network telehealth provider.

(c) Notwithstanding any provision of the general statutes, no telehealth provider who receives a reimbursement for a covered service provided through telehealth in accordance with subsection (b) of this section shall seek any payment for such service from the insured who received such service, except for any coinsurance, copayment, deductible or other out-of-pocket expense set forth in the insured's policy. Such amount shall be deemed by the telehealth provider to be payment in full.

(d) Nothing in this section shall prohibit or limit a health insurer, health care center, hospital service corporation, medical service corporation or other entity from conducting utilization review for telehealth services, provided such utilization review is conducted in the same manner and uses the same clinical review criteria as a utilization review for an in-person consultation for the same service. Except as provided in subsection (b) or (c) of this section, the coverage required under subsection (b) of this section shall be subject to the same terms and conditions applicable to all other benefits under the policy providing such coverage.

(6) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of an insured's physical, oral and mental health, and includes interaction between the insured at the originating site and the telehealth provider at a distant site, synchronous interactions, asynchronous store and forward transfers or remote patient monitoring, but does not include interaction through (A) facsimile, texting or electronic mail, or (B) audio-only telephone if the telehealth provider is out-of-network; and

(7) "Telehealth provider" means any person who (A) provides health care or other health services through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to such person's profession, and (B) is (i) a ... dentist licensed under chapter 379 of the general statutes, ... or (ii) an in-network and appropriately licensed, certified or registered ... dentist, ... in another state or territory of the United States or the District of Columbia, that provides telehealth services pursuant to his or her authority under any relevant order issued by the Commissioner of Public Health and maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified or registered Connecticut health care providers.

(b) Notwithstanding any provision of the general statutes, each group health insurance policy that provides coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general statutes that is effective at any time during the period beginning on the effective date of this section and ending on June 30, 2023, shall, at all times that the policy remains in effect during such period, provide coverage for medical advice, diagnosis, care or treatment provided through telehealth, to the same extent coverage is provided for such advice, diagnosis, care or treatment when provided to the insured in person. The policy shall not, at any time during such period, exclude coverage for a service that is appropriately provided through telehealth because such service is provided through telehealth or a telehealth platform selected by an in-network telehealth provider.

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(c) Notwithstanding any provision of the general statutes, no telehealth provider who receives a reimbursement for a covered service provided through telehealth in accordance with subsection (b) of this section shall seek any payment for such service from the insured who received such service, except for any coinsurance, copayment, deductible or other out-of-pocket expense set forth in the insured's policy. Such amount shall be deemed by the telehealth provider to be payment in full.

(d) Nothing in this section shall prohibit or limit a health insurer, health care center, hospital service corporation, medical service corporation or other entity from conducting utilization review for telehealth services, provided such utilization review is conducted in the same manner and uses the same clinical review criteria as a utilization review for an in-person consultation for the same service. Except as provided in subsection (b) or (c) of this section, the coverage required under subsection (b) of this section shall be subject to the same terms and conditions applicable to all other benefits under the policy providing such coverage.

(1) "Health carrier" has the same meaning as provided in section 38a-1080 of the general statutes;

(2) "Insured" has the same meaning as provided in section 38a-1 of the general statutes;

(3) "Telehealth" has the same meaning as provided in sections 3 and 4 of this act; and

(4) "Telehealth provider" has the same meaning as provided in sections 3 and 4 of this act.

(b) Notwithstanding any provision of the general statutes, no health carrier shall reduce the amount of a reimbursement paid to a telehealth provider for covered health care or health services that the telehealth provider appropriately provided to an insured through telehealth during the period beginning on the effective date of this section and ending on June 30, 2023, because the telehealth provider provided such health care or health services to the patient through telehealth and not in person.

(1) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of a patient's physical, oral and mental health, and includes (A) interaction between the patient at the originating site and the telehealth provider at a distant site, and (B) synchronous interactions, asynchronous store and forward transfers or remote patient monitoring. "Telehealth" does not include the use of facsimile, texting or electronic mail.

(2) "Connecticut medical assistance program" means the state's Medicaid program and the Children's Health Insurance Program under Title XXI of the Social Security Act, as amended from time to time.

(b) Notwithstanding the provisions of section 17b-245c, 17b-245e or 19a-906 of the general statutes, or any other section, regulation, rule, policy or procedure governing the Connecticut medical assistance program, the Commissioner of Social Services may, in the commissioner's discretion and to the extent permissible under federal law, provide coverage under the

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*Connecticut, continued*

Connecticut medical assistance program for audio-only telehealth services for the period beginning on the effective date of this section and ending on June 30, 2023.

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# Delaware

## Requirements and Permissible Practices

### HB 160

(Editorial note: HB 160 became law in 2021. This bill added a new chapter of code that regulates the practice of telehealth for numerous health professionals, including those regulated by the State Board of Dentistry and Dental Hygiene).

**Section 4. Amend Title 24 of the Delaware Code inserting a new chapter 60 by making insertions as shown by underline and deletions as shown by strike through as follows:**

**Chapter 60. Provisions Applicable to Telehealth and Telemedicine.**

#### **§ 6001. Definitions.**

As used in this chapter:

(1) "Distant site" means a site at which a health-care provider legally allowed to practice in the state is located while providing health-care services by means of telemedicine.

(2) "Health-care provider" means any person authorized to deliver clinical health-care services by telemedicine and participate in telehealth pursuant to this chapter and regulations promulgated by the respective professional boards listed in § 6002.

(3) "Originating site" means a site in Delaware at which a patient is located at the time health-care services are provided to the patient by means of telemedicine or telehealth.

Notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(4) "Store and forward transfer" means the synchronous or asynchronous transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(5) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health-care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(6) "Telemedicine" means a form, or subset, of telehealth, which includes the delivery of clinical health-care services by means of real time 2-way audio (including audio-only conversations, if the patient is not able to access the appropriate broadband service or other technology necessary to establish an audio and visual connection), visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitates the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health-care.

#### **§ 6002. Authorization to practice by telehealth and telemedicine.**

(a) Health-care providers licensed by the following professional boards existing under this title are authorized to deliver health-care services by telehealth and telemedicine subject to the provisions of this chapter:

...

(4) The State Board of Dentistry and Dental Hygiene created pursuant to Chapter 11 of this title.

...

(b) A professional board listed in § 6002(a) of this title may promulgate or revise regulations and establish or revise rules applicable to health-care providers under the professional Board's

jurisdiction in order to facilitate the provision of telehealth and telemedicine services consistent with this chapter.

**§ 6003. Scope of practice; provider-patient relationship required.**

(a) Except for the instances listed in this chapter, health-care providers may not deliver health-care services by telehealth and telemedicine in the absence of a health-care provider-patient relationship. A health-care provider-patient relationship may be established either in-person or through telehealth and telemedicine but must include the following:

- (1) Thorough verification and authentication of the location and, to the extent possible, identity of the patient.
- (2) Disclosure and validation of the provider's identity and credentials.
- (3) Receipt of appropriate consent from a patient after disclosure regarding the delivery model and treatment method or limitations, including informed consent regarding the use of telemedicine technologies as required by paragraph (a)(5) of this section.
- (4) Establishment of a diagnosis through the use of acceptable medical practices, such as patient history, mental status examination, physical examination (unless not warranted by the patient's mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identification of underlying conditions or contra-indications, or both, for treatment recommended or provided.
- (5) Discussion with the patient of any diagnosis and supporting evidence as well as risks and benefits of various treatment options.
- (6) The availability of a distant site provider or other coverage of the patient for appropriate follow-up care.
- (7) A written visit summary provided to the patient.

(b) Health-care services delivered by telehealth and telemedicine may be synchronous or asynchronous using store-and-forward technology. Telehealth and telemedicine services may be used to establish a provider-patient relationship only if the provider determines that the provider is able to meet the same standard of care as if the health-care services were being provided in-person.

(c) Treatment and consultation recommendations delivered by telehealth and telemedicine shall be subject to the same standards of appropriate practice as those in traditional (in-person encounter) settings. In the absence of a proper health-care provider-patient relationship, health-care providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult.

**§ 6004. Practice requirements.**

(a) A health-care provider using telemedicine and telehealth technologies to deliver health-care services to a patient must, prior to diagnosis and treatment, do at least one of the following:

- (1) Provide an appropriate examination in-person.
- (2) Require another Delaware-licensed health-care provider be present at the originating site with the patient at the time of the diagnosis.
- (3) Make a diagnosis using audio or visual communication.
- (4) Meet the standard of service required by applicable professional societies in guidelines developed for establishing a health-care provider-patient relationship as part of an evidenced-based clinical practice in telemedicine.

(b) After a health-care provider-patient relationship is properly established in accordance with this section, subsequent treatment of the same patient by the same health-care provider need not satisfy the limitations of this section.

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(c) A health-care provider treating a patient through telemedicine and telehealth must maintain complete records of the patient's care and follow all applicable state and federal statutes and regulations for recordkeeping, confidentiality, and disclosure to the patient.

(d) Telehealth and telemedicine services shall include, if required by the applicable professional board listed in §6002(a) of this title, use of the Delaware Health Information Network (DHIN) in connection with the practice.

(e) Nothing in this section shall be construed to limit the practice of radiology or pathology.

#### **§ 6005. Exceptions.**

(a) Telehealth and telemedicine may be practiced without a health-care provider-patient relationship during:

(1) Informal consultation performed by a health-care provider outside the context of a contractual relationship and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation.

(2) Furnishing of assistance by a health-care provider in case of an emergency or disaster when circumstances do not permit the establishment of a health-care provider-patient relationship prior to the provision of care if no charge is made for the medical assistance.

(3) Episodic consultation by a specialist located in another jurisdiction who provides such consultation services at the request of a licensed health-care professional.

(4) Circumstances which make it impractical for a patient to consult with the health-care provider in-person prior to the delivery of telemedicine services.

...

### **Title 24 Regulated Professions and Occupations**

#### **Delaware Administrative Code**

#### **1100 Board of Dentistry and Dental Hygiene**

...

#### **13.0 Telehealth**

13.1 Telehealth is the use of electronic communications to provide and deliver a host of health-related information and health-care services, including dentistry and dental hygiene-related information and services, over large and small distances. Telehealth encompasses a variety of health care and health promotion activities, including education, advice, reminders, interventions, and monitoring of interventions.

13.2 In order to deliver Telehealth services one must hold a current, valid license issued by the Board.

13.3 Licensees understand that this rule does not provide licensees with authority to deliver Telehealth Services to anyone located in a jurisdiction other than Delaware, and licensees bear responsibility for complying with laws, rules, and/or policies for the delivery of Telehealth Services set forth by other jurisdictional regulatory boards.

13.4 Licensees delivering Telehealth services shall comply with all of the rules of professional conduct and state and federal statutes relevant to Dentistry and Dental Hygiene.

13.5 Informed consent

13.5.1 Before services are provided through telehealth, the licensee shall obtain written, informed consent from the patient, or other appropriate person with authority to make health care treatment decisions for the patient. At minimum, the informed consent shall inform the patient and document acknowledgement of the risk and limitations of:

13.5.1.1 The use of electronic communications in the provision of care;

13.5.1.2 The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of care; and

13.5.1.3 The potential disruption of electronic communication in the use of telehealth.

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13.6 Confidentiality: The licensee shall ensure that the electronic communication is secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws. Confidentiality shall be maintained through appropriate processes, practices and technology, including disposal of electronic equipment and data.

13.7 Competence and scope of practice

13.7.1 The licensee shall be responsible for determining and documenting that telehealth is an appropriate level of care for the patient.

13.7.2 The licensee shall comply with the Board's law and rules and regulations and all current standards of care requirements applicable to onsite care.

13.7.3 The licensee shall limit the practice of telehealth to the area of competence in which proficiency has been gained through education, training and experience.

13.7.4 The licensee shall document in the file or record which services were provided by telehealth.

## Private Payer Reimbursement

### Health Insurance Contracts

**Title 18 § 3370. Telemedicine [Effective July 1, 2021]. As amended by [HB 160](#)**

(a) As used in this section:

(1) "Distant site" means a site at which a health-care provider legally allowed to practice in the state is located while providing health-care services by means of telemedicine or telehealth.

(2) "Originating site" means a site in Delaware at which a patient is located at the time health-care services are provided to the patient by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used.

Notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(4) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health-care provider consultation, patient and professional health-related education, public health, health administration, and other services as authorized in Chapter 60 of Title 24.

(5) "Telemedicine" is a subset of telehealth which is the delivery of clinical health-care services and other services, as authorized in Chapter 60 of Title 24, by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health-care by a health-care provider legally allowed to practice in the state and practicing within the health-care provider's scope of practice as would be practiced in-person with a patient, while such patient is at an originating site and the health-care provider is at a distant site.

(b) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each health service corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health-care plan for health-care services shall provide coverage for the cost of such health-care services provided through telemedicine.

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(c) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each health service corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health-care plan for health-care services shall provide coverage for the cost of such health-care services provided through telehealth as directed through regulations promulgated by the Department.

(d) An insurer, health service corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through in-person consultation or contact between a health-care provider and a patient for services appropriately provided through telemedicine services.

(e) An insurer, health service corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer, health service corporation, or health maintenance organization is responsible for coverage for the provision of the same service through in-person consultation or contact. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health-care services.

(f) No insurer, health service corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(g) The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on and after January 1, 2016, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

(h) This section shall not apply to short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts, nor shall it contravene any telehealth requirements made in policies or contracts designed for issuance to persons eligible for coverage under Titles XVIII, XIX, and XXI of the Social Security Act [42 U.S.C. §§ 1395 et seq., 1396 et seq., and 1397aa et seq.], known as Medicare, Medicaid, or any other similar coverage under state or federal governmental plans.

### **Group and Blanket Health Insurance**

#### **Title 18 § 3571R. Telemedicine [Effective July 1, 2021]. As amended by [HB 160](#)**

(a) As used in this section:

(1) "Distant site" means a site at which a health-care provider legally allowed to practice in the state is located while providing health-care services by means of telemedicine or telehealth.

(2) "Originating site" means a site in Delaware at which a patient is located at the time health-care services are provided to the patient by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used.

Notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(4) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, health-care provider consultation, patient and professional health-

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related education, public health, health administration, and other services as authorized in Chapter 60 of Title 24.

(5) "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services, and other services, as authorized in Chapter 60 of Title 24, by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health-care by a health-care provider legally allowed to practice in the state and practicing within the health-care provider's scope of practice as would be practiced in-person with a patient, while such patient is at an originating site and the health-care provider is at a distant site.

(b) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health-care plan for health-care services shall provide coverage for the cost of such health-care services provided through telemedicine.

(c) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health-care plan for health-care services shall provide coverage for the cost of such health-care services provided through telehealth as directed through regulations promulgated by the Department.

(d) An insurer, health service corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through in-person consultation or contact between a health-care provider and a patient for services appropriately provided through telemedicine services.

(e) An insurer, health service corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer, health service corporation, or health maintenance organization is responsible for coverage for the provision of the same service through in-person consultation or contact. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health-care services.

(f) No insurer, health service corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(g) The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on and after January 1, 2016, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

(h) This section shall not apply to short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts, nor shall it contravene any telehealth requirements made in policies or contracts designed for issuance to persons eligible for

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*Delaware, continued*

coverage under Titles XVIII, XIX, and XXI of the Social Security Act [42 U.S.C. §§ 1395 et seq., 1396 et seq., and 1397aa et seq.], known as Medicare and Medicaid, or any other similar coverage under state or federal governmental plans.

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# District of Columbia

## Medicaid Reimbursement

### [§ 31–3863. Medicaid reimbursement.](#)

Medicaid shall cover and reimburse for healthcare services appropriately delivered through telehealth if the same services would be covered when delivered in person.

## Private Payer Reimbursement

Code of the District of Columbia

Title 31. Insurance and Securities.

Chapter 31A. Health Benefits Plans Prompt Payment.

### [§ 31–3131. Definitions.](#)

...

(4) "Health benefits plan" means any accident and health insurance policy or certificate, hospital and medical services corporation contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement, or plan provided by another benefit arrangement. The term "health benefit plan" does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplemental or long-term care insurance; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(5) "Health insurer" means any person that provides one or more health benefit plans or insurance in the District of Columbia, including an insurer, a hospital and medical services corporation, a fraternal benefit society, a health maintenance organization, a multiple employer welfare arrangement, or any other person providing a plan of health insurance subject to the authority of the Commissioner.

...

(7) "Provider" means a health care practitioner, group of health care practitioners, or other entity licensed, certified, or otherwise authorized by law to provide hospital, physician, or other health care services.

...

Code of the District of Columbia

Title 31. Insurance and Securities.

[Chapter 38D. Telehealth Reimbursement.](#)

### [§ 31–3861. Definitions.](#)

For the purposes of this chapter, the term:

(1) "Health benefits plan" shall have the same meaning as provided in [§ 31-3131\(4\)](#).

(2) "Health insurer" shall have the same meaning as provided in [§ 31-3131\(5\)](#).

(2A) "Postpartum" means the time after delivery when maternal physiological changes related to pregnancy return to the nonpregnant state, which may last for as long as 12 months after delivery.

(3) "Provider" shall have the same meaning as provided in [§ 31-3131\(7\)](#).

(4) "Telehealth" means the delivery of healthcare services through the use of interactive audio, video, or other electronic media used for the purpose of diagnosis, consultation, or treatment; provided, that services delivered through email messages or facsimile transmissions are not included.

**§ 31-3862. Private reimbursement.**

(a) A health insurer offering a health benefits plan in the District may not deny coverage for a healthcare service on the basis that the service is provided through telehealth if the same service would be covered when delivered in person.

(b) A health insurer shall reimburse the provider for the diagnosis, consultation, or treatment of the insured when the service is delivered through telehealth.

(c) A health insurer shall not be required to:

(1) Reimburse a provider for healthcare service delivered through telehealth that is not a covered under the health benefits plan; and

(2) Reimburse a provider who is not a covered provider under the health benefits plan.

(d) A health insurer may require a deductible, copayment, or coinsurance amount for a healthcare service delivered through telehealth; provided, that the deductible, copayment, or coinsurance amount may not exceed the amount applicable to the same service when it is delivered in person.

(e) A health insurer shall not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services under the health benefits plan.

(f) Nothing in this chapter shall preclude the health insurer from undertaking utilization review to determine the appropriateness of telehealth as a means of delivering a healthcare service; provided, that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person.

# Florida

## Requirements and Permissible Practices

**Editorial Note:** Oral health practitioners are licensed under chapter 466, which is referenced under the definition of telehealth provider.

### FLA. STAT. § 456.47 Use of telehealth to provide services.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Telehealth” means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) “Telehealth provider” means any individual who provides health care and related services using telehealth and who is licensed or certified under s. [393.17](#); part III of chapter 401; chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part III, part IV, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part I or part II of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491; who is licensed under a multistate health care licensure compact of which Florida is a member state; or who is registered under and complies with subsection (4).

(2) PRACTICE STANDARDS.—

(a) A telehealth provider has the duty to practice in a manner consistent with his or her scope of practice and the prevailing professional standard of practice for a health care professional who provides in-person health care services to patients in this state.

(b) A telehealth provider may use telehealth to perform a patient evaluation. If a telehealth provider conducts a patient evaluation sufficient to diagnose and treat the patient, the telehealth provider is not required to research a patient’s medical history or conduct a physical examination of the patient before using telehealth to provide health care services to the patient.

(c) A telehealth provider may not use telehealth to prescribe a controlled substance unless the controlled substance is prescribed for the following:

1. The treatment of a psychiatric disorder;
2. Inpatient treatment at a hospital licensed under chapter 395;
3. The treatment of a patient receiving hospice services as defined in s. [400.601](#); or
4. The treatment of a resident of a nursing home facility as defined in s. [400.021](#).

(d) A telehealth provider and a patient may be in separate locations when telehealth is used to provide health care services to a patient.

(e) A nonphysician telehealth provider using telehealth and acting within his or her relevant scope of practice, as established by Florida law or rule, is not in violation of s. [458.327\(1\)\(a\)](#) or s. [459.013\(1\)\(a\)](#).

(3) RECORDS.—A telehealth provider shall document in the patient’s medical record the health care services rendered using telehealth according to the same standard as used for in-person services. Medical records, including video, audio, electronic, or other records generated as a result of providing such services, are confidential pursuant to ss. [395.3025\(4\)](#) and [456.057](#).

(4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—

(a) A health care professional not licensed in this state may provide health care services to a patient located in this state using telehealth if the health care professional registers with the applicable board, or the department if there is no board, and provides health care services within the applicable scope of practice established by Florida law or rule.

(b) The board, or the department if there is no board, shall register a health care professional not licensed in this state as a telehealth provider if the health care professional:

1. Completes an application in the format prescribed by the department;
2. Is licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued to a Florida-licensed provider specified in paragraph (1)(b);
3. Has not been the subject of disciplinary action relating to his or her license during the 5-year period immediately prior to the submission of the application;
4. Designates a duly appointed registered agent for service of process in this state on a form prescribed by the department; and
5. Demonstrates to the board, or the department if there is no board, that he or she is in compliance with paragraph (e).

The department shall use the National Practitioner Data Bank to verify the information submitted under this paragraph, as applicable.

(c) The website of a telehealth provider registered under paragraph (b) must prominently display a hyperlink to the department's website containing information required under paragraph (h).

(d) A health care professional may not register under this subsection if his or her license to provide health care services is subject to a pending disciplinary investigation or action, or has been revoked in any state or jurisdiction. A health care professional registered under this subsection must notify the appropriate board, or the department if there is no board, of restrictions placed on his or her license to practice, or any disciplinary action taken or pending against him or her, in any state or jurisdiction. The notification must be provided within 5 business days after the restriction is placed or disciplinary action is initiated or taken.

(e) A provider registered under this subsection shall maintain professional liability coverage or financial responsibility, that includes coverage or financial responsibility for telehealth services provided to patients not located in the provider's home state, in an amount equal to or greater than the requirements for a licensed practitioner under s. [456.048](#), s. [458.320](#), or s. [459.0085](#), as applicable.

(f) A health care professional registered under this subsection may not open an office in this state and may not provide in-person health care services to patients located in this state.

(g) A pharmacist registered under this subsection may only use a pharmacy permitted under chapter 465, a nonresident pharmacy registered under s. [465.0156](#), or a nonresident pharmacy or outsourcing facility holding an active permit pursuant to s. [465.0158](#) to dispense medicinal drugs to patients located in this state.

(h) The department shall publish on its website a list of all registrants and include, to the extent applicable, each registrant's:

1. Name.
2. Health care occupation.
3. Completed health care training and education, including completion dates and any certificates or degrees obtained.
4. Out-of-state health care license with the license number.
5. Florida telehealth provider registration number.
6. Specialty.

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7. Board certification.
8. Five-year disciplinary history, including sanctions and board actions.
9. Medical malpractice insurance provider and policy limits, including whether the policy covers claims that arise in this state.
10. The name and address of the registered agent designated for service of process in this state.
  - (i) The board, or the department if there is no board, may take disciplinary action against an out-of-state telehealth provider registered under this subsection if the registrant:
    1. Fails to notify the applicable board, or the department if there is no board, of any adverse actions taken against his or her license as required under paragraph (d).
    2. Has restrictions placed on or disciplinary action taken against his or her license in any state or jurisdiction.
    3. Violates any of the requirements of this section.
    4. Commits any act that constitutes grounds for disciplinary action under s. [456.072](#)(1) or the applicable practice act for Florida-licensed providers.

Disciplinary action taken by a board, or the department if there is no board, under this paragraph may include suspension or revocation of the provider's registration or the issuance of a reprimand or letter of concern. A suspension may be accompanied by a corrective action plan as determined by the board, or the department if there is no board, the completion of which may lead to the suspended registration being reinstated according to rules adopted by the board, or the department if there is no board.

(5) VENUE.—For the purposes of this section, any act that constitutes the delivery of health care services is deemed to occur at the place where the patient is located at the time the act is performed or in the patient's county of residence. Venue for a civil or administrative action initiated by the department, the appropriate board, or a patient who receives telehealth services from an out-of-state telehealth provider may be located in the patient's county of residence or in Leon County.

(6) EXEMPTIONS.—A health care professional who is not licensed to provide health care services in this state but who holds an active license to provide health care services in another state or jurisdiction, and who provides health care services using telehealth to a patient located in this state, is not subject to the registration requirement under this section if the services are provided:

- (a) In response to an emergency medical condition as defined in s. [395.002](#); or
- (b) In consultation with a health care professional licensed in this state who has ultimate authority over the diagnosis and care of the patient.

(7) RULEMAKING.—The applicable board, or the department if there is no board, may adopt rules to administer this section.

## Medicaid Reimbursement

### [Rule: 59G-1.057 Telemedicine.](#)

(1) This rule applies to any person or entity prescribing or reviewing a request for Florida Medicaid services and to all providers of Florida Medicaid services that are enrolled in or registered with the Florida Medicaid program.

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- (2) Definition. Telemedicine – The practice of health care delivery by a practitioner who is located at a site other than the site where a recipient is located for the purposes of evaluation, diagnosis, or treatment.
- (3) Who Can Provide. Practitioners licensed within their scope of practice to perform the service.
- (4) Coverage. Florida Medicaid reimburses for telemedicine services using interactive telecommunications equipment that includes, at a minimum audio and video equipment permitting two-way, real time, interactive communication between a recipient and a practitioner.
- (5) Exclusion. Florida Medicaid does not reimburse for:
- (a) Telephone conversations, chart review(s), electronic mail messages, or facsimile transmissions.
  - (b) Equipment required to provide telemedicine services.
- (6) Reimbursement. The following applies to practitioners rendering services in the fee-for-service delivery system:
- (a) Florida Medicaid reimburses the practitioner who is providing the evaluation, diagnosis, or treatment recommendation located at a site other than where the recipient is located.
  - (b) Providers must include modifier GT on the CMS-1500 claim form, incorporated by reference in Rule 59G-4.001, F.A.C.

### Private Payer Reimbursement

#### [FLA. STAT. § 641.31 Health maintenance contracts.—](#)

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(45) A contract between a health maintenance organization issuing major medical individual or group coverage and a telehealth provider, as defined in s. [456.47](#), must be voluntary between the health maintenance organization and the provider and must establish mutually acceptable payment rates or payment methodologies for services provided through telehealth. Any contract provision that distinguishes between payment rates or payment methodologies for services provided through telehealth and the same services provided without the use of telehealth must be initialed by the telehealth provider.

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#### [FLA. STAT. § 627.42396 Reimbursement for telehealth services.—](#)

A contract between a health insurer issuing major medical comprehensive coverage through an individual or group policy and a telehealth provider, as defined in s. [456.47](#), must be voluntary between the insurer and the provider and must establish mutually acceptable payment rates or payment methodologies for services provided through telehealth. Any contract provision that distinguishes between payment rates or payment methodologies for services provided through telehealth and the same services provided without the use of telehealth must be initialed by the telehealth provider.



# Georgia

## Private Payer Reimbursement

### O.C.G.A. § 33-24-56.4

#### **§ 33-24-56.4. Short title; definitions; payment for telehealth services**

(a) This Code section shall be known and may be cited as the “Georgia Telehealth Act.”

(b) As used in this Code section, the term:

(1) “Distant site” means a site at which a health care provider legally allowed to practice in this state is located while providing health care services by means of telemedicine or telehealth, which may include the home of the health care provider.

(2) “Health benefit policy” means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, any health insurance plan established under Article 1 of Chapter 18 of Title 45 or under Article 7 of Chapter 4 of Title 49.

(3) “Insurer” means an accident and sickness insurer, fraternal benefit society, hospital service corporation, medical service corporation, health care corporation, health maintenance organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies.

(3.1) “Interprofessional consultation” means an assessment and management service in which a patient’s health care provider seeks treatment advice from a consulting provider with specific specialty expertise to assist the patient’s health care provider in diagnosing or treating the patient.

(4) “Originating site” means a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, which may include a patient’s home, workplace, or school; provided, however, that notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(5) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(6) “Telehealth” means the use of information and communications technologies, including, but not limited to, telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health related education, public health, and health administration.

(7) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real-time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care by a health care provider practicing within his or her scope of practice as would be practiced in-person with a patient as prescribed by applicable federal and state laws, rules, and regulations, and legally allowed to practice in this state, while such patient is at an originating site and the health care provider is at a distant site. Such term includes audio-only telephone only when no other means of real-time two-way audio, visual, or other telecommunications or electronic communications are available to the patient due to lack of availability of such real-time two-way audio, visual, or other telecommunications or electronic communications, due to lack of adequate broadband

access, or because the use of other means of real-time two-way audio, visual, or other telecommunications or electronic communications is infeasible, impractical, or otherwise not medically advisable, as determined by the health care provider providing telemedicine services to the patient or as determined by another health care provider with an existing relationship with the patient.

(c) It is the intent of the General Assembly to mitigate geographic discrimination in the delivery of health care by recognizing the application of and payment for covered medical care provided by means of telehealth, provided that such services are provided by a physician or by another health care practitioner or professional acting within the scope of practice of such health care practitioner or professional and in accordance with the provisions of Code Section 43-34-31.

(d) Each insurer proposing to issue a health benefit policy shall provide coverage for the cost of health care services provided through telehealth or telemedicine as directed through regulations promulgated by the department.

(e) An insurer shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through in-person consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.

(f) No insurer shall require an in-person consultation or contact before a patient may receive telemedicine services from a health care provider, except for the purposes of initial installation, setup, or delivery of in-home telehealth devices or services, or as otherwise required by state or federal law, rule, or regulation.

(g) An insurer shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer is responsible for coverage for the provision of the same service through in-person consultation or contact; provided, however, that nothing in this subsection shall require (1) a health care provider or telemedicine company to accept more reimbursement than they are willing to charge or (2) an insurer to pay for a telemedicine service provided through an audio-only call for any service other than mental or behavioral health services. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health care services; provided, however, that this shall not require the insurer to include payment for transmission costs if the originating or distant site is a home.

(h) If a treating provider obtains interprofessional consultation from a consulting provider for a patient for whom the treating provider conducted an examination through telemedicine services, an insurer shall not require the consulting provider to conduct, either in-person or through telemedicine services, an examination of such patient in order to receive reimbursement, unless such examination by the consulting provider would be required for the provision of the same services when the initial examination of the patient by the treating provider was conducted through in-person consultation or contact.

(i) No insurer shall impose any deductible or annual or lifetime dollar maximum on coverage for telemedicine services other than a deductible or annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this Code section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the health benefit policy.

(j) No insurer shall require its insureds to use telemedicine services in lieu of in-person consultation or contact.

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(k) On and after January 1, 2020, every health benefit policy that is issued, amended, or renewed shall include payment for services that are covered under such health benefit policy and are appropriately provided through telehealth in accordance with Code Section 43-34-31, this Code section, and generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided.

(l) No insurer shall impose any type of utilization review on telemedicine services unless such type of utilization review is imposed when the same services are provided through in-person consultation or contact.

(m) No insurer shall restrict coverage of telehealth or telemedicine services to services provided by a particular vendor, or other third party, or services provided through a particular electronic communications technology platform; provided, however, that nothing in this Code section shall require an insurer to cover any telehealth or telemedicine services provided through an electronic communications technology platform that does not comply with applicable state and federal privacy laws.

(n) No insurer shall place any restrictions on prescribing medications through telemedicine that are more restrictive than what is required under applicable state and federal laws for prescribing medications through in-person consultation or contact.

(o) A health care provider shall maintain documentation of each health care service provided through telemedicine in a manner that is at least as extensive and thorough as when the health care service is provided through in-person consultation or contact and, upon request, make such documentation available in accordance with applicable state and federal law.

(p) Nothing in this Code section shall be construed to limit, alter, or expand the scope of practice, standard of care, prescriptive authority, or supervision requirements for health care providers or privacy rights, other than as provided in applicable federal law and state laws, rules, and regulations.

# Hawaii

## Medicaid Reimbursement

### Hawaii Statute

[\[§346-59.1\] Coverage for telehealth.](#) (a) The State's medicaid managed care and fee-for-service programs shall not deny coverage for any service provided through telehealth that would be covered if the service were provided through in-person consultation between a patient and a health care provider.

(b) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(c) There shall be no geographic restrictions or requirements for telehealth coverage or reimbursement under this section.

(d) There shall be no restrictions on originating site requirements for telehealth coverage or reimbursement under this section.

(e) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(f) Notwithstanding any other law to the contrary, the provisions of this section shall comply with the applicable federal requirements related to utilization, coverage, and reimbursement for telehealth services.

(g) For the purposes of this section:

"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant

site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this section.

## Hawaii Administrative Rules

### §17-1737-51.1 Telehealth services.

- (a) Telehealth services is the use of communication equipment to link health care practitioners and patients in different locations. It may be used in place of a face-to-face, "hands on" encounter for consultation, office visits, individual psychotherapy and pharmacologic management. For purposes of this section, the term "patient" refers to individuals eligible for medical assistance.
- (b) Telehealth services may be provided to patients only if they are presented from an originating site located in either a:
- (1) Rural Health Professional Shortage Area (HPSA) as defined by section 332(a)(1)(A) of the Public Health Service Act;
  - (2) In a county outside of a Metropolitan Statistical Area, as defined by Section 1886(d)(2)(D) of the Social Security Act; or
  - (3) From an entity that participates in a Federal telemedicine demonstration project that has been approved by the Secretary of Health and Human Services as of December 31, 2000.
- (c) Interactive audio and video telecommunication systems must be used. Interactive telecommunications systems must be multi-media communications that, at a minimum, include audio and video equipment, permitting real-time consultation among the patient, consulting practitioner, and referring practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the requirements of interactive telecommunications system. As a condition of payment the patient must be present and participating in the telehealth visit.
- (d) An originating site is the location of a patient at the time the service being furnished via a telecommunications system occurs. Originating sites authorized to furnish telehealth services are listed below:
- (1) The office of a physician or practitioner;
  - (2) A hospital;
  - (3) A critical access hospital;
  - (4) A rural health clinic; and
  - (5) A federally qualified health center. An exception to this provision is an entity participating in a Federal telehealth demonstration project that is approved by or is receiving funding from the Secretary of Health and Human Services as of December 31, 2000. An entity participating in a Federal telehealth demonstration project qualifies as an originating site regardless of geographic location.
- (e) A distant site is the site at which the physician or practitioner delivering the service is located at the time the service is provided via a telecommunications system.
- (f) Coverage of telehealth services is based on Medicare's criteria. Each provider must bill the appropriate CPT procedure code with the modifier code "TM" indicating the services were provided via telehealth. Only providers eligible to participate in the medical assistance program will be reimbursed for telehealth services. Reimbursements to an originating site and distant site are based on the Hawaii Medicaid fee schedule.

## Third Party Reimbursement

### Hawaii Statute

[§431:10A-116.3 Coverage for telehealth.](#) (a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the health care provider.

(b) No accident and health or sickness insurance plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the health care provider.

(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All insurers shall provide current and prospective insureds with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to the issuance of a policy, contract, plan, or agreement, and upon request after the policy, contract, plan, or agreement has been issued.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(g) For the purposes of this section:

“Distant site” means the location of the health care provider delivering services through telehealth at the time the services are provided.

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, health care facility, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

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“Telehealth” means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.

#### §432D-23.5 Coverage for telehealth.

(a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the health care provider.

(b) No health maintenance organization plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the health maintenance organization, and the health care provider.

(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All health maintenance organizations shall provide current and prospective insureds with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to enrollment in a policy, contract, plan, or agreement and upon request after enrollment in the policy, contract, plan, or agreement.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(g) For the purposes of this section:

“Distant site” means the location of the health care provider delivering services through telehealth at the time the services are provided.

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians

licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, health care facility, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Telehealth” means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.

#### [§432:1-601.5 Coverage for telehealth.](#)

(a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the health care provider.

(b) No mutual benefit society plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the mutual benefit society, and the health care provider.

(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All insurers shall provide current and prospective enrollees or subscribers with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to the issuance of a policy, contract, plan, or agreement, and upon request after the policy, contract, plan, or agreement has been issued.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(g) For the purposes of this section:

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 Research data are current as of September 2021. This document is intended for educational purposes only and should not be considered legal advice. Please contact Phil Mauller at [maullerp@adea.org](mailto:maullerp@adea.org) with any updates or information that may be relevant to this document.



United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, health care facility, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Telehealth” means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.

# Idaho

## Requirements and Permissible Practices

### Idaho Statutes

#### Title 54 Professions, Vocations, And Businesses

#### [Chapter 57 Idaho Telehealth Access Act](#)

#### 54-5701. SHORT TITLE.

This chapter shall be known and may be cited as the "Idaho Telehealth Access Act."

#### 54-5702. LEGISLATIVE FINDINGS. The legislature hereby finds the following:

- (1) Telehealth services enhance access to health care, make delivery of health care more cost-effective and distribute limited health care provider resources more efficiently.
- (2) Citizens with limited access to traditional health care may be diagnosed and treated sooner through telehealth services than they would be otherwise, resulting in improved health outcomes and less costly treatments due to early detection and prevention.
- (3) Telehealth services address an unmet need for health care by persons who have limited access to such care due to provider shortages or geographic barriers.
- (4) Telehealth services provide increased capacity for appropriate care in the appropriate location at the appropriate time to better serve patients, providers and communities.
- (5) When practiced safely, telehealth services result in improvement in health outcomes by expanding health care access for the people of Idaho.

#### 54-5703. DEFINITIONS. As used in this chapter:

- (1) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site over a secure connection that complies with state and federal security and privacy laws.
- (2) "Distant site" means the site at which a provider delivering telehealth services is located at the time the service is provided.
- (3) "Originating site" means the location of a patient at the time telehealth services are provided, including but not limited to a patient's home.
- (4) "Provider" means any health care provider who is licensed, required to be licensed, or, if located outside of Idaho, would be required to be licensed if located in Idaho, pursuant to [title 54](#), Idaho Code, to deliver health care consistent with his or her license.
- (5) "Synchronous interaction" means real-time communication through interactive technology that enables a provider and a patient at two (2) locations separated by distance to interact simultaneously through two-way video and audio or audio transmission.
- (6) "Telehealth services" means health care services provided by a provider to a person through the use of electronic communications, information technology, asynchronous store and forward transfer or synchronous interaction between a provider at a distant site and a patient at an originating site. Such services include but are not limited to clinical care, health education, home health and facilitation of self-managed care and caregiver support, and the use of synchronous or asynchronous telecommunications technologies by a provider to deliver patient health care services, including but not limited to assessment of, diagnosis of, consultation with, treatment of, and remote monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term "telehealth services" does not include audio in isolation without access to and review of

the patient's medical records, electronic mail messages that are not compliant with the health insurance portability and accountability act (HIPAA), or facsimile transmissions.

(7) "Telehealth technologies" means synchronous or asynchronous telecommunications technologies capable of assisting a provider to deliver patient health care services, including but not limited to assessment of, diagnosis of, consultation with, treatment of, and remote monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration.

#### **54-5704. SCOPE OF PRACTICE.**

A provider offering telehealth services must at all times act within the scope of the provider's license and according to all applicable laws and rules, including, but not limited to, this chapter and the community standard of care.

#### **54-5705. PROVIDER-PATIENT RELATIONSHIP.**

(1) If a provider offering telehealth services does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio or audio-visual interaction; provided however, that the applicable Idaho community standard of care must be satisfied. Nothing in this section shall prohibit electronic communications:

- (a) Between a provider and a patient with a preexisting provider-patient relationship;
- (b) Between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;
- (c) Between a provider and a patient where the provider is taking call on behalf of another provider in the same community who has a provider patient relationship with the patient; or
- (d) In an emergency.

(2) As used in this section, "emergency" means a situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm.

#### **54-5706. EVALUATION AND TREATMENT.**

Prior to providing treatment, including a prescription drug order, a provider shall obtain and document a patient's relevant clinical history and current symptoms to establish the diagnosis and identify underlying conditions and contraindications to the treatment recommended. Treatment recommendations provided through telehealth services shall be held to the applicable Idaho community standard of care that applies in an in-person setting. Treatment based solely on an online questionnaire does not constitute an acceptable standard of care.

#### **54-5707. PRESCRIPTIONS.**

(1) A provider with an established provider patient relationship, including a relationship established pursuant to section 54-5705, Idaho Code, may issue prescription drug orders using telehealth services within the scope of the provider's license and according to any applicable laws, rules and regulations, including the Idaho community standard of care; provided however, that the prescription drug shall not be a controlled substance unless prescribed in compliance with 21 U.S.C. section 802(54)(A).

(2) Nothing in this chapter shall be construed to expand the prescriptive authority of any provider beyond what is authorized by the provider's licensing board.

**54-5708. INFORMED CONSENT.**

A patient's informed consent for the use of telehealth services shall be obtained as required by any applicable law.

**54-5709. CONTINUITY OF CARE.**

A provider of telehealth services shall be available for follow-up care or to provide information to patients who make use of such services.

**54-5710. REFERRAL TO OTHER SERVICES.**

A provider shall be familiar with and have access to available medical resources, including emergency resources near the patient's location, in order to make appropriate patient referrals when medically indicated.

**54-5711. MEDICAL RECORDS.**

A provider offering telehealth services shall generate and maintain medical records for each patient using telehealth services in compliance with any applicable state and federal laws, rules, and regulations, including the health insurance portability and accountability act (HIPAA), P.L. 104-191 (1996), and the health information technology for economic and clinical health act (HITECH), P.L. 111-115 (2009). Such records shall be accessible to other providers, if the patient has given permission, and to the patient in accordance with applicable laws, rules, and regulations.

**54-5712. ENFORCEMENT AND DISCIPLINE.**

A provider is prohibited from offering telehealth services in his or her practice if the provider is not in full compliance with applicable laws, rules and regulations, including this act and the Idaho community standard of care. State licensing boards shall be authorized to enforce the provisions of this chapter relating to the practice of individuals they license. A provider who fails to comply with applicable laws, rules and regulations is subject to discipline by his or her licensing board.

**54-5713. RULEMAKING.**

Any board authorized by title 54, Idaho Code, to license providers may promulgate rules relating to telehealth services pursuant to this chapter and consistent with the provisions contained herein.

**[24.31.01 – Rules of the Idaho Board of Dentistry](#)**

055. TELEHEALTH SERVICES. Definitions applicable to these rules are those definitions set forth in the Idaho Telehealth Access Act and in Section 54-5703, Idaho Code.

01. Licensure and Location. Any dentist who provides any telehealth services to patients located in Idaho must hold an active Idaho license.

02. Additional Requirements. In addition to the requirements set forth in Section 54-5705, Idaho Code, during the first contact with the patient, a dentist licensed by the Board who is providing telehealth services must:

- a. Verify the location and identity of the patient;
- b. Disclose to the patient the dentist's identity, their current location, telephone number, and Idaho license number; and
- c. Obtain appropriate consents from the patient after disclosures regarding the delivery models and treatment methods or limitations, including a special informed consent regarding the use of telehealth technologies.

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03. Standard of Care. A dentist providing telehealth services to patients located in Idaho must comply with the applicable Idaho community standard of care. If a patient's presenting symptoms and conditions require a physical examination in order to make a diagnosis, the dentist may not provide diagnosis or treatment through telehealth services unless or until such information is obtained.

04. Informed Consent. In addition to the requirements of Section 54-5708, Idaho Code, evidence documenting appropriate patient informed consent for the use of telehealth technologies must be obtained and maintained at regular intervals consistent with the community standard of care. Appropriate informed consent should, at a minimum, include the following terms:

- a. Verification. Identification of the patient, the dentist, and the dentist's credentials;
- b. Telehealth Determination. Agreement of the patient that the provider will determine whether or not the condition being diagnosed and/or treated is appropriate for telehealth services;
- c. Security Measures Information. Information on the security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy and notwithstanding such measures;
- d. Potential Information Loss. Disclosure that information may be lost due to technical failures.

## Medicaid Reimbursement

IDAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE

Division of Medicaid

[16.03.09 – Medicaid Basic Plan Benefits](#)

210. CONDITIONS FOR PAYMENT.

...

09. Services Delivered Via Telehealth. Services delivered via telehealth as defined in Title 54, Chapter 57, Idaho Code, must be identified as such in accordance with billing requirements published in the Idaho Medicaid Provider Handbook. Telehealth services billed without being identified as such are not covered. Services delivered via telehealth may be reimbursed within limitations defined by the Department in the Idaho Medicaid Provider Handbook. Fee for service reimbursement is not available for an electronic mail message (e-mail), or facsimile transmission (fax).

...

02. Face-to-Face Encounter for Home Health Services, Medical Supplies, Equipment, and Appliances. (7-1-21)T

a. To initiate home health services, medical supplies, equipment, and appliances, the participant's physician, or a licensed practitioner of the healing arts as authorized in this rule, must document a face-to-face encounter related to the primary reason the patient requires home health services. Documentation must indicate the practitioner who conducted the encounter, and the date of the encounter as described in the CMS/Medicare DME coverage manual.

...

b. The face-to-face encounter may occur via telehealth, as defined in Subsection 210.09 of these rules.

...

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04. Service Limitations.

...

f. Telehealth modalities are covered to the extent they are allowed under the rules of the applicable board of licensing. The Department will define limitations on telehealth in the provider handbook to promote quality services and program integrity.

# Illinois

## Requirements and Permissible Practices

### PROFESSIONS, OCCUPATIONS, AND BUSINESS OPERATIONS

[\(225 ILCS 25/\) Illinois Dental Practice Act.](#)

(225 ILCS 25/4) Illinois Dental Practice Act.

...

“Teledentistry” means the use of telehealth systems and methodologies in dentistry and includes patient care and education delivery using synchronous and asynchronous communications under a dentist’s authority as provided under this Act.

(225 ILCS 25/13.5) Sec. 13.5. Training programs for public health dental hygienists.

...

(b) Training programs for a public health dental hygienist must:

...

(2) require completion of 5 hours of didactic courses in the following topic areas: special needs dentistry, teledentistry, nutritional needs of geriatric and low-income patients, communication techniques with non-English speaking patients, cultural competency, and professional ethics;

...

### PROFESSIONS, OCCUPATIONS, AND BUSINESS OPERATIONS

[\(225 ILCS 150/\) Telehealth Act.](#) as amended by [HB 3308](#)

(225 ILCS 150/1)

Sec. 1. Short title. This Act may be cited as the Telehealth Act.

(225 ILCS 150/5)

Sec. 5. Definitions. As used in this Act:

“Asynchronous store and forward system” means the transmission of a patient’s medical information through an electronic communications system at an originating site to a health care professional or facility at a distant site that does not require real-time or synchronous interaction between the health care professional and the patient.

“Distant site” means the location at which the health care professional rendering the telehealth service is located.

“Established patient” means a patient with a relationship with a health care professional in which there has been an exchange of an individual’s protected health information for the purpose of providing patient care, treatment, or services.

“E-visit” means a patient-initiated non-face-to-face communication through an online patient portal between an established patient and a health care professional.

“Facility” includes a facility that is owned or operated by a hospital under the Hospital Licensing Act or University of Illinois Hospital Act, a facility under the Nursing Home Care Act, a rural health clinic, a federally qualified health center, a local health department, a community mental health center, a behavioral health clinic as defined in 89 Ill. Adm. Code 140.453, an encounter rate clinic, a skilled nursing facility, a substance use treatment program licensed by the Division of Substance Use Prevention and Recovery of the Department of Human Services, a school-based health center as defined in 77 Ill. Adm. Code 641.10, a physician’s office, a podiatrist’s office, a supportive living program provider, a hospice provider, home health agency, or home nursing agency under the Home Health, Home Services, and Home Nursing Agency Licensing Act, a facility under the ID/DD Community Care Act, community-integrated living arrangements as defined in the Community-Integrated Living Arrangements Licensure

and Certification Act, and a provider who receives reimbursement for a patient's room and board.

"Health care professional" includes but is not limited to, physicians, physician assistants, optometrists, advanced practice registered nurses, clinical psychologists licensed in Illinois, prescribing psychologists licensed in Illinois, dentists, occupational therapists, pharmacists, physical therapists, clinical social workers, speech-language pathologists, audiologists, hearing instrument dispensers, licensed certified substance use disorder treatment providers and clinicians, and mental health professionals and clinicians authorized by Illinois law to provide mental health services, and qualified providers listed under paragraph (8) of subsection © of Section 3 of the Early Intervention Services System Act, dietitian nutritionists licensed in Illinois, and health care professionals associated with a facility.

"Interactive telecommunications system" means an audio and video system, an audio-only telephone system (landline or cellular), or any other telecommunications system permitting 2-way, synchronous interactive communication between a patient at an originating site and a health care professional or facility at a distant site. "Interactive telecommunications system" does not include a facsimile machine, electronic mail messaging, or text messaging.

"Originating site" means the location at which the patient is located at the time telehealth services are provided to the patient via telehealth.

"Remote patient monitoring" means the use of connected digital technologies or mobile medical devices to collect medical and other health data from a patient at one location and electronically transmit that data to a health care professional or facility at a different location for collection and interpretation.

"Telehealth services" means the evaluation, diagnosis, or interpretation of electronically transmitted patient-specific data between a remote location and a licensed health care professional that generates interaction or treatment recommendations. "Telehealth services" includes telemedicine and the delivery of health care services, including mental health treatment and substance use disorder treatment and services to a patient, regardless of patient location, provided by way of an interactive telecommunications system, asynchronous store and forward system, remote patient monitoring technologies, e-visits, or virtual check-ins.

"Virtual check-in" means a brief patient-initiated communication using a technology-based service, excluding facsimile, between an established patient and a health care professional. "Virtual check-in" does not include communications from a related office visit provided within the previous 7 days, nor communications that lead to an office visit or procedure within the next 24 hours or soonest available appointment.

#### **(225 ILCS 150/10)**

Sec. 10. Practice authority. A health care professional treating a patient located in this State through telehealth services must be licensed or authorized to practice in Illinois.

#### **(225 ILCS 150/15)**

Sec. 15. Use of telehealth services.

(a) A health care professional may engage in the practice of telehealth services in Illinois to the extent of his or her scope of practice as established in his or her respective licensing Act consistent with the standards of care for in-person services. This Act shall not be construed to alter the scope of practice of any health care professional or authorize the delivery of health care services in a setting or in a manner not otherwise authorized by the laws of this State.

(b) Telehealth services provided pursuant to this Section shall be consistent with all federal and State privacy, security, and confidentiality laws, rules, or regulations.

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## Private Payer Reimbursement

### (215 ILCS 5/356z.22) as amended by HB 3308

Sec. 356z.22. Coverage for telehealth services.

(a) For purposes of this Section:

“Asynchronous store and forward system” has the meaning given to that term in Section 5 of the Telehealth Act.

“Distant site” has the meaning given to that term in Section 5 of the Telehealth Act.

“E-visits” has the meaning given to that term in Section 5 of the Telehealth Act.

“Facility” means any hospital facility licensed under the Hospital Licensing Act or the University of Illinois Hospital Act, a federally qualified health center, a community mental health center, a behavioral health clinic, a substance use disorder treatment program licensed by the Division of Substance Use Prevention and Recovery of the Department of Human Services, or other building, place, or institution that is owned or operated by a person that is licensed or otherwise authorized to deliver health care services.

“Health care professional” has the meaning given to that term in Section 5 of the Telehealth Act.

“Interactive telecommunications system” has the meaning given to that term in Section 5 of the Telehealth Act. As used in this Section, “interactive telecommunications system” does not include virtual check-ins.

“Originating site” has the meaning given to that term in Section 5 of the Telehealth Act.

“Telehealth services” has the meaning given to that term in Section 5 of the Telehealth Act. As used in this Section, “telehealth services” do not include asynchronous store and forward systems, remote patient monitoring technologies, e-visits, or virtual check-ins.

“Virtual check-in” has the meaning given to that term in Section 5 of the Telehealth Act.

(b) An individual or group policy of accident or health insurance that is amended, delivered, issued, or renewed on or after the effective date of this amendatory Act of the 102<sup>nd</sup> General Assembly shall cover telehealth services, e-visits, and virtual check-ins rendered by a health care professional when clinically appropriate and medically necessary to insureds, enrollees, and members in the same manner as any other benefits covered under the policy. An individual or group policy of accident or health insurance may provide reimbursement to a facility that serves as the originating site at the time a telehealth service is rendered.

(c) To ensure telehealth service, e-visit, and virtual check-in access is equitable for all patients in receipt of health care services under this Section and health care professionals and facilities are able to deliver medically necessary services that can be appropriately delivered via telehealth within the scope of their licensure or certification, coverage required under this Section shall comply with all of the following:

(1) An individual or group policy of accident or health insurance shall not:

(A) require that in-person contact occur between a health care professional and a patient before the provision of a telehealth service;

(B) require patients health care professionals or facilities to prove or document a hardship or access barrier to an in-person consultation for coverage and reimbursement of telehealth services e-visits, or virtual check-ins;

(C) require the use of telehealth services, e-visits, or virtual check-ins when the health care professional has determined that it is not appropriate; or

(D) require the use of telehealth services when a patient chooses an in-person consultation;

(E) require a health care professional to be physically present in the same room as the patient at the originating site, unless deemed medically necessary by the health care professional providing the telehealth service;

(F) create geographic or facility restrictions or requirements for telehealth services, e-visits, or virtual check-ins;

(G) require health care professionals or facilities to offer or provide telehealth services, e-visits, or virtual check-ins;

(H) require patients to use telehealth services, e-visits, or virtual check-ins, or require patients to use a separate panel of health care professionals or facilities to receive telehealth service, e-visit, or virtual check-in coverage and reimbursement; or

(I) impose upon telehealth services, e-visits, or virtual check-ins utilization review requirements that are unnecessary, duplicative, or unwarranted or impose any treatment limitations, prior authorization, documentation, or recordkeeping requirements that are more stringent than the requirements applicable to the same health care service when rendered in-person, except procedure code modifiers may be required to document telehealth.

(2) Deductibles, copayments, or coinsurance or any other cost-sharing applicable to services provided through telehealth shall not exceed the deductibles, copayments, coinsurance or any other cost-sharing required by the individual or group policy of accident or health insurance for the same services provided through in-person consultation.

(3) An individual or group policy of accident or health insurance shall notify health care professionals and facilities of any instructions necessary to facilitate billing for telehealth services, e-visits, and virtual check-ins.

(d) For purposes of reimbursement, an individual or group policy of accident or health insurance that is amended, delivered, issued, or renewed on or after the effective date of this amendatory Act of the 102nd General Assembly shall reimburse an in-network health care professional or facility, including a health care professional or facility in a tiered network, for telehealth services provided through an interactive telecommunications system on the same basis, in the same manner, and at the same reimbursement rate that would apply to the services if the services had been delivered via an in-person encounter by an in-network or tiered network health care professional or facility. This subsection applies only to those services provided by telehealth that may otherwise be billed as an in-person service. This subsection is inoperative on and after January 1, 2028, except that this subsection is operative after that date with respect to mental health and substance use disorder telehealth services.

(e) The Department and the Department of Public Health shall commission a report to the General Assembly administered by an established medical college in this State wherein supervised clinical training takes place at an affiliated institution that uses telehealth services, subject to appropriation. The report shall study the telehealth coverage and reimbursement policies established in subsections (b) and (d) of this Section, to determine if the policies improve access to care, reduce health disparities, promote health equity, have an impact on utilization and cost-avoidance, including direct or indirect cost savings to the patient, and to provide any recommendations for telehealth access expansion in the future. An individual or group policy of accident or health insurance shall provide data necessary to carry out the requirements of this subsection upon request of the Department. The Department and the Department of Public Health shall submit the report by December 31, 2026. The established medical college may utilize subject matter expertise to complete any necessary actuarial analysis.

(f) Nothing in this Section is intended to limit the ability of an individual or group policy of accident or health insurance and a health care professional or facility to voluntarily negotiate alternate reimbursement rates for telehealth services. Such voluntary negotiations shall take into

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consideration the ongoing investment necessary to ensure these telehealth platforms may be continuously maintained, seamlessly updated, and integrated with a patient's electronic medical records.

... (h) Any policy, contract, or certificate of health insurance coverage that does not distinguish between in-network and out-of-network health care professionals and facilities shall be subject to this Section as though all health care professionals and facilities were in-network.

(i) Health care professionals and facilities shall determine the appropriateness of specific sites, technology platforms, and technology vendors for a telehealth service, as long as delivered services adhere to all federal and State privacy, security, and confidentiality laws, rules, or regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 and the Mental Health and Developmental Disabilities Confidentiality Act.

(j) Nothing in this Section shall be deemed as precluding a health insurer from providing benefits for other telehealth services, including, but not limited to, services not required for coverage provided through an asynchronous store and forward system, remote patient monitoring services, other monitoring services, or oral communications otherwise covered under the policy.

(k) There shall be no restrictions on originating site requirements for telehealth coverage or reimbursement to the distant site under this Section other than requiring the telehealth services to be medically necessary and clinically appropriate.

(l) The Department may adopt rules, including emergency rules subject to the provisions of Section 5-45 of the Illinois Administrative Procedure Act, to implement the provisions of this Section.

# Indiana

## Requirements and Permissible Practices

### IC 25-1-9.5 Chapter 9.5. Telemedicine Services and Prescriptions

#### IC 25-1-9.5-1 Allows agreements to alternative locations for providing telehealth

Sec. 1. (a) This chapter does not prohibit a provider, prescriber, insurer, practitioner, or patient from agreeing to an alternative location of the patient, provider, practitioner, or prescriber to conduct telehealth.

(b) This chapter does not supersede any other statute concerning a provider or prescriber who provides health care to a patient.

*As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.2; P.L.85-2021, SEC.9.*

#### IC 25-1-9.5-2 "Distant site"

Sec. 2. As used in this chapter, "distant site" means a site at which a practitioner is located while providing health care services through telehealth.

*As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.3; P.L.85-2021, SEC.10.*

...

#### IC 25-1-9.5-2.5 "Health care services"

Sec. 2.5. As used in this chapter, "health care services" includes the following:

- (1) Assessment, diagnosis, evaluation, consultation, treatment, and monitoring of a patient.
- (2) Transfer of medical data.
- (3) Patient health related education.
- (4) Health administration.

*As added by P.L.85-2021, SEC.11.*

...

#### IC 25-1-9.5-3 "Originating site"

Sec. 3. As used in this chapter, "originating site" means any site at which a patient is located at the time health care services through telehealth are provided to the individual.

*As added by P.L.78-2016, SEC.2. Amended by P.L.85-2021, SEC.12.*

#### IC 25-1-9.5-3.5 "Practitioner"

*Note: This version of section effective until 4-29-2021. See also following version of this section, effective 4-29-2021.*

Sec. 3.5. As used in this chapter, "practitioner" means an individual who holds an unlimited license to practice as any of the following in Indiana:

...

(3) A dental hygienist licensed under [IC 25-13](#).

(4) The following:

(A) A dentist licensed under [IC 25-14](#).

(B) An individual who holds a dental residency permit issued under [IC 25-14-1-5](#).

(C) An individual who holds a dental faculty license under [IC 25-14-1-5.5](#).

...

*As added by P.L.85-2021, SEC.13.*

### IC 25-1-9.5-3.5 "Practitioner"

*Note: This version of section effective 4-29-2021. See also preceding version of this section, effective until 4-29-2021.*

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(A) A dentist licensed under [IC 25-14](#).

(B) An individual who holds a dental residency permit issued under [IC 25-14-1-5](#).

(C) An individual who holds a dental faculty license under [IC 25-14-1-5.5](#).

...

*As added by P.L.85-2021, SEC.13. Amended by P.L.207-2021, SEC.25.*

### IC 25-1-9.5-4 "Prescriber"

Sec. 4. As used in this chapter, "prescriber" means any of the following:

...

(6) A dentist licensed under [IC 25-14](#).

...

*As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.4; P.L.129-2018, SEC.25; P.L.247-2019, SEC.2; P.L.85-2021, SEC.14.*

...

### IC 25-1-9.5-5 "Store and forward"

Sec. 5. As used in this chapter, "store and forward" means the transmission of a patient's medical information from an originating site to the practitioner at a distant site without the patient being present.

*As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.5; P.L.85-2021, SEC.15.*

### IC 25-1-9.5-6 "Telehealth"

*Note: This version of section effective 4-29-2021. See also preceding version of this section, effective until 4-29-2021.*

Sec. 6. (a) As used in this chapter, "telehealth" means the delivery of health care services using interactive electronic communications and information technology, in compliance with the federal Health Insurance Portability and Accountability Act (HIPAA), including:

- (1) secure videoconferencing;
- (2) store and forward technology; or
- (3) remote patient monitoring technology;

between a provider in one (1) location and a patient in another location.

(b) The term does not include the use of the following unless the practitioner has an established relationship with the patient:

- (1) Electronic mail.
- (2) An instant messaging conversation.
- (3) Facsimile.
- (4) Internet questionnaire.
- (5) Internet consultation.

(c) The term does not include a health care service provided by:

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- (1) an employee of a practitioner; or
- (2) an individual who is employed by the same entity that employs the practitioner; who is performing a health care service listed in section 2.5(2), 2.5(3), or 2.5(4) of this chapter under the direction and that is customarily within the specific area of practice of the practitioner.

As added by P.L.78-2016, SEC.2. Amended by P.L.85-2021, SEC.16; P.L.207-2021, SEC.26.

#### **IC 25-1-9.5-7 Standards for providing telehealth; maintenance of medical records; waiver of confidentiality; prohibition on requiring employee to use of telehealth**

Sec. 7. (a) A practitioner who:

- (1) provides health care services through telehealth; or
- (2) directs an employee of the practitioner to perform a health care service listed in section 2.5(2), 2.5(3), or 2.5(4) of this chapter;

shall be held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting.

(b) A practitioner who uses telehealth shall, if such action would otherwise be required in the provision of the same health care services in a manner other than telehealth, ensure that a proper provider-patient relationship is established. The provider-patient relationship by a practitioner who uses telehealth must at a minimum include the following:

- (1) Obtain the patient's name and contact information and:
  - (A) a verbal statement or other data from the patient identifying the patient's location; and
  - (B) to the extent reasonably possible, the identity of the requesting patient.
- (2) Disclose the practitioner's name and disclose the practitioner's licensure, certification, or registration.
- (3) Obtain informed consent from the patient.
- (4) Obtain the patient's medical history and other information necessary to establish a diagnosis.
- (5) Discuss with the patient the:
  - (A) diagnosis;
  - (B) evidence for the diagnosis; and
  - (C) risks and benefits of various treatment options, including when it is advisable to seek in-person care.
- (6) Create and maintain a medical record for the patient. If a prescription is issued for the patient, and subject to the consent of the patient, the prescriber shall notify the patient's primary care provider of any prescriptions the prescriber has issued for the patient if the primary care provider's contact information is provided by the patient. The requirements in this subdivision do not apply when any of the following are met:
  - (A) The practitioner is using an electronic health record system that the patient's primary care provider is authorized to access.
  - (B) The practitioner has established an ongoing provider-patient relationship with the patient by providing care to the patient at least two (2) consecutive times through the use of telehealth services. If the conditions of this clause are met, the practitioner shall maintain a medical record for the patient and shall notify the patient's primary care provider of any issued prescriptions.
- (7) Issue proper instructions for appropriate follow-up care.
- (8) Provide a telehealth visit summary to the patient, including information that indicates any prescription that is being prescribed.

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(c) The medical records under subsection (b)(6) must be created and maintained by the practitioner under the same standards of appropriate practice for medical records for patients in an in-person setting.

(d) A patient waives confidentiality of any medical information discussed with the practitioner that is:

- (1) provided during a telehealth visit; and
- (2) heard by another individual in the vicinity of the patient during a health care service or consultation.

(e) An employer may not require a practitioner, by an employment contract, an agreement, a policy, or any other means, to provide a health care service through telehealth if the practitioner believes that providing a health care service through telehealth would:

- (1) negatively impact the patient's health; or
- (2) result in a lower standard of care than if the health care service was provided in an in-person setting.

(f) Any applicable contract, employment agreement, or policy to provide telehealth services must explicitly provide that a practitioner may refuse at any time to provide health care services if in the practitioner's sole discretion the practitioner believes:

- (1) that health quality may be negatively impacted; or
- (2) the practitioner would be unable to provide the same standards of appropriate practice as those provided in an in-person setting.

*As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.6; P.L.129-2018, SEC.26; P.L.85-2021, SEC.17.*

#### **IC 25-1-9.5-8 Issuance of prescription; controlled substance conditions**

Sec. 8. (a) A prescriber may issue a prescription to a patient who is receiving services through the use of telehealth if the patient has not been examined previously by the prescriber in person if the following conditions are met:

- (1) The prescriber has satisfied the applicable standard of care in the treatment of the patient.
- (2) The issuance of the prescription by the prescriber is within the prescriber's scope of practice and certification.
- (3) The prescription:
  - (A) meets the requirements of subsection (b); and
  - (B) is not for an opioid. However, an opioid may be prescribed if the opioid is a partial agonist that is used to treat or manage opioid dependence.
- (4) The prescription is not for an abortion inducing drug (as defined in [IC 16-18-2-1.6](#)).
- (5) If the prescription is for a medical device, including an ophthalmic device, the prescriber must use telehealth technology that is sufficient to allow the provider to make an informed diagnosis and treatment plan that includes the medical device being prescribed. However, a prescription for an ophthalmic device is also subject to the conditions in section 13 of this chapter.

(b) Except as provided in subsection (a), a prescriber may issue a prescription for a controlled substance (as defined in [IC 35-48-1-9](#)) to a patient who is receiving services through the use of telehealth, even if the patient has not been examined previously by the prescriber in person, if the following conditions are met:

- (1) The prescriber maintains a valid controlled substance registration under [IC 35-48-3](#).
- (2) The prescriber meets the conditions set forth in 21 U.S.C. 829 et seq.
- (3) A practitioner acting in the usual course of the practitioner's professional practices issues the prescription for a legitimate medical purpose.

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(4) The telehealth communication is conducted using an audiovisual, real time, two-way interactive communication system.

(5) The prescriber complies with the requirements of the INSPECT program ([IC 25-26-24](#)).

(6) All other applicable federal and state laws are followed.

(c) A prescription for a controlled substance under this section must be prescribed and dispensed in accordance with [IC 25-1-9.3](#) and [IC 25-26-24](#).

*As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.7; P.L.51-2019, SEC.3; P.L.28-2019, SEC.10; P.L.211-2019, SEC.34; P.L.52-2020, SEC.4; P.L.85-2021, SEC.18.*

#### **IC 25-1-9.5-9Physically located outside Indiana and providing health care; certification; renewal**

Sec. 9. (a) A practitioner who is physically located outside Indiana is engaged in the provision of health care services in Indiana when the practitioner:

(1) establishes a provider-patient relationship under this chapter with; or

(2) determines whether to issue a prescription under this chapter for;

an individual who is located in Indiana.

(b) A practitioner described in subsection (a) may not establish a provider-patient relationship under this chapter with or issue a prescription under this chapter for an individual who is located in Indiana unless the practitioner and the practitioner's employer or the practitioner's contractor, for purposes of providing health care services under this chapter, have certified in writing to the Indiana professional licensing agency, in a manner specified by the Indiana professional licensing agency, that the practitioner and the practitioner's employer or practitioner's contractor agree to be subject to:

(1) the jurisdiction of the courts of law of Indiana; and

(2) Indiana substantive and procedural laws;

concerning any claim asserted against the practitioner, the practitioner's employer, or the practitioner's contractor arising from the provision of health care services under this chapter to an individual who is located in Indiana at the time the health care services were provided. The filing of the certification under this subsection shall constitute a voluntary waiver by the practitioner, the practitioner's employer, or the practitioner's contractor of any respective right to avail themselves of the jurisdiction or laws other than those specified in this subsection concerning the claim. However, a practitioner that practices predominately in Indiana is not required to file the certification required by this subsection.

(c) A practitioner shall renew the certification required under subsection (b) at the time the practitioner renews the practitioner's license.

(d) A practitioner's employer or a practitioner's contractor is required to file the certification required by this section only at the time of initial certification.

*As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.8; P.L.85-2021, SEC.19.*

#### **IC 25-1-9.5-10Discipline; penalties**

Sec. 10. (a) A practitioner who violates this chapter is subject to disciplinary action under [IC 25-1-9](#).

(b) A practitioner's employer or a practitioner's contractor that violates this section commits a Class B infraction for each act in which a certification is not filed as required by section 9 of this chapter.

*As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.9; P.L.85-2021, SEC.20.*

...



### **IC 25-1-9.5-12 Adoption of policies or rules**

Sec. 12. The Indiana professional licensing agency may adopt policies or rules under [IC 4-22-2](#) necessary to implement this chapter. Adoption of policies or rules under this section may not delay the implementation and provision of telehealth services under this chapter.  
*As added by P.L.78-2016, SEC.2. Amended by P.L.85-2021, SEC.22.*

...

### **IC 25-1-9.5-14 No requirement to provide or use telehealth**

Sec. 14. Nothing in this chapter requires an individual to provide or use telehealth.  
*As added by P.L.85-2021, SEC.24.*

## **Private Payer Reimbursement**

### **[IC 27-8-11-1 Definitions](#)**

Sec. 1. (a) The definitions in this section apply throughout this chapter.

...

(c) "Health care services":

- (1) means health care related services or products rendered or sold by a provider within the scope of the provider's license or legal authorization; and
- (2) includes hospital, medical, surgical, dental, vision, and pharmaceutical services or products.

...

(h) "Provider" means an individual or entity duly licensed or legally authorized to provide health care services.

### **[IC 27-8-34 Chapter 34. Coverage for Telemedicine Services](#)**

#### **IC 27-8-34-1 "Covered individual"**

Sec. 1. As used in this chapter, "covered individual" means an individual who is entitled to coverage under a policy of accident and sickness insurance.  
*As added by P.L.185-2015, SEC.25.*

#### **IC 27-8-34-2 "Health care services"**

Sec. 2. As used in this chapter, "health care services" has the meaning set forth in [IC 27-8-11-1](#).  
*As added by P.L.185-2015, SEC.25.*

#### **IC 27-8-34-3 "Policy"**

Sec. 3. As used in this chapter, "policy" means a policy of accident and sickness insurance (as defined in [IC 27-8-5-1](#)). The term does not include dental insurance or vision insurance.  
*As added by P.L.185-2015, SEC.25.*

#### **IC 27-8-34-4"Provider"**

Sec. 4. As used in this chapter, "provider" has the meaning set forth in [IC 27-8-11-1](#).  
As added by P.L.185-2015, SEC.25.

#### **IC 27-8-34-5"Telemedicine services"**

Sec. 5. (a) As used in this chapter, "telemedicine services" means health care services delivered by use of interactive audio, video, or other electronic media, including the following:

- (1) Medical exams and consultations.
  - (2) Behavioral health, including substance abuse evaluations and treatment.
- (b) The term does not include the delivery of health care services by use of the following:
- (1) A telephone transmitter for transtelephonic monitoring.
  - (2) A telephone or any other means of communication for the consultation from one (1) provider to another provider.

As added by P.L.185-2015, SEC.25.

#### **IC 27-8-34-6Coverage of telemedicine services; limits; separate consent prohibited**

Sec. 6. (a) A policy must provide coverage for telemedicine services in accordance with the same clinical criteria as the policy provides coverage for the same health care services delivered in person.

(b) Coverage for telemedicine services required by subsection (a) may not be subject to a dollar limit, deductible, or coinsurance requirement that is less favorable to a covered individual than the dollar limit, deductible, or coinsurance requirement that applies to the same health care services delivered to a covered individual in person.

(c) Any annual or lifetime dollar limit that applies to telemedicine services must be the same annual or lifetime dollar limit that applies in the aggregate to all items and services covered under the policy.

(d) A separate consent for telemedicine services may not be required.

As added by P.L.185-2015, SEC.25.

#### **IC 27-8-34-7Application limitations**

Sec. 7. This chapter does not do any of the following:

- (1) Require a policy to provide coverage for a telemedicine service that is not a covered health care service under the policy.
- (2) Require the use of telemedicine services when the treating provider has determined that telemedicine services are inappropriate.
- (3) Prevent the use of utilization review concerning coverage for telemedicine services in the same manner as utilization review is used concerning coverage for the same health care services delivered to a covered individual in person.

As added by P.L.185-2015, SEC.25.

# Iowa

## Requirements and Permissible Practices

### 153.24. Orthodontia-related services as added by [H.F. 685](#)

1. A licensee under the purview of the board who provides treatment for the correction of malpositions of human teeth or the initial use of orthodontic appliances shall not begin orthodontic treatment on a new patient unless one of the following conditions is met:
  - a. The licensee performs an initial in-person or teledentistry examination of the teeth and supporting structures of the new patient prior to beginning orthodontic treatment.
  - b. The new patient provides the licensee with the portion of the dental record taken within the prior six months of an in-person or teledentistry examination of the teeth and supporting structures of the new patient prior to the licensee beginning orthodontic treatment.
2. The examination required pursuant to subsection 1 shall include any appropriate conventional or digital radiographs or digital imaging that are necessary to develop a suitable orthodontic diagnosis and treatment plan.
3. For the purposes of this section, "new patient" means a person whom a licensee has not examined, for whom a licensee has not provided care, or for whom a licensee has not otherwise provided consultation during the two-year period immediately prior to the patient's most recent appointment.

### Dental Board [650] |

### Chapter 27 STANDARDS OF PRACTICE AND PRINCIPLES OF PROFESSIONAL ETHICS

#### [650—27.12\(153\) Teledentistry.](#)

This rule establishes the standards of practice for teledentistry.

##### **27.12(1) Definition.**

"Teledentistry" means a dentist is providing or supervising dental services using technology when the patient is in another location.

**27.12(2) Teledentistry authorized.** A dentist may utilize teledentistry to provide dental care to patients located in Iowa. A dentist shall not provide dental care to a patient located in Iowa based solely on an Internet questionnaire consisting of a static set of questions that have been answered by the patient.

**27.12(3) License or registration required.** A dentist, dental hygienist, or dental assistant who uses teledentistry for a patient located in Iowa shall hold an active Iowa license or registration issued by the board.

**27.12(4) General requirements.** The standard of dental care is the same whether a patient is seen in person or through a teledentistry encounter. The use of teledentistry is not an expansion of the scope of practice for dental hygienists or dental assistants. A dentist who uses teledentistry shall utilize evidence-based standards of practice and practice guidelines to ensure patient safety, quality of care, and positive outcomes.

**27.12(5) Informed consent.** When teledentistry will be utilized, a dentist shall ensure informed consent covers the following additional information:

- a. A description of the types of dental care services provided via teledentistry, including limitations on services;

b. The identity, contact information, practice location, licensure, credentials, and qualifications of all dentists, dental hygienists, and dental assistants involved in the patient's dental care, which must be publicly displayed on a website or provided in writing to the patient; and

c. Precautions for technological failures or emergency situations.

**27.12(6) Examination.** A dentist may use teledentistry to conduct an examination for a new patient or for a new diagnosis if the examination is conducted in accordance with evidence-based standards of practice to sufficiently establish an informed diagnosis. A dentist shall not conduct a dental examination using teledentistry if the standard of care necessitates an in-person dental examination. Once an examination has been conducted, a dentist may delegate the services to be provided.

**27.12(7) Follow-up and emergency care.** A dentist who uses teledentistry shall have adequate knowledge of the nature and availability of local dental resources to provide appropriate follow-up care to a patient following a teledentistry encounter. A dentist shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of emergency.

**27.12(8) Supervision.** With the exception of administering local anesthesia or nitrous oxide inhalation analgesia, or performing expanded functions, a dentist may delegate to and supervise services to be performed by a dental hygienist or dental assistant.

a. When direct supervision of a dental hygienist or dental assistant is required, a dentist may provide direct supervision using live video. A dentist is not required to directly supervise the entire delivery of dental care but must appear upon request using live video with a response time similar to what would be expected if the dentist were present in the treatment facility.

b. When general supervision of a dental hygienist or dental assistant is required, a dentist may utilize teledentistry.

c. When public health supervision is utilized, a supervising dentist may authorize use of teledentistry.

**27.12(9) Patient records.** A teledentistry encounter shall be clearly characterized as such in a patient record.

**27.12(10) Privacy and security.** All dentists, dental hygienists, and dental assistants shall ensure that the use of teledentistry complies with the privacy and security requirements of the Health Insurance Portability and Accountability Act.

## Iowa Administrative Code - 05/05/2021

### Telecommunications and Technology Commission, Iowa [751]

#### Chapter 7 AUTHORIZED USE AND USERS

##### 751—7.1(8D) Definitions.

...

##### 751—7.11 (8D) Use or access to telemedicine users.

The following persons and entities may use or access the network for data and video services including access to the Internet if the use is for telemedicine or educational purposes:

1. Licensed health care professionals or licensed health care professionals who function under the direction of or in collaboration with a physician or a hospital, or both, for example, other doctors, students, nurses, physician's assistants, therapists, clinical social workers, psychologists;

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Iowa, continued

2. Hospital or physician clinic staff members;
3. Professional boards on which health professionals serve, for example, a nurse serving on the board of the American Cancer Society;
4. Patients acting under the direction of a licensed health care professional;
5. Health care employees of facilities that have a contractual agreement with the hospital or physician;
6. Health care employees of facilities that do not have a contractual agreement with the hospital or physician clinic;
7. Employees of health care associations for various health care employees, for example, Association of Iowa Hospitals and Health Systems, Iowa Medical Society, Iowa Osteopathic Medical Association, Iowa Chiropractic Society, Iowa Nurses Association;
8. Professional board members where a health care professional serves as a member of a board, for example, a physician serving on the board of the American Cancer Society.

### Medicaid Reimbursement

[Iowa Administrative Code 441—78.55\(249A\) Services rendered via telehealth.](#)

An in-person contact between a health care professional and a patient is not required as a prerequisite for payment for otherwise-covered services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services are provided, as well as being in accordance with provisions under rule 653—13.11(147,148,272C). Health care services provided through in-person consultations or through telehealth shall be treated as equivalent services for the purposes of reimbursement.

### Private Payer Reimbursement

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THE VOICE OF  
DENTAL EDUCATION

# Compilation of State Laws and Regulations Addressing Teledentistry or Telehealth Conducted by Oral Health Practitioners

## States K-N

This document is a compilation of state statutes and regulations that address teledentistry or telehealth conducted by oral health practitioners. Each state’s laws and regulations may be divided into three parts: requirements and permissible practices, Medicaid reimbursement and private payer reimbursement. Some states do not address all three of these topic areas and, as a result, a state may have fewer sections.

Because this analysis only focuses on laws as they apply to oral health care providers, it may not include telehealth policies that apply to other groups of health care practitioners.

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## Kansas

Kansas statutes and regulations do not address teledentistry or telehealth conducted by oral health professionals. The [Center for Connected Health Policy](#) has assembled an overview of telehealth laws in the state.

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# Kentucky

## Requirements and Permissible Practices

### KRS § 211.332 Definitions for KRS 211.332 to 211.338.

As used in KRS 211.332 to 211.338, unless context otherwise requires:

- (1) "Cabinet" means the Cabinet for Health and Family Services;
- (2) "Health care service" means health care procedures, treatments, or services rendered by a provider within the scope of practice for which the provider is licensed or certified and includes physical and behavioral health care;

(3) "Professional licensure board" means a licensure board established in Kentucky for the purpose of regulating and overseeing the practice of health care providers, including but not limited to:

...

- (e) Kentucky Board of Dentistry established by KRS 313.020;

...

(4) "State agency authorized or required to promulgate administrative regulations relating to telehealth" means:

- (a) A professional licensure board;
- (b) The Cabinet for Health and Family Services;
- (c) The Department for Medicaid Services within the Cabinet for Health and Family Services; and
- (d) The Department of Insurance within the Public Protection Cabinet; and

(5) "Telehealth" or "digital health":

(a) Means a mode of delivering healthcare services through the use of telecommunication technologies, including but not limited to synchronous and asynchronous technology, remote patient monitoring technology, and audio only encounters, by a health care provider to a patient or to another health care provider at a different location;

(b) Shall not include:

- 1. The delivery of health care services through electronic mail, text, chat, or facsimile unless a state agency authorized or required to promulgate administrative regulations relating to telehealth determines that health care services can be delivered via these modalities in ways that enhance recipient health and well-being and meet all clinical and technology guidelines for recipient safety and appropriate delivery of services; or
- 2. Basic communication between a health care provider and a patient, including but not limited to appointment scheduling, appointment reminders, voicemails, or any other similar communication intended to facilitate the actual provision of healthcare services either in-person or via telehealth; and

(c) Unless waived by the applicable federal authority, shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9.

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[KRS § 211.336 Duties of agency promulgating administrative regulations relating to telehealth -- Restrictions.](#)

If a state agency authorized or required to promulgate administrative regulations relating to telehealth chooses to promulgate an administrative regulation relating to telehealth, the state agency:

(1) Shall:

- (a) Use terminology consistent with the glossary of telehealth terminology established by the cabinet pursuant to KRS 211.334; and
- (b) Comply with the minimum requirements established by the cabinet pursuant to KRS 211.334;

(2) Shall not:

- (a) Require a provider to be physically present with the recipient, unless the state agency or provider determines that it is medically necessary to perform those services in person;
- (b) Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;
- (c) Require a provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person;
- (d) Require demonstration that it is necessary to provide services to a patient through telehealth;
- (e) Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services;
- (f) Prohibit the delivery of telehealth services to a person located in Kentucky by a provider who is a participant in a recognized interstate compact and delivers telehealth services to a person in Kentucky under the standards and provisions of that interstate compact;
- (g) Prohibit an insurer or managed care organization from utilizing audits for medical coding accuracy in the review of telehealth services specific to audio only encounters; or
- (h) Require a provider to be part of a telehealth network; and

(3) May promulgate administrative regulations, which shall be no more restrictive than administrative regulations for providers who deliver healthcare services in person, to establish additional requirements relating to telehealth, including requirements:

- (a) For the proper use and security of telehealth;
- (b) To address emergency situations, including but not limited to suicidal ideations or plans; threats to self or others; evidence of dependency, neglect, or abuse; or other life-threatening conditions;
- (c) To prevent waste, fraud, and abuse of telehealth services, both in general and specific to the provision of telehealth services delivered via audio-only encounters; or
- (d) That a telehealth provider be licensed in Kentucky, or as allowed under the standards and provisions of a recognized interstate compact, in order to receive reimbursement for telehealth services.

[313.010 Definitions for chapter.](#)

As used in this chapter, unless the context requires otherwise:

...

(15) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education;

...

[KRS 313.060 Administrative regulations governing minimal requirements for documentation, oath](#)

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[for disease control compliance, sedation of patients, and compliance with federal statutes and regulations -- Death or incapacity of dentist -- Telehealth -- Continuing education.](#)

...

- (8) A treating dentist who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
  - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.
- (9) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
  - (b) Prevent fee-splitting through the use of telehealth services; and
  - (c) Utilize telehealth in the provision of dental services and in the provision of continuing education.

...

[201 KAR 8:590. Teledentistry.](#)

Section 1. Definition. "Teledentistry" means the use of electronic and digital communicationsto provide dentistry and dental hygiene-related information and services.

Section 2. Practice of Teledentistry.

- (1) To deliver teledentistry services in Kentucky, one shall have a current, valid dental or dental hygiene license issued by the Board of Dentistry. The practice of dentistry shall occur where the patient is located at the time teledentistry services are initiated.
- (2) This administrative regulation shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting or in a manner not authorized by KRS Chapter 313. Teledentistry encounters shall be held to the same standard of care as a traditional in-person patient encounter.
  - (3)(a) A patient shall only be treated via teledentistry by:
    - 1. A Kentucky licensed dentist; or
    - 2. A Kentucky licensed dental hygienist who is supervised by, and has delegated authority from, a Kentucky licensed dentist.
  - (b) Any individual may provide any photography or digital imaging to a Kentucky licensed dentist or Kentucky licensed dental hygienist for the sole and limited purpose of screening, assessment, or examination. Anyone providing photography or digital imaging to a Kentucky licensed dentist or Kentucky licensed dental hygienist shall comply with the same standards required for the recording of photography or digital imaging in accordance with KRS 313.010(11).
  - (4) A licensee using teledentistry in the provision of dental services to a patient shall establish the licensee-patient relationship and conduct an evaluation and history of the patient.

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Section 3. Informed Consent. A licensee shall, to the extent possible:

- (e) Confirm the identity of the requesting patient;
  - (f) Verify and authenticate the patient's health history;
  - (g) Disclose the licensee's identity, applicable credentials, and contact information, including a current phone number;
  - (h) Obtain an informed consent from the requesting patient after disclosures have been made regarding the delivery models and treatment methods and limitations, to include any special informed consents regarding the use of teledentistry services. At a minimum, the informed consent shall inform the patient or legal guardian and document acknowledgment of the risk and limitations of:
    - (i) The use of electronic and communications in the provision of care;
    - (j) The potential for breach of confidentiality, or inadvertent access, of protected health information using electronic and digital communication in the provision of care;
    - (k) The potential disruption of electronic and digital communication in the use of
- teledentistry; and
- (a) The types of activities permitted using teledentistry services;
  - (2) Inform the patient or legal guardian that it is the role of the licensee to determine whether the condition being diagnosed or treated is appropriate for a teledentistry encounter;
  - (3) State the requirement for explicit patient or legal guardian consent to forward patient-identifiable information to a third party; and
  - (4) Provide to the patient contact information for the Kentucky Board of Dentistry and a description of, or link to, the patient complaint process.

Section 4. Confidentiality. The licensee shall ensure that any electronic and digital communication used in the practice of teledentistry shall be secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 – 1320d-8, and all other applicable laws and administrative regulations.

Section 5. Dental Records.

- (1) Any dental record made through teledentistry shall be in compliance with 201 KAR 8:540, Section 2(1) and (2).
- (2) An informed consent obtained in connection with teledentistry services shall be filed in the patient's dental record.
- (3) The release of patient records established during the use of teledentistry shall comply with KRS 422.317.
- (4) The licensee shall document or record in the file:
  - (a) The patient's chief complaint;
  - (b) The licensee's differential diagnosis;
  - (c) The licensee's recommended treatment plan for the patient; and
  - (d) A description of all services provided by teledentistry.

Section 6. Prescribing.

- (1) The indication, appropriateness, and safety considerations for each prescription for medication, laboratory services, or dental laboratory services provided through the use of teledentistry services shall be evaluated by the licensee in accordance with 201 KAR 8:540, Section 3.

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- (2) A licensee's use of teledentistry carries the same professional accountability as a prescription issued in connection with an in-person encounter.

Section 7. Representation of Services. A licensee using teledentistry to deliver dental services or who practices teledentistry shall not:

- (1) Directly or indirectly engage in false, misleading, or deceptive advertising of teledentistry services; or
- (2) Allow fee-splitting for the use of teledentistry services. (46 Ky.R. 2355; 47 Ky.R. 52; eff. 7-29-2020.)

## Medicaid Reimbursement

### Medical Assistance (State Medicaid Program)

#### [KRS 205.510 Definitions for medical assistance law.](#)

...

- (4) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

...

- (16) "Telehealth" means the same as in KRS 211.332;

- (17) "Telehealth consultation" means a medical or health consultation, for purposes of patient diagnosis or treatment, that meets the definition of telehealth in this section;

...

#### [KRS 205.559 Requirements for Medicaid reimbursement to participating providers for telehealth consultations -- Reimbursement for rural health clinics, federally qualified health centers, and federally qualified health center look-alikes -- Audio-only encounters.](#)

- (1) The Cabinet for Health and Family Services and any managed care organization with whom the Department for Medicaid Services contracts for the delivery of Medicaid services shall provide Medicaid reimbursement for covered telehealth services and telehealth consultations, if the telehealth service or telehealth consultation:

- (a) Is provided by a Medicaid-participating practitioner, including those employed by a home health agency licensed pursuant to KRS Chapter 216, to a Medicaid recipient or another Medicaid-participating practitioner at a different physical location; and
- (b) Meets all clinical, technology, and medical coding guidelines for recipient safety and appropriate delivery of services established by the Department for Medicaid Services or the provider's professional licensure board.

- (2) (a) For rural health clinics, federally qualified health centers, and federally qualified health center look-alikes, reimbursement for covered telehealth services and telehealth consultations shall:

1. To the extent permitted under federal law, include an originating site fee in an amount equal to that which is permitted under 42 U.S.C. sec. 1395m for Medicare-participating providers if the Medicaid beneficiary who received the telehealth service or telehealth consultation was physically located at the rural health clinic, federally qualified health center, or federally qualified health center look-alike at the time of service or consultation delivery and the provider of the telehealth service or telehealth consultation is not employed by the rural health clinic, federally qualified health center, or federally qualified health center look-alike; or
2. If the telehealth service or telehealth consultation provider is employed by the rural health clinic, federally qualified health center, or federally qualified health center look-

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alike, include a supplemental reimbursement paid by the Department for Medicaid Services in an amount equal to the difference between the actual reimbursement amount paid by a Medicaid managed care organization and the amount that would have been paid if reimbursement had been made directly by the department.

(b) A request for reimbursement shall not be denied solely because:

1. An in-person consultation between a Medicaid-participating practitioner and a patient did not occur; or
2. A Medicaid-participating provider employed by a rural health clinic, federally qualified health center, or federally qualified health center look-alike was not physically located on the premises of the clinic or health center when the telehealth service or telehealth consultation was provided.

(c) Telehealth services and telehealth consultations shall not be reimbursable under this section if they are provided through the use of a facsimile machine, text, chat, or electronic mail unless the Department for Medicaid Services determines that telehealth can be provided via these modalities in ways that enhance recipient health and well-being and meet all clinical and technology guidelines for recipient safety and appropriate delivery of services.

(3) (a) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols, which may include a requirement for an annual in-person or face-to-face consultation with a patient who receives telehealth services, and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.

(b) The Department for Medicaid Services and any managed care organization with whom the department contracts for the delivery of Medicaid services shall not deny reimbursement for telehealth services covered by this section based solely on quality-of-care protocols adopted by a health-care facility pursuant to paragraph (a) of this subsection.

(4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.

(5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section and KRS 205.5591.

(6) Medicaid-participating practitioners and home health agencies are strongly encouraged to use audio-only encounters as a mode of delivering telehealth services only when no other approved mode of delivering telehealth services is available.

(7) As used in this section:

- (a) "Federally qualified health center" means the same as in 42 U.S.C. sec. 1396d;
- (b) "Federally qualified health center look-alike" means an organization that meets all of the eligibility requirements of a federally qualified health center but does not receive federal grants issued pursuant to 42 U.S.C. sec. 254b;
- (c) "Originating site" means the site at which a Medicaid beneficiary is physically located at the time a telehealth service or telehealth consultation is provided; and
- (d) "Rural health clinic" means the same as in 42 U.S.C. sec. 1395x

[KRS 205.5591 Medicaid providers using telehealth -- Duties of cabinet, Department for Medicaid Services, and managed care organizations -- Administrative regulations -- Policies and guidelines.](#)

- (1) The cabinet shall provide oversight, guidance, and direction to Medicaid providers delivering care using telehealth.
- (2) The Department for Medicaid Services shall:
  - (a) Within thirty (30) days after June 29, 2021:
    1. Promulgate administrative regulations in accordance with KRS Chapter 13A to establish requirements for telehealth coverage and reimbursement rates, which shall be equivalent to coverage requirements and reimbursement rates for the same service provided in person unless the telehealth provider and the department or a managed care organization contractually agree to a lower reimbursement rate for telehealth services; and
    2. Create, establish, or designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section and KRS 205.559;
  - (b) Require that specialty care be rendered by a health care provider who is recognized and actively participating in the Medicaid program;
  - (c) Require that any required prior authorization requesting a referral or consultation for specialty care be processed by the patient's primary care provider and that any specialist coordinate care with the patient's primary care provider; and
  - (d) Require a telehealth provider to be licensed in Kentucky, or as allowed under the standards and provisions of a recognized interstate compact, in order to receive reimbursement for telehealth services.
- (3) In accordance with KRS 211.336, the Department for Medicaid Services and any managed care organization with whom the department contracts for the delivery of Medicaid services shall not:
  - (a) Require a Medicaid provider to be physically present with a Medicaid recipient, unless the provider determines that it is medically necessary to perform those services in person;
  - (b) Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;
  - (c) Require a Medicaid provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person;
  - (d) Require demonstration that it is necessary to provide services to a Medicaid recipient through telehealth;
  - (e) Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services; or
  - (f) Require a Medicaid provider to be part of a telehealth network.
- (4) Nothing in this section shall be construed to require the Medicaid program or a Medicaid managed care organization to:
  - (a) Provide coverage for telehealth services that are not medically necessary; or
  - (b) Reimburse any fees charged by a telehealth facility for transmission of a telehealth encounter.
- (5) The cabinet, in implementing KRS 211.334 and 211.336, shall maintain telehealth policies and guidelines to providing care that ensure that Medicaid-eligible citizens will have safe, adequate, and efficient medical care, and that prevent waste, fraud, and abuse of the Medicaid program.

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(6) In order to comply with the deadline for the promulgation of administrative regulations established in subsection (2) of this section, the Department for Medicaid Services may promulgate emergency administrative regulations in accordance with KRS 13A.190.

### 907 KAR 3:170. Telehealth service coverage and reimbursement.

#### Section 1. Definitions.

- (1) "Asynchronous telehealth" means a store and forward telehealth service that is electronically mediated.
- (2) "Department" means the Department for Medicaid Services or its designated agent.
- (3) "Face-to-face" means:
  - (a) In person; and
  - (b) Not via telehealth.
- (4) "Federal financial participation" is defined by 42 C.F.R. 400.203.
- (5) "Medical necessity" or "medically necessary" means a covered benefit is determined to be needed in accordance with 907 KAR 3:130 or pursuant to the process established by KRS 304.38-240.
- (6) "Place of service" means anywhere the patient is located at the time a telehealth service is provided, and includes telehealth services provided to a patient located at the patient's home or office, or a clinic, school, or workplace.
- (7) "Synchronous telehealth" means a telehealth service that simulates a face-to-face encounter via real-time interactive audio and video technology between a telehealth care provider and a Medicaid recipient.
- (8) "Telehealth" is defined by KRS 205.510(15).
- (9) "Telehealth care provider" means a Medicaid provider who is:
  - (a) Currently enrolled as a Medicaid provider in accordance with 907 KAR 1:672;
  - (b) Currently participating as a Medicaid provider in accordance with 907 KAR 1:671;
  - (c) Operating within the scope of the provider's professional licensure; and
  - (d) Operating within the provider's scope of practice.
- (10) "Telehealth service" means any service that is provided by telehealth and is one (1) of the following:
  - (a) Event;
  - (b) Encounter;
  - (c) Consultation, including a telehealth consultation as defined by KRS 205.510(16);
  - (d) Visit;
  - (e) Store and forward transfer, as limited by Section 4 of this administrative regulation;
  - (f) Remote patient monitoring, as limited by Section 4 of this administrative regulation;
  - (g) Referral; or
  - (h) Treatment.

#### Section 2. General Policies.

- (1)(a) Except as provided in paragraph (b) of this subsection, the coverage policies established in this administrative regulation shall apply to:
  1. Medicaid services for individuals not enrolled in a managed care organization; and
  2. A managed care organization's coverage of Medicaid services for individuals enrolled in the managed care organization for the purpose of receiving Medicaid or Kentucky Children's Health Insurance Program services.



- (b) A managed care organization shall reimburse the same amount for a telehealth service as the department reimburses unless a different payment rate is negotiated in accordance with Section 3(1)(a)2. of this administrative regulation.
- (2) A telehealth service shall not be reimbursed by the department if:
- (a) It is not medically necessary;
  - (b) The equivalent service is not covered by the department if provided in a face-to-face setting; or
  - (c) The telehealth care provider of the telehealth service is:
    - 1. Not currently enrolled in the Medicaid program pursuant to 907 KAR 1:672;
    - 2. Not currently participating in the Medicaid program pursuant to 907 KAR 1:671;
    - 3. Not in good standing with the Medicaid program;
    - 4. Currently listed on the Kentucky DMS Provider Terminated and Excluded Provider List, which is available at <https://chfs.ky.gov/agencies/dms/dpi/pe/Pages/terminated.aspx>; or
    - 5. Currently listed on the United States Department of Health and Human Services, Office of Inspector General List of Excluded Individuals and Entities, which is available at <https://oig.hhs.gov/exclusions/>.
- (3) (a) A telehealth service shall be subject to utilization review for:
- 1. Medical necessity;
  - 2. Compliance with this administrative regulation; and
  - 3. Compliance with applicable state and federal law.
- (b) The department shall not reimburse for a telehealth service if the department determines that a telehealth service is not:
- 1. Medically necessary;
  - 2. Compliant with this administrative regulation;
  - 3. Applicable to this administrative regulation; or
  - 4. Compliant with applicable state or federal law.
- (c) The department shall recoup the reimbursement for a previously reimbursed telehealth service if the department determines that a telehealth service was not:
- 1. Medically necessary;
  - 2. Compliant with this administrative regulation;
  - 3. Applicable to this administrative regulation; or
  - 4. Compliant with applicable state or federal law.
- (4) A telehealth service shall have the same referral requirements as a face-to-face service.
- (5) Within forty-eight (48) hours of the reconciliation of the record of the telehealth service, a provider shall document within the patient's medical record that a service was provided via telehealth, and follow all documentation requirements established by Section 5 of this administrative regulation.

### Section 3. Telehealth Reimbursement.

- (1)(a)1. The department shall reimburse an eligible telehealth care provider for a telehealth service in an amount that is at least 100 percent of the amount paid for a comparable in-person service.
- 2. A managed care organization and provider may establish a different rate for telehealth reimbursement via contract as allowed pursuant to KRS 205.5591(5).
- (b) A telehealth service reimbursed pursuant to this section shall be subject to cost-sharing pursuant to 907 KAR 1:604.

(2) A provider shall appropriately denote telehealth services by place of service or other means as designated by the department or as required in a managed care organization's contract with the provider or member.

#### Section 4. Asynchronous Telehealth.

(1) An asynchronous telehealth service or store and forward transfer shall be limited to those telehealth services that have an evidence base establishing the service's safety and efficacy.

(2) A store and forward service shall be permissible if the primary purpose of the asynchronous interaction involves high quality digital data transfer, such as digital image transfers. An asynchronous telehealth service within the following specialties or instances of care that meets the criteria established in this section shall be reimbursable as a store and forward telehealth service:

...

(f) Dentistry;

...

(l) A store and forward telehealth service in which a clear digital image is integral and necessary to make a diagnosis or continue a course of treatment;

...

(n) Any code or group of services included as an allowed asynchronous telehealth service pursuant to subsection (4) of this section.

(3) Unless otherwise prohibited by this section, an asynchronous telehealth service shall be reimbursable if that service supports an upcoming synchronous telehealth or face-to-face visit to a provider that is providing one (1) of the specialties or instances of care listed in subsection (2) of this section.

(4) (a) The department shall evaluate available asynchronous telehealth services quarterly, and may clarify that certain asynchronous telehealth services meet the requirements of this section to be included as permissible asynchronous telehealth, as appropriate and as funds are available, if those asynchronous telehealth services have an evidence base establishing the service's:

1. Safety; and
2. Efficacy.

(b) Any asynchronous service that is determined by the department to meet the criteria established pursuant to this subsection shall be available on the department's Web site.

(5) Except as allowed pursuant to subsection (4) of this section or otherwise within the Medicaid program, a provider shall not receive additional reimbursement for an asynchronous telehealth service if the service is an included or integral part of the billed office visit code or service code.

(6) (a) Remote patient monitoring shall not be an eligible telehealth service within the fee-for-service Medicaid program unless that service is:

1. Expanded pursuant to subsection (4) of this section;
2. Otherwise included as a part of a department approved value based payment arrangement; or
3. Otherwise included as a value added service or payment arrangement.

(b) A managed care organization may reimburse for remote patient monitoring as a telehealth service if expanded pursuant to subsection (4) of this section or provided as a:

1. Value based payment arrangement; or
2. Value added service or payment arrangement.

Section 5. Medical Records.

- (1) A medical record of a telehealth service shall be maintained in compliance with 907 KAR 1:672 and 45 C.F.R. 164.530(j).
- (2) A health care provider shall have the capability of generating a hard copy of a medical record of a telehealth service.

Section 6. Federal Financial Participation. A policy established in this administrative regulation shall be null and void if the Centers for Medicare and Medicaid Services:

- (1) Denies federal financial participation for the policy; or
- (2) Disapproves the policy.

Section 7. Appeal Rights.

- (1) An appeal of a department determination regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.
- (2) An appeal of a department determination regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.
- (3) A provider may appeal a department-written determination as to the application of this administrative regulation in accordance with 907 KAR 1:671.
- (4) An appeal of a managed care organization's determination regarding a Medicaid beneficiary shall be in accordance with 907 KAR 17:010.

## Private Payer Reimbursement

### KRS 304.17A-005 Definitions for subtitle.

...

- (23) "Health care provider" or "provider" means any

...

- (a) Dentist licensed under KRS Chapter 313;

...

- (47) "Telehealth":

- a. Means the delivery of health care-related services by a health care provider who is licensed in Kentucky to a patient or client through a face-to-face encounter with access to real-time interactive audio and video technology or store and forward services that are provided via asynchronous technologies as the standard practice of care where images are sent to a specialist for evaluation. The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the patient's or client's medical history prior to the telehealth encounter;
- b. Shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call; and
- c. Shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996,

[KRS 304.17A-138 Telehealth coverage and reimbursement -- Requirements for health benefit plan -- Benefits subject to deductible, copayment, or coinsurance -- Payment subject to provider network arrangements -- Administrative regulations.](#)

- (1) (a) A health benefit plan shall reimburse for covered services provided to an insured person through telehealth as defined in KRS 304.17A-005. Telehealth coverage and reimbursement shall be equivalent to the coverage for the same service provided in person unless the telehealth provider and the health benefit plan contractually agree to a lower reimbursement rate for telehealth services.
- (b) A health benefit plan shall not:
  1. Require a provider to be physically present with a patient or client, unless the provider determines that it is necessary to perform those services in person;
  2. Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;
  3. Require demonstration that it is necessary to provide services to a patient or client through telehealth;
  4. Require a provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person;
  5. Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services; or
  6. Require a provider to be part of a telehealth network.
- (2) A health benefit plan shall require a telehealth provider to be licensed in Kentucky in order to receive reimbursement for telehealth services.
- (3) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided in person.
- (4) Nothing in this section shall be construed to require a health benefit plan to:
  - (a) Provide coverage for telehealth services that are not medically necessary; or
  - (b) Reimburse any fees charged by a telehealth facility for transmission of a telehealth encounter.
- (5) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.
- (6) The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

[806 KAR 17:270. Telehealth claim forms and records](#)

Section 1. Definitions. (1) "ADA" means American Dental Association.

(2) "Electronic" or "electronically" is defined by KRS 304.17A-700(7).

(3) "HCFA" means Health Care Financing Administration.

(4) "Health benefit plan" is defined by KRS 304.17A-005(22).

(5) "Health care provider" or "provider" is defined by KRS 304.17A-005(23).

(6) "Health insurer" or "insurer" is defined by KRS 304.17A-005(27).

(7) "Kentucky Uniform Billing Committee (KUBC)" is defined by KRS 304.17A-700(13).

(8) "National Uniform Billing Committee (NUBC)" is defined by KRS 304.17A-700(14).

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*Kentucky, continued*

(9) "Telehealth" is defined by KRS 311.550(17).

(10) "UB" means uniform billing.

Section 2. Application. This administrative regulation shall apply to health benefit plans delivered, issued, or renewed on or after July 15, 2001.

Section 3. Claim Forms. The following claim forms shall be used for reimbursement of telehealth consultations:

(1) A claim form for dentists shall consist of the ADA Form-J588 approved by the American Dental Association effective at the time the service was billed; and

(2) A claim form for all other health care providers shall consist of the HCFA-1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee effective at the time the service was billed.

Section 4. Retention of Records. A provider shall, upon request, provide a copy of the following to an insurer as support for a claim for reimbursement of a telehealth consultation:

(1) Written record which substantiates the request by the referring provider for the telehealth consultation by the primary care provider; and

(2) Written record of the telehealth consultation.

Section 5. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) ADA Form-J588, "Dental Claim Form" (1999 version 2000); and

(b) Form HCFA-1500, "Health Insurance Claim Form" (12-90 Edition).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Office of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

# Louisiana

## Requirements and Permissible Practices

### PART VII. LOUISIANA TELEHEALTH ACCESS ACT

#### 40 § 1223.1. Short title

This Part shall be known and may be cited as the “Louisiana Telehealth Access Act”. Acts 2014, No. 442, §2; Redesignated from R.S. 40:1300.401 by HCR 84 of 2015 R.S.

#### 40 § 1223.2. Legislative findings

The legislature hereby finds and declares the following:

(1) As an innovative form of health care, telehealth is extremely valuable because it enhances access to care, particularly in rural locations and other medically underserved areas; makes delivery of care more cost-effective; and distributes limited provider resources more efficiently.

(2) Many patients with limited access to traditional health care can be diagnosed and treated sooner through telehealth than they would be otherwise, resulting in improved outcomes and less costly treatments due to early detection and prevention.

(3) Telehealth services could potentially address a great unmet need for health care by persons who have limited access to both traditional healthcare settings and to telemedicine as currently defined in Louisiana law.

(4) If this state is to achieve much needed improvement in health outcomes, a prudent and responsible policy for doing so would be to balance patient safety and access to care through expanding access to telehealth services for the people of Louisiana.

#### 40 § 1223.3. Definitions

(1) “Asynchronous store and forward transfer” means the transmission of a patient’s medical information from an originating site to the provider at the distant site without the patient being present.

(2) “Distant site” means the site at which the healthcare provider delivering the service is located at the time the service is provided via a telecommunications system.

(3) “Healthcare provider” means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state to provide healthcare or professional services as a physician assistant, hospital, nursing home, dentist, registered nurse, advanced practice registered nurse, licensed dietitian or nutritionist, licensed practical nurse, certified nurse assistant, offshore health service provider, ambulance service, licensed midwife, pharmacist, speech-language pathologist, audiologist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, certified or licensed athletic trainer, psychologist, medical psychologist, social worker, licensed professional counselor, licensed perfusionist, licensed respiratory therapist, licensed radiologic technologist, or licensed clinical laboratory scientist.

(4) “Originating site” means the location of the patient at the time the service is furnished via a telecommunications system or when the asynchronous store and forward transfer occurs.

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(5) “Synchronous interaction” means communication through interactive technology that enables a healthcare provider and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. The healthcare provider may utilize interactive audio without the requirement of video if, after access and review of the patient’s medical records, the provider determines that he is able to meet the same standard of care as if the healthcare services were provided in person.

(6)(a) “Telehealth” means a mode of delivering healthcare services, including behavioral health services, that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from healthcare providers. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

...

#### [40 § 1223.4. Telehealth; rulemaking required](#)

A. Each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider, as defined in this Part, may promulgate, in accordance with the Administrative Procedure Act, any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity. However, any rules and regulations shall be consistent with and no more restrictive than the provisions contained in this Section.

B. The rules shall, at a minimum, provide for all of the following:

(1) Application of all laws regarding the confidentiality of healthcare information and the patient’s rights to the patient’s medical information created during telehealth interactions.

(2) Application of the same standard of care by a healthcare provider as if the healthcare services were provided in person.

(3)(a) Licensing or registration of out-of-state healthcare providers who seek to furnish healthcare services via telehealth to persons at originating sites in Louisiana. The rules shall ensure that any such healthcare provider possesses, at a minimum, an unrestricted and unencumbered license in good standing to perform the healthcare service in the state in which the healthcare provider is located, and that the license is comparable to its corresponding license in Louisiana as determined by the respective Louisiana licensing agency, board, or commission.

(b) Each state agency and professional or occupational licensing board or commission is authorized to provide by rule for a reasonable fee for the license or registration provided for in this Subsection.

(4) Exemption from the telehealth license or registration required by this Subsection for the consultation of a healthcare professional licensed by this state with an out-of-state peer professional.

C. Nothing in this Part shall be construed to authorize a state agency or professional or occupational licensing board or commission to expand, diminish, or alter the scope of practice of any healthcare provider.

[40 § 1223.5. Venue; telehealth and telemedicine](#)

Venue in any suit filed involving care rendered via telehealth pursuant to the provisions of this Part or telemedicine pursuant to the provisions of R.S. 37:1271(B) shall be proper and instituted before the district court of the judicial district in which the patient resides or in the district court having jurisdiction in the parish where the patient was physically located during the provision of the telehealth or telemedicine service. The patient is considered physically located at the originating site as defined in R.S. 40:1223.3.

[La. Admin Code. tit. 46, Pt XXXIII, § 203](#)

**§ 203. Teledentistry**

1. Teledentistry is defined as the use of medical or dental information exchanged from one site to another via electronic communications to provide dental treatment or diagnosis, but does not include email or telephone exchanges between a provider and a patient with whom an in-person provider-patient relationship has been established.
2. Treatment or diagnosis of a patient via teledentistry is considered to occur at the location of the patient at the time of the treatment or diagnosis.
3. Treatment or diagnosis via teledentistry may be provided to patients in Louisiana only by a dentist who holds a license issued by the Board of Dentistry. The Louisiana licensed dentist need not be in Louisiana while providing the teledentistry services.
4. An exception to the requirement that the provider of teledentistry services to a patient in Louisiana hold a Louisiana license is when a Louisiana licensed dentist with an in-person relationship with a patient consults an expert with a valid dental license in another United States jurisdiction for advice regarding the patient's treatment or diagnosis; in this case the expert consulted need not have a Louisiana license.
5. The standard of care applicable to a provider of teledentistry services, including obtaining informed consent and record documentation, is no different from the standard of care required in traditional dentistry.
6. Direct supervision by a dentist of staff performing dental related tasks may not be done via teledentistry except as otherwise provided by § 701 of these rules.
7. Controlled substances may not be prescribed via teledentistry except in emergency situations where the dentist determines:
  - a. That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user, and
  - b. That no appropriate alternate treatment is available, including administration of a drug that is not a controlled substance.

In an emergency situation the prescription for a controlled substance must be limited to the amount adequate to treat the patient during the emergency period.

8. The provider of teledentistry services must provide his identity to the patient, his location at the time of the service, the location of the patient records produced as a result of the treatment, and information on how the patient can obtain copies of the records produced as a result of the treatment.

[La. Admin Code. tit. 46, Pt XXXIII, § 701](#)

**§ 701. Authorized Duties**

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H. Notwithstanding the above sections, a dental hygienist licensed in Louisiana may perform radiographs, oral prophylaxis, place sealants and place fluoride varnish without a Louisiana licensed dentist being physically present in the clinic if all of the following conditions are met:

1. The dental hygienist is employed by one of the following entities and is performing the radiographs, oral prophylaxis, sealants and/or the fluoride varnish as part of his employment with that entity:
  - a. A government agency.
  - b. A nonprofit entity that meets the statutory, regulatory and program requirements for grantees supported under Section 330 of the Public Health Service Act (42 U.S.C. § 254b or its successor).
  - c. A nonprofit entity providing the radiographs, oral prophylaxis, sealants and/or the fluoride varnish which receives no compensation for the provided service.
2. The radiographs, oral prophylaxis, sealants and/or the fluoride varnish are done in one of the following settings:
  - a. A public elementary or middle school in which 50 percent or more of students are economically disadvantaged or meeting with Community Eligibility Provision (CEP) requirements under the Louisiana Department of Education and is in a parish with a parish-wide geographic Dental Health Professional Shortage Area (HPSA) scores above 15.
  - b. A fixed clinic of a nonprofit entity that meets the statutory, regulatory, and program requirements for grantees supported under Section 330 of the Public Health Service Act (42 U.S.C. § 254b or its successor) that does not have a dentist employed by it and is in a parish with a parish-wide geographic Dental Health Professional Shortage Area (HPSA) scores above 15.
3. A Louisiana licensed dentist is providing direct supervision via teledentistry and reviews exams being done by the hygienist and images of the patient's oral cavity via the teledentistry connection. Unless restricted by bandwidth considerations, the teledentistry must be contemporaneous (synchronist). If bandwidth prohibits contemporaneous viewing by the dentist, non-contemporaneous (asynchronist) viewing of the patient may be employed, but the dentist must review the exam before the patient is dismissed from the clinic on the day of treatment.
4. Oral health education involving the benefits of sealants, fluoride varnish, and fluoridated water is provided to the patient or patient's representative.
5. All patients who are deemed to need additional treatment are referred to a dentist and follow up is done to confirm that the patient has obtained treatment and, if treatment has not been obtained, to re-urge the patient or his representatives to obtain treatment.
6. The patient or his representatives must give informed consent to the use of teledentistry in the supervision of the dental hygienist.

## Medicaid Reimbursement

### [40 § 1255.1. Definitions](#)

As used in this Part, the following terms have the meaning ascribed to them in this Section:

- (1) "Department" means the Louisiana Department of Health.
- (2) "Medicaid" means the medical assistance program provided for in Title XIX of the Social Security Act.

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(3) "Medicare" means the federal health insurance program provided for in Title XVIII of the Social Security Act.

(4) "Telehealth" has the meaning ascribed in R.S. 40:1223.3.

40 §1255.2. Telehealth services; alignment of reimbursement with Medicare policy

A. The department shall periodically review policies regarding Medicaid reimbursement for telehealth services to identify variations between permissible reimbursement under that program and reimbursement available to healthcare providers under the Medicare program.

B. To the extent practicable, notwithstanding any other law to the contrary, after conducting a review provided for in Subsection A of this Section, the department may modify its administrative rules, policies, and procedures applicable to Medicaid reimbursement for telehealth services as necessary to provide for a reimbursement system that is comparable to that of the Medicare program for those services.

[46 § 460.51. Definitions](#)

...

(16) "Telehealth" has the meaning ascribed in R.S. 40:1223.3.

...

[46 § 460.54 Medicaid policies and procedures; procedure for adoption; required content](#)

...

G. The department shall include in its Medicaid policies and procedures all of the following information relating to telehealth:

(1) An exhaustive listing of the covered healthcare services which may be furnished through telehealth.

(2) Processes by which providers may submit claims for reimbursement for healthcare services furnished through telehealth.

(3) The conditions under which a managed care organization may reimburse a provider or facility that is not physically located in this state for healthcare services furnished to an enrollee through telehealth.

### Private Payer Reimbursement

#### [SUBPART B-1. MEDICAL CLAIMS FOR SERVICES PROVIDED THROUGH TELEHEALTH AND TELEMEDICINE](#)

Editor's note: Excepted benefits referred to in Section (1) as defined in R.S. 22:1061 include limited scope dental benefits.

[22 §1841. Definitions](#)

For purposes of this Subpart, the following definitions apply:

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(1) "Health coverage plan" means any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, contract, or other agreement with a health maintenance organization or a preferred provider organization, health and accident insurance policy, or any other insurance contract of this type in this state, including a group insurance plan, a self-insurance plan, and the Office of Group Benefits programs. "Health coverage plan" shall not include a plan providing coverage for excepted benefits as defined in R.S. 22:1061, limited benefit health insurance plans, and short-term policies that have a term of less than twelve months.

(2) "Medication adherence management services" means the monitoring of a patient's conformance with the healthcare provider's medication plan with respect to timing, dosing, and frequency of medication-taking through electronic transmission of data in a remote patient monitoring services program.

(3) "Platform" means the technology, system, software, application, modality, or other method through which a healthcare provider remotely interfaces with a patient when providing a healthcare service or procedure as a telemedicine medical service or telehealth healthcare service.

(4) "Remote patient monitoring services" means the delivery of healthcare services using telecommunications technology to enhance the delivery of health care, including but not limited to all of the following:

(a) Monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, and other condition-specific data, such as blood glucose.

(b) Medication adherence monitoring.

(c) Interactive video conferencing with or without digital image upload.

(5) "Telehealth" shall have the same meaning as defined in R.S. 40:1223.3 and may include audio-only conversations as provided for in R.S. 40:1223.3(5).

(6) "Telemedicine" shall have the same meaning as defined in R.S. 37:1262, may be provided as described in R.S. 37:1271(B)(4), and may include audio-only conversations as provided for in R.S. 37:1271(B)(4)(b).

#### [22 §1842. Telemedicine medical services and telehealth healthcare services statement](#)

A. (1) Each issuer of a health coverage plan shall display in a conspicuous manner on the health coverage plan issuer's website information regarding how to receive covered telemedicine medical services, telehealth healthcare services, and remote patient monitoring services.

(2) A link clearly identified on the health coverage plan's issuer's website to the information required pursuant to this Subsection shall be sufficient to meet the requirements of this Section.

B. This Section shall not require an issuer of a health coverage plan to display negotiated contract payment rates for healthcare providers who contract with the issuer to provide telemedicine medical services or telehealth healthcare services.

22 §1843. Remote patient monitoring services

A. The legislature hereby finds all of the following:

(1) Remote patient monitoring services aim to allow more people to remain at home or in other nontraditional clinical settings and to improve the quality and cost of their care, including prevention of more costly care.

(2) The goal of remote patient monitoring services provided through telemedicine or telehealth is to coordinate primary, acute, behavioral, and long-term social service needs for high need, high cost patients.

B. To receive reimbursement for the delivery of remote patient monitoring services through telehealth, all of the following conditions shall be met:

(1) The services shall consist of all of the following:

(a) An assessment, problem identification, and evaluation which includes all of the following:

(i) Assessment and monitoring of clinical data including but not limited to appropriate vital signs, pain levels, and other biometric measures specified in the plan of care and an assessment of responses to previous changes in the plan of care.

(ii) Detection of condition changes based on the telemedicine or telehealth encounter that may indicate the need for a change in the plan of care.

(b) Implementation of a management plan through one or more of the following:

(i) Teaching regarding medication management as appropriate based on the telemedicine or telehealth findings for that encounter.

(ii) Teaching regarding other interventions as appropriate to both the patient and the caregiver.

(iii) Management and evaluation of the plan of care including changes in visit frequency or addition of other skilled services.

(iv) Coordination of care with the ordering healthcare provider regarding the telemedicine or telehealth findings.

(v) Coordination and referral to other healthcare providers as needed.

(vi) Referral for an in-person visit or the emergency room as needed.

(2) The entity that will provide the remote monitoring services shall have protocols in place to address all of the following:

(a) Authentication and authorization of users.

(b) A mechanism for monitoring, tracking, and responding to changes in the patient's clinical condition.

(c) A standard of acceptable and unacceptable parameters for the patient's clinical parameters, which can be adjusted based on the patient's condition.

(d) How monitoring staff will respond to abnormal parameters for the patient's vital signs, symptoms, or lab results.

(e) The monitoring, tracking, and responding to changes in the patient's clinical condition.

(f) The process for notifying the prescribing healthcare provider for significant changes in the patient's clinical signs and symptoms.

(g) The prevention of unauthorized access to the system or information.

(h) System security, including the integrity of information that is collected, program integrity, and system integrity.

(i) Information storage, maintenance, and transmission.

(j) Synchronization and verification of patient profile data.

(k) Notification of the patient's discharge from the remote patient monitoring services or the deinstallation of the remote patient monitoring unit.

C. A health coverage plan may require an authorization request for remote patient monitoring prior to the health coverage plan's approval of coverage for a specified healthcare service.

#### 22 §1844. Exclusions

The provisions of this Subpart shall not apply to any plan providing coverage for excepted benefits as defined in R.S. 22:1061, limited benefit health insurance plans, and short-term policies that have a term of less than twelve months.

## Maine

### Requirements and Permissible Practices

32 M.R.S.A. § 18302. Definitions as amended by [HP 1535](#)

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**37. Teledentistry.** “Teledentistry,” as it pertains to the delivery of oral health care services, means the use of interactive, real-time visual, audio or other electronic media for the purposes of education, assessment, examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by individuals licensed under this chapter and includes synchronous encounters, asynchronous encounters, remote patient monitoring and mobile oral health care in accordance with practice guidelines specified in rules adopted by the board.

**32 M.R.S.A. § 18394. Teledentistry as amended by [HP 1535](#)**

An individual licensed under this chapter may provide oral health care services and procedures authorized under this chapter or by rule using teledentistry. The board shall adopt by rule guidelines and practice standards for the use of teledentistry, including, but not limited to, practice requirements for protecting patient rights and protocols for referrals, quality and safety, informed consent, patient evaluation, treatment parameters, patient records, prescribing, supervision and compliance with data exchange standards for the security and confidentiality of patient information. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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# Maryland

## Requirements and Permissible Practices

### [MD Code, Health Occupations, § 1-1001](#)

#### § 1-1001. Definitions

##### **In general**

(a) In this subtitle the following words have the meanings indicated.

##### **Asynchronous telehealth interaction**

(b) "Asynchronous telehealth interaction" means an exchange of information between a patient and a health care practitioner that does not occur in real time, including the secure collection and transmission of a patient's medical information, clinical data, clinical images, laboratory results, and self-reported medical history.

##### **Health care practitioner**

(c) "Health care practitioner" means an individual who is licensed, certified, or otherwise authorized by law to provide health care services under this article.

##### **Synchronous telehealth interaction**

(d) "Synchronous telehealth interaction" means an exchange of information between a patient and a health care practitioner that occurs in real time.

##### **Telehealth**

(e)(1) "Telehealth" means a mode of delivering health care services through the use of telecommunications technologies by a health care practitioner to a patient at a different physical location than the health care practitioner.

(2) "Telehealth" includes synchronous and asynchronous interactions.

(3) "Telehealth" does not include the provision of health care services solely through audio-only calls, e-mail messages, or facsimile transmissions.

### [MD Code, Health Occupations, § 1-1002](#)

#### § 1-1002. Establishment of practitioner-patient relationship

A health care practitioner may establish a practitioner-patient relationship through either a synchronous telehealth interaction or an asynchronous telehealth interaction, if the health care practitioner:

(1) Verifies the identity of the patient receiving health care services through telehealth;

(2) Discloses to the patient the health care practitioner's name, contact information, and the type of health occupation license held by the health care practitioner; and

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(3) Obtains oral or written consent from the patient or from the patient's parent or guardian if State law requires the consent of a parent or guardian.

### [MD Code, Health Occupations, § 1-1003](#)

#### § 1-1003. Requirements

##### **In general**

- (a) A health care practitioner providing telehealth services shall:
- (1) Be held to the same standards of practice that are applicable to in-person health care settings; and
  - (2) If clinically appropriate for the patient, provide or refer a patient to in-person health care services or another type of telehealth service.

##### **Clinical evaluation**

- (b)(1) A health care practitioner shall perform a clinical evaluation that is appropriate for the patient and the condition with which the patient presents before providing treatment or issuing a prescription through telehealth.
- (2) A health care practitioner may use a synchronous telehealth interaction or an asynchronous telehealth interaction to perform the clinical evaluation required under paragraph (1) of this subsection.

##### **Prescriptions**

- (c)(1) A health care practitioner may not prescribe an opiate described in the list of Schedule II substances under § 5-403 of the Criminal Law Article for the treatment of pain through telehealth, unless:
- (i) The individual receiving the prescription is a patient in a health care facility, as defined in § 19-114 of the Health--General Article; or
  - (ii) The Governor has declared a state of emergency due to a catastrophic health emergency.
- (2) Subject to paragraph (1) of this subsection, a health care practitioner who through telehealth prescribes a controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, is subject to any applicable regulation, limitation, and prohibition in federal and State law relating to the prescription of controlled dangerous substances.

### [MD Code, Health Occupations, § 1-1004](#)

#### § 1-1004. Documentation and confidentiality

##### **Documentation**

(a) A health care practitioner shall document in a patient's medical record the health care services provided through telehealth to the patient according to the same documentation standards used for in-person health care services.

##### **Confidentiality**

(b) All laws regarding the confidentiality of health information and a patient's right to the patient's health information apply to telehealth interactions in the same manner as the laws apply to in-person health care interactions.

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[MD Code, Health Occupations, § 1-1005](#)

**§ 1-1005. Licensure, certification, or authorization to provide health care services**

A health care practitioner providing health care services through telehealth must be licensed, certified, or otherwise authorized by law to provide health care services in the State if the health care services are being provided to a patient located in the State.

[MD Code, Health Occupations, § 1-1006](#)

**§ 1-1006. Regulations**

**Authority**

(a) A health occupations board may adopt regulations to implement this subtitle.

**Requirements**

(b) Regulations adopted by a health occupations board under subsection (a) of this section:

- (1) May not establish a separate standard of care for telehealth; and
- (2) Shall allow for the establishment of a practitioner-patient relationship through a synchronous telehealth interaction or an asynchronous telehealth interaction provided by a health care practitioner who is complying with the health care practitioner's standard of care.

**Medicaid Reimbursement**

Editorial Note: Sections of code impacting reimbursement for telehealth services were significantly amended by [HB 123](#), which was signed into law on 4/13/21. Amended text for these sections of code had not been added to Maryland's online database of statutes at the time of publication. Please refer to the links for HB 123 for updated text updated text.

[MD Code, Health - General, § 15-105.2](#)

**§ 15-105.2. Reimbursement of health care providers**

See [HB 123](#) for updated text.

[MD Code, Health - General, § 15-141.2](#)

**§ 15-141.2. Program to provide telehealth services to Program recipients regardless of the Program recipient's location at the time telehealth services are provided**

See [HB 123](#) for updated text.

[Title 10 MARYLAND DEPARTMENT OF HEALTH](#)

[Subtitle 09 MEDICAL CARE PROGRAMS](#)

[Chapter 49 Telehealth Services](#)

**.01 Scope.**

A. This chapter applies to telehealth programs reimbursed by the Maryland Medicaid Program.

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- B. The purpose of providing medically necessary services via telehealth is to improve:
- (1) Access to somatic and behavioral health services, thus reducing preventable hospitalizations and reducing barriers to health care access;
  - (2) Access to outpatient and inpatient subspecialty services, thus improving diagnostic clarification, treatment recommendations, and planning for the individual;
  - (3) Health outcomes through timely disease detection and treatment options; and
  - (4) Capacity and choice for ongoing treatment in underserved areas of the State.

10.09.49.02

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

...

(3) "Department" means the Maryland Department of Health, which is the single State agency designated to administer the telehealth program.

(4) "Distant site" means a site at which the licensed distant site provider is located at the time the service is provided via technology-assisted communication.

(5) "Distant site provider" means the licensed provider at the distant site who provides medically necessary services to the patient at the originating site via telehealth upon request from the originating site provider.

(6) "Federally qualified health center (FQHC)" has the meaning stated in Health-General Article, §24-1301, Annotated Code of Maryland.

(7) "GT modifier" means the Healthcare Common Procedure Coding System (HCPCS) service code modifier indicating that the provider rendered a healthcare service via an interactive audio and video telecommunications system.

(8) "Medically necessary" means that the service or benefit is:

- (a) Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition;
- (b) Consistent with currently accepted standards of good medical practice;
- (c) The most cost-efficient service that can be provided without sacrificing effectiveness or access to care; and
- (d) Not primarily for the convenience of the participant, family, or provider.

...

(10) "Originating site" means the location of an eligible Medicaid participant at the time the service being furnished via technology-assisted communication occurs.

(11) "Participant" means an individual who is certified as eligible for, and is receiving, Medical Assistance benefits.

(12) "Provider" means:

(a) An individual, association, partnership, corporation, unincorporated group, or any other person authorized, licensed, or certified to provide services for Medical Assistance participants and who, through appropriate agreement with the Department, has been identified as a Maryland Medical Assistance Provider by the issuance of an individual account number;

(b) An agent, employee, or related party of a person identified in §B(12)(a) of this regulation;

(c) An individual or any other person with an ownership interest in a person identified in §B(12)(a) of this regulation.

...

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(16) Store and Forward Technology.

(a) "Store and forward technology" means the transmission of medical images or other media captured by the originating site provider and sent electronically to a distant site provider, who does not physically interact with the patient located at the originating site.

(b) "Store and forward technology" does not mean dermatology, ophthalmology, or radiology services according to COMAR 10.09.02.07.

(17) "Technology-assisted communication" means multimedia communication equipment permitting two-way real-time interactive communication between a patient at an originating site and a distant site provider at a distant site.

(18) "Telehealth" means the delivery of medically necessary somatic or behavioral health services to a patient at an originating site by distant site provider, through the use of technology-assisted communication.

(19) "Telehealth Program" means the program by which medically necessary somatic or behavioral health services are authorized to be delivered via technology-assisted communication between originating and distant site providers.

**.03 Service Model.**

A. Telehealth improves access to distant site providers.

B. Telehealth providers may be part of a private practice, hospital, or other health care system.

C. Services rendered via telehealth are reimbursed on a fee-for-service basis.

**.04 Covered Services.**

Under the Telehealth Program, the Department shall cover:

A. Medically necessary services covered by the Maryland Medical Assistance Program rendered by a distant site provider that shall be:

(1) Distinct from services provided by the originating site provider;

(2) Able to be delivered using technology-assisted communication; and

(3) Clinically appropriate to be delivered via telehealth;

B. Services provided via telehealth to the same extent and standard of care as services provided in person; and

C. As determined by the provider's licensure or credentialing board, services performed via telehealth within the scope of a provider's practice.

**.05 Participant Eligibility.**

A participant is eligible to receive telehealth services if the individual:

A. Is enrolled in the Maryland Medical Assistance Program on the date the service is rendered;

B. Consents to telehealth services unless there is an emergency that prevents obtaining consent, which the originating site shall document in the participant's medical record; and

C. Is present at the originating site at the time the telehealth service is rendered.

**.06 Provider Conditions for Participation.**

A. To participate in the Program, the provider shall meet the requirements for participation in the Medical Assistance Program as set forth in:

(1) COMAR 10.09.36.02;

(2) COMAR 10.09.36.03; and

(3) The COMAR chapter defining the covered service being rendered;

B. Medical Record Documentation. An originating and distant site provider shall:

- (1) Maintain documentation in the same manner as during an in-person visit, using either electronic or paper medical records;
- (2) Retain telehealth records according to the provisions of Health-General Article, §4-403, Annotated Code of Maryland; and
- (3) Include the participant's consent to participate in telehealth or an explanation as to why consent was not available.

C. Originating Sites include:

- (1) A college or university student health or counseling office;

...

- (5) A local health department;
- (6) A FQHC;
- (7) A hospital, including the emergency department;

...

D. Distant Site Providers may render services via telehealth within the provider's scope of practice.

**.07 Technical Requirements.**

A. A provider of health care services delivered through telehealth shall adopt and implement technology in a manner that supports the standard of care to deliver the required service.

B. A provider of health services delivered through telehealth shall, at a minimum, meet the following technology requirements:

- (1) A camera that has the ability to manually or under remote control provide multiple views of a patient with the capability of altering the resolution, focus, and zoom requirements according to the service;
- (2) Unless engaging in a telehealth communication with a participant who is deaf or hard of hearing, audio equipment that ensures clear communication and includes echo cancellation;
- (3) Bandwidth speed and image resolution sufficient to provide quality video to meet a minimum of 15 frames per second, or higher, as industry standards change;
- (4) Display monitor size sufficient to support diagnostic needs used in the telehealth services; and
- (5) Create video and audio transmission with less than 300 millisecond delay.

**.08 Confidentiality.**

The originating and distant site providers:

A. Shall comply with the laws and regulations concerning the privacy and security of protected health information under:

- (1) Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and
- (2) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended;

B. Shall ensure that all interactive video technology-assisted communication comply with HIPAA patient privacy and security regulations at the originating site, at the distance site, and in the transmission process;

C. Shall occupy a space or area that meets the minimum standards for privacy expected for a patient-provider interaction;

D. May not disseminate any participant images or information to other entities without the participant's consent, unless there is an emergency that prevents obtaining consent; and

E. May not store at originating and distant sites the video images or audio portion of the telehealth service for future use.

#### **.09 Limitations.**

A. A service provided through telehealth is subject to the same program restrictions, preauthorizations, limitations, and coverage that exist for the service when provided in person.

B. A telehealth service does not include:

- (1) An audio-only telephone conversation between a health care provider and a patient;
- (2) An electronic mail message between a health care provider and a patient;
- (3) A facsimile transmission between a health care provider and a patient; or
- (4) A telephone conversation, electronic mail message, or facsimile transmission between the originating and distant site providers without interaction between the distant site provider and the patient.

C. Store and forward technology does not meet the Maryland Medical Assistance Program's definition of telehealth. The Maryland Medical Assistance Program covers services such as dermatology, ophthalmology, and radiology according to COMAR 10.09.02.07.

D. Telehealth-delivered services may not bill to the Maryland Medical Assistance Program or to the ASO when technical difficulties preclude the delivery of part or all of the telehealth session.

E. The Department may not reimburse a provider for the following:

- (1) Services that occur during an ambulance transport;
- (2) Communications between providers where the participant is not physically present at the originating site;
- (3) Telehealth services delivered where the originating site is not a permitted originating site provider as set forth in Regulation .06 of this chapter; or
- (4) Mental health and substance use disorder services that did not receive prior authorization from the Department or its ASO.

F. The Department may not reimburse for services that:

- (1) Require in-person evaluation; or
- (2) Cannot be reasonably delivered via telehealth.

G. The Department may not reimburse distant site providers for a facility fee.

H. The Department may not reimburse for home health monitoring services.

#### **.10 Reimbursement.**

A. To receive reimbursement for telehealth services, a provider shall:

- (1) Be actively enrolled with Maryland Medical Assistance;
- (2) Participate with a telehealth partner that meets provider conditions for participation as set forth in Regulation .06 of this chapter; and
- (3) If a provider is a behavioral health service provider, be registered as a provider through the ASO on the date the service is rendered.

B. Distant Site Reimbursement.

(1) The distant site shall be reimbursed:

(a) For somatic services provided via telehealth, as set forth in COMAR 10.09.02.07D;

(b) For mental health services provided via telehealth, as set forth in COMAR 10.09.59.09; or

(c) For substance use disorder services provided via telehealth, as set forth in COMAR 10.09.80.08.

(2) Services delivered via telehealth shall be billed with the telehealth GT modifier.

(3) Services delivered via telehealth shall be within the provider's scope of practice as determined by its governing licensure or credentialing board.

#### 10.67.06.31

#### **.31 Benefits — Telemedicine Services.**

An MCO shall provide to its enrollees medically necessary telemedicine services as described in COMAR 10.09.49.

### **Private Payer Reimbursement**

#### MD Code, Insurance, § 15-139

#### **§ 15-139. Health care services delivered through telehealth**

##### **Telehealth defined**

(a)(1) In this section, "telehealth" means, as it relates to the delivery of health care services, the use of interactive audio, video, or other telecommunications or electronic technology by a licensed health care provider to deliver a health care service within the scope of practice of the health care provider at a location other than the location of the patient.

(2) "Telehealth" includes, from July 1, 2021, to June 30, 2023, both inclusive, an audio-only telephone conversation between a health care provider and a patient that results in the delivery of a billable, covered health care service.

(3) "Telehealth" does not include:

- (i) except as provided in paragraph (2) of this subsection, an audio-only telephone conversation between a health care provider and a patient;
- (ii) an electronic mail message between a health care provider and a patient; or
- (iii) a facsimile transmission between a health care provider and a patient.

##### **Application of section**

(b) This section applies to:

- (1) insurers and nonprofit health service plans that provide hospital, medical, or surgical benefits to individuals or groups on an expense-incurred basis under health insurance policies or contracts that are issued or delivered in the State; and
- (2) health maintenance organizations that provide hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

##### **Coverage for health care services delivered through telehealth**

(c)(1) An entity subject to this section:

- (i) shall provide coverage under a health insurance policy or contract for health care services appropriately delivered through telehealth regardless of the location of the patient at the time the telehealth services are provided;
- (ii) may not exclude from coverage a health care service solely because it is provided through telehealth and is not provided through an in-person consultation or contact between a health care provider and a patient; and
- (iii) may not exclude from coverage or deny coverage for a behavioral health care service that is a covered benefit under a health insurance policy or contract when provided in person solely because the behavioral health care service may also be provided through a covered telehealth benefit.

(2) The health care services appropriately delivered through telehealth shall include counseling and treatment for substance use disorders and mental health conditions.

### **Reimbursement to health care provider for services delivered through telehealth**

(d)(1) Subject to paragraph (2) of this subsection, an entity subject to this section:

(i) shall reimburse a health care provider for the diagnosis, consultation, and treatment of an insured patient for a health care service covered under a health insurance policy or contract that can be appropriately provided through telehealth;

(ii) is not required to:

1. reimburse a health care provider for a health care service delivered in person or through telehealth that is not a covered benefit under the health insurance policy or contract; or

2. reimburse a health care provider who is not a covered provider under the health insurance policy or contract; and

(iii) 1. may impose a deductible, copayment, or coinsurance amount on benefits for health care services that are delivered either through an in-person consultation or through telehealth;

2. may impose an annual dollar maximum as permitted by federal law; and

3. may not impose a lifetime dollar maximum.

(2)(i) From July 1, 2021, to June 30, 2023, both inclusive, when a health care service is appropriately provided through telehealth, an entity subject to this section shall provide reimbursement in accordance with paragraph (1)(i) of this subsection on the same basis and at the same rate as if the health care service were delivered by the health care provider in person.

(ii) The reimbursement required under subparagraph (i) of this paragraph does not include:

1. clinic facility fees unless the health care service is provided by a health care provider not authorized to bill a professional fee separately for the health care service; or

2. any room and board fees.

(iii) This paragraph may not be construed to supersede the authority of the Health Services Cost Review Commission to set the appropriate rates for hospitals, including setting the hospital facility fee for hospital-provided telehealth.

### **Requirement for third-party vendor prohibited**

(e) Subject to subsection (d)(1)(ii) of this section, an entity subject to this section may not impose as a condition of reimbursement of a covered health care service delivered through telehealth that the health care service be provided by a third-party vendor designated by the entity.

### **Utilization review to determine appropriateness of health care service**

(f) An entity subject to this section may undertake utilization review, including preauthorization, to determine the appropriateness of any health care service whether the service is delivered through an in-person consultation or through telehealth if the appropriateness of the health care service is determined in the same manner.

### **Policies or contracts not to distinguish between patients in rural or urban locations**

(g) A health insurance policy or contract may not distinguish between patients in rural or urban locations in providing coverage under the policy or contract for health care services delivered through telehealth.

### Decision by entity not to provide coverage for telehealth

(h) A decision by an entity subject to this section not to provide coverage for telehealth in accordance with this section constitutes an adverse decision, as defined in § 15-10A-01 of this title, if the decision is based on a finding that telehealth is not medically necessary, appropriate, or efficient.

## Title 31. Maryland Insurance Administration

### Subtitle 10. Health Insurance--General

#### Chapter 45. Dental Network Adequacy

#### [COMAR 31.10.45.02](#)

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

...

(15) Telehealth.

(a) "Telehealth" means, as it relates to the delivery of dental services, the use of interactive audio, video, or other telecommunications or electronic technology by a provider to deliver a dental service within the scope of practice of the provider at a location other than the location of the patient.

(b) "Telehealth" does not include:

- (i) An audio-only telephone conversation between a provider and a patient;
- (ii) An electronic mail message between a provider and a patient; or
- (iii) A facsimile transmission between a provider and a patient.

...

#### [COMAR 31.10.45.04 Appointment Waiting Time Standards.](#)

A. Sufficiency Standards.

(1) Subject to § B of this regulation, each carrier's provider panel shall meet the waiting time standards listed in § C of this regulation for at least 95 percent of the enrollees covered under dental plans that use that provider panel.

(2) When it is clinically appropriate and an enrollee elects to utilize a telehealth appointment, a carrier may consider that utilization as a part of its meeting the standards listed in § C of this regulation.



## Massachusetts

### Requirements and Permissible Practices

#### M.G.L.A. 112 § 50

#### Chapter 112. Registration of Certain Professions and Occupations

##### [§ 50. Telehealth](#)

(a) For purposes of this section “telehealth” shall mean the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient’s physical health, oral health, mental health or substance use disorder condition.

(b) Notwithstanding any provision of this chapter to the contrary, the board shall allow a physician licensed by the board to obtain proxy credentialing and privileging for telehealth services with other health care providers, as defined in section 1 of chapter 111, or facilities that comply with the federal Centers for Medicare and Medicaid Services’ conditions of participation for telehealth services.

Editor’s note: “Doctors of dental science” are included among health care providers defined in section 1 of chapter 111.

### Medicaid Reimbursement

#### M.G.L.A. 118E § 79

#### Chapter 118E. Division of Medical Assistance

##### [§ 79. Coverage for health care services delivered via telehealth by a contracted health care provider; right in in-person services; copayment or coinsurance; rate of payment; standards of care](#)

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

“Telehealth”, the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient’s physical health, oral health, mental health or substance use disorder condition.

(b) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization, accountable care organization or primary care clinician plan shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to

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access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) The division may undertake utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if service was delivered in-person. The division, a contracted health insurer, health plan, health maintenance organization, behavioral health management firm or third-party administrator under contract to a Medicaid managed care organization or primary care clinician plan shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) A contract that provides coverage for telehealth services may include a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology and audio-only telephone may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards, as well as standards for informed consent.

## Code of Massachusetts Regulations

### Title 101: Executive Office of Health and Human Services

#### [Chapter 314.00: Dental Services](#)

#### [314.05: Allowable Fees: Non-hospital Services](#)

...

D9995 I.C. I.C. Teledentistry - synchronous; real-time encounter

D9996 I.C. I.C. Teledentistry - asynchronous; information stored and forwarded to dentist for subsequent review

...

### Private Payer Reimbursement

## M.G.L.A. 32A § 30

### Chapter 32A. Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth

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### § 30. Coverage for telehealth services

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

...

“Telehealth”, the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient’s physical health, oral health, mental health or substance use disorder condition.

(b) Coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that the commission, or its carriers or other contracted entities providing health benefits, shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) Coverage for telehealth services may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) Coverage for telehealth services may include a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider’s profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

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## Chapter 175. Insurance

### M.G.L.A. 175 § 47MM

#### § 47MM. Coverage for health care services delivered via telehealth

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

...

“Telehealth”, the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient’s physical health, oral health, mental health or substance use disorder condition.

(b) An individual policy of accident and sickness insurance issued under section 108 that provides hospital expense and surgical expense insurance and any group blanket or general policy of accident and sickness insurance issued under section 110 that provides hospital expense and surgical expense insurance that is issued or renewed within or without the commonwealth shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) Coverage for telehealth services may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in-person. A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within or without the commonwealth shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth that provides coverage for telehealth services may include a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

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(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

## Chapter 176A. Non-Profit Hospital Service Corporations M.G.L.A. 176A § 38

### [§ 38. Coverage for health care services delivered via telehealth by a contracted health care provider](#)

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

"Telehealth", the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

(b) A contract between a subscriber and a nonprofit hospital service corporation under an individual or group hospital service plan shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) Coverage for telehealth services may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in-person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) Coverage for telehealth services may include a provision for a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate

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of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

## Chapter 176B. Medical Service Corporations

### M.G.L.A. 176B § 25

#### § 25. Coverage for health care services delivered via telehealth by a contracted health care provider

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

"Telehealth", the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

(b) A contract between a subscriber and a medical service corporation shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) Coverage may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) A contract that provides coverage for telehealth services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided via

telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

## Chapter 176G. Health Maintenance Organizations

### M.G.L.A. 176G § 33

#### § 33. Coverage for health care services delivered via telehealth by a contracted health care provider

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

"Telehealth", the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

(b) A contract between a member and a health maintenance organization shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) A carrier may undertake utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

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(e) A contract that provides coverage for telehealth services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

## Chapter 176I. Preferred Provider Arrangements

### M.G.L.A. 176I § 13

#### [§ 13. Coverage for health care services delivered via telehealth by a contracted health care provider](#)

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

"Telehealth", the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

(b) A preferred provider contract between a covered person and an organization shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) An organization may undertake utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. An organization shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care

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services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) A preferred provider contract that provides coverage for telehealth services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

# Michigan

## Requirements and Permissible Practices

### 333.16283 Definitions.

Sec. 16283.

As used in this section and sections 16284 to 16288:

(a) "Health professional" means an individual who is engaging in the practice of a health profession.

(b) "Prescriber" means that term as defined in section 17708.

(c) "Telehealth" means the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Telehealth may include, but is not limited to, telemedicine. As used in this subdivision, "telemedicine" means that term as defined in section 3476 of the insurance code of 1956, 1956 PA 218, MCL 500.3476.

(d) "Telehealth service" means a health care service that is provided through telehealth.

### 333.16284 Telehealth service; consent required; exception.

Sec. 16284.

Except as otherwise provided in this section, a health professional shall not provide a telehealth service without directly or indirectly obtaining consent for treatment. This section does not apply to a health professional who is providing a telehealth service to an inmate who is under the jurisdiction of the department of corrections and is housed in a correctional facility.

### 333.16285 Telehealth service; prescribing patient with drug; conditions; requirements.

Sec. 16285.

(1) A health professional who is providing a telehealth service to a patient may prescribe the patient a drug if both of the following are met:

(a) The health professional is a prescriber who is acting within the scope of his or her practice in prescribing the drug.

(b) If the health professional is prescribing a drug that is a controlled substance, the health professional meets the requirements of this act applicable to that health professional for prescribing a controlled substance.

(2) A health professional who prescribes a drug under subsection (1) shall comply with both of the following:

(a) If the health professional considers it medically necessary, he or she shall provide the patient with a referral for other health care services that are geographically accessible to the patient, including, but not limited to, emergency services.

(b) After providing a telehealth service, the health professional, or a health professional who is acting under the delegation of the delegating health professional, shall make himself or herself available to provide follow-up health care services to the patient or refer the patient to another health professional for follow-up health care services.

### 333.16286 Telehealth service; restrictions or conditions; findings by disciplinary subcommittee.

Sec. 16286.

In a manner consistent with this part and in addition to the provisions set forth in this part, a disciplinary subcommittee may place restrictions or conditions on a health professional's ability

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to provide a telehealth service if the disciplinary subcommittee finds that the health professional has violated section 16284 or 16285.

[333.16287 Rules.](#)

Sec. 16287.

The department, in consultation with a board, shall promulgate rules to implement sections 16284 and 16285.

## Medicaid Reimbursement

[400.105g Remote patient monitoring services; definition.](#)

Sec. 105g.

(1) The department must provide coverage for remote patient monitoring services through the medical assistance program and Healthy Michigan program under this act.

(2) As used in this section, "remote patient monitoring" means digital technology to collect medical and other forms of health data from an individual in 1 location and electronically transmit that information via a health insurance portability and accountability act of 1996, Public Law 104-191 compliant, secure system to a health care provider in a different location for assessment and recommendations.

[400.105h Telemedicine; eligibility; definitions.](#)

Sec. 105h.

(1) Beginning October 1, 2020, telemedicine services are covered under the medical assistance program and Healthy Michigan program if the originating site is an in-home or in-school setting, in addition to any other originating site allowed in the Medicaid provider manual or any established site considered appropriate by the provider.

(2) The distant provider or organization is responsible for verifying a recipient's identification and program eligibility.

(3) The distant provider or organization must ensure that the information is available to the primary care provider.

(4) As used in this section:

(a) "Originating site" means the location of the eligible recipient at the time the service being furnished by a telecommunications system occurs.

(b) "Telemedicine" means that term as defined in section 3476 of the insurance code of 1956, 1956 PA 218, MCL 500.3476.

## Private Payer Reimbursement

[500.3476 Telemedicine services; provisions; definitions.](#)

Sec. 3476.

(1) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy shall not require face-to-face contact between a health care professional and a patient for services appropriately provided through telemedicine, as determined by the insurer.

Telemedicine services must be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located. Telemedicine services are subject to all terms and conditions of the health insurance policy agreed upon between the policy holder and the insurer, including, but not limited to, required copayments, coinsurances, deductibles, and approved amounts.

(2) As used in this section:

(a) After December 31, 2017, "insurer" includes a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373.

(b) "Telemedicine" means the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under this section, the health care professional must be able to examine the patient via a health insurance portability and accountability act of 1996, Public Law 104-191 compliant, secure interactive audio or video, or both, telecommunications system, or through the use of store and forward online messaging.

**550.1401k Telemedicine services; provisions; definition; applicability.**

Sec. 401k.

(1) A group or nongroup health care corporation certificate must not require face-to-face contact between a health care professional and a patient for services appropriately provided through telemedicine, as determined by the health care corporation. Telemedicine services must be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located. Telemedicine services are subject to all terms and conditions of the certificate agreed upon between the certificate holder and the health care corporation, including, but not limited to, required copayments, coinsurances, deductibles, and approved amounts.

(2) As used in this section, "telemedicine" means the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under this section, the health care professional must be able to examine the patient via a health insurance portability and accountability act of 1996, Public Law 104-91 compliant, secure interactive audio or video, or both, telecommunications system, or through the use of store and forward online messaging.

(3) This section applies to a certificate issued or renewed after December 31, 2012.

## Minnesota

### Medicaid Reimbursement

This section of code was amended by [HF 33](#) in 2021  
Chapter 256B. Medical Assistance for Needy Persons  
[M.S.A. § 256B.0625 COVERED SERVICES.](#)

...

**Subd. 3b. Telehealth services.** (a) Medical assistance covers medically necessary services and consultations delivered by a health care provider through telehealth in the same manner as if the service or consultation was delivered through in-person contact. Services or consultations delivered through telehealth shall be paid at the full allowable rate.

(b) The commissioner may establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service through telehealth. The attestation may include that the health care provider:

- (1) has identified the categories or types of services the health care provider will provide through telehealth;
- (2) has written policies and procedures specific to services delivered through telehealth that are regularly reviewed and updated;
- (3) has policies and procedures that adequately address patient safety before, during, and after the service is delivered through telehealth;
- (4) has established protocols addressing how and when to discontinue telehealth services; and
- (5) has an established quality assurance process related to delivering services through telehealth.

(c) As a condition of payment, a licensed health care provider must document each occurrence of a health service delivered through telehealth to a medical assistance enrollee. Health care service records for services delivered through telehealth must meet the requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must document:

- (1) the type of service delivered through telehealth;
- (2) the time the service began and the time the service ended, including an a.m. and p.m. designation;
- (3) the health care provider's basis for determining that telehealth is an appropriate and effective means for delivering the service to the enrollee;
- (4) the mode of transmission used to deliver the service through telehealth and records evidencing that a particular mode of transmission was utilized;
- (5) the location of the originating site and the distant site;
- (6) if the claim for payment is based on a physician's consultation with another physician through telehealth, the written opinion from the consulting physician providing the telehealth consultation; and
- (7) compliance with the criteria attested to by the health care provider in accordance with paragraph (b).

(d) Telehealth visits, as described in this subdivision provided through audio and visual communication, may be used to satisfy the face-to-face requirement for reimbursement under the payment methods that apply to a federally qualified health center, rural health clinic, Indian health service, 638 tribal clinic, and certified community behavioral health clinic, if the service would have otherwise qualified for payment if performed in person.

(e) For mental health services or assessments delivered through telehealth that are based on an

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individual treatment plan, the provider may document the client's verbal approval or electronic written approval of the treatment plan or change in the treatment plan in lieu of the client's signature in accordance with Minnesota Rules, part 9505.0371.

(f) For purposes of this subdivision, unless otherwise covered under this chapter:

(1) "telehealth" means the delivery of health care services or consultations through the use of real time two-way interactive audio and visual communication to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a distant site. Telehealth does not include communication between health care providers, or between a health care provider and a patient that consists solely of an audio-only communication, e-mail, or facsimile transmission or specified by law;

(2) "health care provider" means a health care provider as defined under section 62A.673, a community paramedic as defined under section 144E.001, subdivision 5f, a community health worker who meets the criteria under subdivision 49, paragraph (a), a mental health certified peer specialist under section 256B.0615, subdivision 5, a mental health certified family peer specialist under section 256B.0616, subdivision 5, a mental health rehabilitation worker under section 256B.0623, subdivision 5, paragraph (a), clause (4), and paragraph (b), a mental health behavioral aide under section 256B.0943, subdivision 7, paragraph (b), clause (3), a treatment coordinator under section 245G.11, subdivision 7, an alcohol and drug counselor under section 245G.11, subdivision 5, a recovery peer under section 245G.11, subdivision 8; and

(3) "originating site," "distant site," and "store-and-forward technology" have the meanings given in section 62A.673, subdivision 2.

### Private Payer Reimbursement

This section of code was added by [HF 33](#) in 2021.

M.S.A. § 62A.673

**62A.673. Coverage of services provided through telehealth**

**Subdivision 1. Citation.** This section may be cited as the "Minnesota Telehealth Act."

**Subd. 2. Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Distant site" means a site at which a health care provider is located while providing health care services or consultations by means of telehealth.

(c) "Health care provider" means a health care professional who is licensed or registered by the state to perform health care services within the provider's scope of practice and in accordance with state law. A health care provider includes a mental health professional as defined under section 245.462, subdivision 18, or 245.4871, subdivision 27; a mental health practitioner as defined under section 245.462, subdivision 17, or 245.4871, subdivision 26; a treatment coordinator under section 245G.11, subdivision 7; an alcohol and drug counselor under section 245G.11, subdivision 5; and a recovery peer under section 245G.11, subdivision 8.

(d) "Health carrier" has the meaning given in section 62A.011, subdivision 2.

(e) "Health plan" has the meaning given in section 62A.011, subdivision 3. Health plan includes dental plans as defined in section 62Q.76, subdivision 3, but does not include dental plans that

provide indemnity-based benefits, regardless of expenses incurred, and are designed to pay benefits directly to the policy holder.

(f) "Originating site" means a site at which a patient is located at the time health care services are provided to the patient by means of telehealth. For purposes of store-and-forward technology, the originating site also means the location at which a health care provider transfers or transmits information to the distant site.

(g) "Store-and-forward technology" means the asynchronous electronic transfer or transmission of a patient's medical information or data from an originating site to a distant site for the purposes of diagnostic and therapeutic assistance in the care of a patient.

(h) "Telehealth" means the delivery of health care services or consultations through the use of real time two-way interactive audio and visual communications to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a distant site. Until July 1, 2023, telehealth also includes audio-only communication between a health care provider and a patient in accordance with subdivision 6, paragraph (b). Telehealth does not include communication between health care providers that consists solely of a telephone conversation, e-mail, or facsimile transmission. Telehealth does not include communication between a health care provider and a patient that consists solely of an e-mail or facsimile transmission. Telehealth does not include telemonitoring services as defined in paragraph (i).

(i) "Telemonitoring services" means the remote monitoring of clinical data related to the enrollee's vital signs or biometric data by a monitoring device or equipment that transmits the data electronically to a health care provider for analysis. Telemonitoring is intended to collect an enrollee's health-related data for the purpose of assisting a health care provider in assessing and monitoring the enrollee's medical condition or status.

**Subd. 3. Coverage of telehealth.** (a) A health plan sold, issued, or renewed by a health carrier in Minnesota must (1) cover benefits delivered through telehealth in the same manner as any other benefits covered under the health plan, and (2) comply with this section.

(b) Coverage for services delivered through telehealth must not be limited on the basis of geography, location, or distance for travel subject to the health care provider network available to the enrollee through the enrollee's health plan.

(c) A health carrier must not create a separate provider network to deliver services through telehealth that does not include network providers who provide in-person care to patients for the same service or require an enrollee to use a specific provider within the network to receive services through telehealth.

(d) A health carrier may require a deductible, co-payment, or coinsurance payment for a health care service provided through telehealth, provided that the deductible, co-payment, or coinsurance payment is not in addition to, and does not exceed, the deductible, co-payment, or coinsurance applicable for the same service provided through in-person contact.

(e) Nothing in this section:

(1) requires a health carrier to provide coverage for services that are not medically necessary or are not covered under the enrollee's health plan; or

(2) prohibits a health carrier from:

(i) establishing criteria that a health care provider must meet to demonstrate the safety or efficacy of delivering a particular service through telehealth for which the health

carrier does not already reimburse other health care providers for delivering the service through telehealth;

(ii) establishing reasonable medical management techniques, provided the criteria or techniques are not unduly burdensome or unreasonable for the particular service; or

(iii) requiring documentation or billing practices designed to protect the health carrier or patient from fraudulent claims, provided the practices are not unduly burdensome or unreasonable for the particular service.

(f) Nothing in this section requires the use of telehealth when a health care provider determines that the delivery of a health care service through telehealth is not appropriate or when an enrollee chooses not to receive a health care service through telehealth.

**Subd. 4. Parity between telehealth and in-person services.** (a) A health carrier must not restrict or deny coverage of a health care service that is covered under a health plan solely:

(1) because the health care service provided by the health care provider through telehealth is not provided through in-person contact; or

(2) based on the communication technology or application used to deliver the health care service through telehealth, provided the technology or application complies with this section and is appropriate for the particular service.

(b) Prior authorization may be required for health care services delivered through telehealth only if prior authorization is required before the delivery of the same service through in-person contact.

(c) A health carrier may require a utilization review for services delivered through telehealth, provided the utilization review is conducted in the same manner and uses the same clinical review criteria as a utilization review for the same services delivered through in-person contact.

(d) A health carrier or health care provider shall not require an enrollee to pay a fee to download a specific communication technology or application.

**Subd. 5. Reimbursement for services delivered through telehealth.** (a) A health carrier must reimburse the health care provider for services delivered through telehealth on the same basis and at the same rate as the health carrier would apply to those services if the services had been delivered by the health care provider through in-person contact.

(b) A health carrier must not deny or limit reimbursement based solely on a health care provider delivering the service or consultation through telehealth instead of through in-person contact.

(c) A health carrier must not deny or limit reimbursement based solely on the technology and equipment used by the health care provider to deliver the health care service or consultation through telehealth, provided the technology and equipment used by the provider meets the requirements of this section and is appropriate for the particular service.

(d) Nothing in this subdivision prohibits a health carrier and health care provider from entering into a contract that includes a value-based reimbursement arrangement for the delivery of covered services that may include services delivered through telehealth, and such an arrangement shall not be considered a violation of this subdivision.

**Subd. 6. Telehealth equipment.** (a) A health carrier must not require a health care provider to use specific telecommunications technology and equipment as a condition of coverage under this section, provided the health care provider uses telecommunications technology and equipment that complies with current industry interoperable standards and complies with standards required under the federal Health Insurance Portability and Accountability Act of



1996, Public Law 104-191, and regulations promulgated under that Act, unless authorized under this section.

(b) A health carrier must provide coverage for health care services delivered through telehealth by means of the use of audio-only communication if the communication is a scheduled appointment and the standard of care for that particular service can be met through the use of audio-only communication. Substance use disorder treatment services and mental health care services delivered through telehealth by means of audio-only communication may be covered without a scheduled appointment if the communication was initiated by the enrollee while in an emergency or crisis situation and a scheduled appointment was not possible due to the need of an immediate response. This paragraph expires July 1, 2023.

**Subd. 7. Telemonitoring services.** A health carrier must provide coverage for telemonitoring services if:

- (1) the telemonitoring service is medically appropriate based on the enrollee's medical condition or status;
- (2) the enrollee is cognitively and physically capable of operating the monitoring device or equipment, or the enrollee has a caregiver who is willing and able to assist with the monitoring device or equipment; and
- (3) the enrollee resides in a setting that is suitable for telemonitoring and not in a setting that has health care staff on site.

**Subd. 8. Exception.** This section does not apply to coverage provided to state public health care program enrollees under chapter 256B or 256L.

## Mississippi

Mississippi statutes and regulations do not address teledentistry or telehealth conducted by oral health professionals. While state laws and regulations do require reimbursement for certain telehealth and telemedicine services provided to Medicaid and private payer patients, services for oral health are not clearly included. The [Center for Connected Health Policy](#) has assembled an overview of telehealth laws in the state.

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# Missouri

## Requirements and Permissible Practices

Title XII PUBLIC HEALTH AND WELFARE

### Chapter 191 Health and Welfare

#### TELEHEALTH

**191.1145. Definitions — telehealth services authorized, when.** — 1. As used in sections [191.1145](#) and [191.1146](#), the following terms shall mean:

- (1) **"Asynchronous store-and-forward transfer"**, the collection of a patient's relevant health information and the subsequent transmission of that information from an originating site to a health care provider at a distant site without the patient being present;
- (2) **"Clinical staff"**, any health care provider licensed in this state;
- (3) **"Distant site"**, a site at which a health care provider is located while providing health care services by means of telemedicine;
- (4) **"Health care provider"**, as that term is defined in section [376.1350](#);
- (5) **"Originating site"**, a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine. For the purposes of asynchronous store-and-forward transfer, originating site shall also mean the location at which the health care provider transfers information to the distant site;
- (6) **"Telehealth" or "telemedicine"**, the delivery of health care services by means of information and communication technologies which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while such patient is at the originating site and the health care provider is at the distant site. Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology.

2. Any licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person. This section shall not be construed to prohibit a health carrier, as defined in section [376.1350](#), from reimbursing nonclinical staff for services otherwise allowed by law.

3. In order to treat patients in this state through the use of telemedicine or telehealth, health care providers shall be fully licensed to practice in this state and shall be subject to regulation by their respective professional boards.

4. Nothing in subsection 3 of this section shall apply to:

- (1) Informal consultation performed by a health care provider licensed in another state, outside of the context of a contractual relationship, and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;
- (2) Furnishing of health care services by a health care provider licensed and located in another state in case of an emergency or disaster; provided that, no charge is made for the medical assistance; or
- (3) Episodic consultation by a health care provider licensed and located in another state who provides such consultation services on request to a physician in this state.

5. Nothing in this section shall be construed to alter the scope of practice of any health care provider or to authorize the delivery of health care services in a setting or in a manner not otherwise authorized by the laws of this state.

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6. No originating site for services or activities provided under this section shall be required to maintain immediate availability of on-site clinical staff during the telehealth services, except as necessary to meet the standard of care for the treatment of the patient's medical condition if such condition is being treated by an eligible health care provider who is not at the originating site, has not previously seen the patient in person in a clinical setting, and is not providing coverage for a health care provider who has an established relationship with the patient.

7. Nothing in this section shall be construed to alter any collaborative practice requirement as provided in [chapters 334](#) and [335](#).

## Title XXIV BUSINESS AND FINANCIAL INSTITUTIONS

### [Chapter 376 Life, Health and Accident Insurance](#)

#### Chapter 376

#### 376.1350. Definitions.

...

(19) **"Health care professional"**, a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services consistent with state law;

(20) **"Health care provider"** or **"provider"**, a health care professional or a facility;

...

### Medicaid Reimbursement

## Title XII PUBLIC HEALTH AND WELFARE

### [Chapter 208 Old Age Assistance, Aid to Dependent Children and General Relief](#)

#### TELEHEALTH

**208.670. Practice of telehealth, definitions — reimbursement of providers.** — 1. As used in this section, these terms shall have the following meaning:

(1) **"Consultation"**, a type of evaluation and management service as defined by the most recent edition of the Current Procedural Terminology published annually by the American Medical Association;

(2) **"Distant site"**, the same meaning as such term is defined in section [191.1145](#);

(3) **"Originating site"**, the same meaning as such term is defined in section [191.1145](#);

(4) **"Provider"**, the same meaning as the term **"health care provider"** is defined in section [191.1145](#), and such provider meets all other MO HealthNet eligibility requirements;

(5) **"Telehealth"**, the same meaning as such term is defined in section [191.1145](#).

2. The department of social services shall reimburse providers for services provided through telehealth if such providers can ensure services are rendered meeting the standard of care that would otherwise be expected should such services be provided in person. The department shall not restrict the originating site through rule or payment so long as the provider can ensure services are rendered meeting the standard of care that would otherwise be expected should such services be provided in person. Payment for services rendered via telehealth shall not depend on any minimum distance requirement between the originating and distant site. Reimbursement for telehealth services shall be made in the same way as reimbursement for in-person contact; however, consideration shall also be made for reimbursement to the originating site. Reimbursement for asynchronous store-and-forward may be capped at the reimbursement rate had the service been provided in person.

**208.677. School children, parental authorization required for telehealth.** — Prior to the provision of telehealth services in a school, the parent or guardian of the child shall provide authorization for the provision of such service. Such authorization shall include the ability for the parent or guardian to authorize services via telehealth in the school for the remainder of the school year.

**208.686. Home telemonitoring services, reimbursement program authorized — discontinuance, when — rules.** — 1. Subject to appropriations, the department shall establish a statewide program that permits reimbursement under the MO HealthNet program for home telemonitoring services. For the purposes of this section, “**home telemonitoring service**” shall mean a health care service that requires scheduled remote monitoring of data related to a participant’s health and transmission of the data to a health call center accredited by the Utilization Review Accreditation Commission (URAC).

2. The program shall:

(1) Provide that home telemonitoring services are available only to persons who:

(a) Are diagnosed with one or more of the following conditions:

- a. Pregnancy;
- b. Diabetes;
- c. Heart disease;
- d. Cancer;
- e. Chronic obstructive pulmonary disease;
- f. Hypertension;
- g. Congestive heart failure;
- h. Mental illness or serious emotional disturbance;
- i. Asthma;
- j. Myocardial infarction; or
- k. Stroke; and

(b) Exhibit two or more of the following risk factors:

- a. Two or more hospitalizations in the prior twelve-month period;
- b. Frequent or recurrent emergency department admissions;
- c. A documented history of poor adherence to ordered medication regimens;
- d. A documented history of falls in the prior six-month period;
- e. Limited or absent informal support systems;
- f. Living alone or being home alone for extended periods of time;
- g. A documented history of care access challenges; or
- h. A documented history of consistently missed appointments with health care providers;

(2) Ensure that clinical information gathered by a home health agency or hospital while providing home telemonitoring services is shared with the participant’s physician; and

(3) Ensure that the program does not duplicate any disease management program services provided by MO HealthNet.

3. If, after implementation, the department determines that the program established under this section is not cost effective, the department may discontinue the program and stop providing reimbursement under the MO HealthNet program for home telemonitoring services.

4. The department shall determine whether the provision of home telemonitoring services to persons who are eligible to receive benefits under both the MO HealthNet and Medicare programs achieves cost savings for the Medicare program.

5. If, before implementing any provision of this section, the department determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the department shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

6. The department shall promulgate rules and regulations to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of [chapter 536](#) and, if applicable, section [536.028](#). This section and [chapter 536](#) are nonseverable and if any of the powers vested with the general assembly pursuant to [chapter 536](#) to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

## Private Payer Reimbursement

### Title XXIV BUSINESS AND FINANCIAL INSTITUTIONS Chapter 376 Life, Health and Accident Insurance TELEHEALTH

[376.1900. Definitions — reimbursement for telehealth services, when.](#) — 1. As used in this section, the following terms shall mean:

(1) **"Electronic visit"**, or **"e-visit"**, an online electronic medical evaluation and management service completed using a secured web-based or similar electronic-based communications network for a single patient encounter. An electronic visit shall be initiated by a patient or by the guardian of a patient with the health care provider, be completed using a federal Health Insurance Portability and Accountability Act (HIPAA)-compliant online connection, and include a permanent record of the electronic visit;

(2) **"Health benefit plan"** shall have the same meaning ascribed to it in section [376.1350](#);

(3) **"Health care provider"** shall have the same meaning ascribed to it in section [376.1350](#);

(4) **"Health care service"**, a service for the diagnosis, prevention, treatment, cure or relief of a physical or mental health condition, illness, injury or disease;

(5) **"Health carrier"** shall have the same meaning ascribed to it in section [376.1350](#);

(6) **"Telehealth"** shall have the same meaning ascribed to it in section [208.670](#).

2. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2014, shall not deny coverage for a health care service on the basis that the health care service is provided through telehealth if the same service would be covered if provided through face-to-face diagnosis, consultation, or treatment.

3. A health carrier may not exclude an otherwise covered health care service from coverage solely because the service is provided through telehealth rather than face-to-face consultation or contact between a health care provider and a patient.

4. A health carrier shall not be required to reimburse a telehealth provider or a consulting provider for site origination fees or costs for the provision of telehealth services; however, subject to correct coding, a health carrier shall reimburse a health care provider for the diagnosis, consultation, or treatment of an insured or enrollee when the health care service is delivered through telehealth on the same basis that the health carrier covers the service when it is delivered in person.

5. A health care service provided through telehealth shall not be subject to any greater deductible, co-payment, or coinsurance amount than would be applicable if the same health care service was provided through face-to-face diagnosis, consultation, or treatment.

6. A health carrier shall not impose upon any person receiving benefits under this section any co-payment, coinsurance, or deductible amount, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services that is not equally imposed upon all terms and services covered under the policy, contract, or health benefit plan.

7. Nothing in this section shall preclude a health carrier from undertaking utilization review to determine the appropriateness of telehealth as a means of delivering a health care service, provided that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person.

8. A health carrier or health benefit plan may limit coverage for health care services that are provided through telehealth to health care providers that are in a network approved by the plan or the health carrier.

9. Nothing in this section shall be construed to require a health care provider to be physically present with a patient where the patient is located unless the health care provider who is providing health care services by means of telehealth determines that the presence of a health care provider is necessary.

10. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months' or less duration, or any other supplemental policy as determined by the director of the department of commerce and insurance.

## Rules of Missouri Consolidated Health Care Plan

### Division 10—Health Care Plan

#### [Chapter 3—Public Entity Membership](#)

#### 22 CSR 10-3.055 Health Savings Account Plan Benefit Provisions and Covered Charges

...

(10) Virtual visits offered through the vendor's telehealth tool are covered at one hundred percent (100%)

...

#### 22 CSR 10-3.057 Medical Plan Benefit Provisions and Covered Charges

43. Telehealth Services. Telehealth services are covered for the diagnosis, consultation, or treatment of a member on the same basis that the service would be covered when it is delivered in person;

...

#### 22 CSR 10-3.058 PPO 750 Plan Benefit Provisions and Covered Charges

...

(5) The following services are not subject to deductible, coinsurance, or copayment requirements and will be paid at one hundred percent (100%) when provided by a network provider:

...

(F) Virtual visits offered through the vendor's telehealth tool.

...

#### 22 CSR 10-3.059 PPO 1250 Plan Benefit Provisions and Covered Charges

...

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Missouri, continued

(5) The following services are not subject to deductible, coinsurance, or copayment requirements and will be paid at one hundred percent (100%) when provided by a network provider:

...

(F) Virtual visits offered through the vendor's telehealth tool.

...

## **22 CSR 10-3.061 Plan Limitations**

...

(WW) Telehealth site origination fees or costs for the provision of telehealth services are not covered

...

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## Montana

### Requirements and Permissible Practices

#### 2021 SB 357

Section 1. Telehealth services -- rulemaking authority.

- (1) A person licensed under this title to provide health care in the ordinary course of business or practice of a profession may provide services by means of telehealth when the use of telehealth:
  - (a) is appropriate for the services being provided;
  - (b) meets the standard of care for delivery of services; and
  - (c) complies with any administrative rules for telehealth adopted by the board that licenses the health care provider.
- (2) A board may adopt rules establishing requirements for the use of telehealth by its licensees.
- (3) (a) For the purposes of this section, "telehealth" means the use of audio, video, or other telecommunications technology or media, including audio-only communication, that is:
  - (i) used by a health care provider or health care facility to deliver health care services; and
  - (ii) delivered over a secure connection that complies with the requirements of state and federal privacy laws.

(b) The term does not include delivery of health care services by means of facsimile machines or electronic messaging alone. The use of facsimile machines and electronic messaging is not precluded if used in conjunction with other audio, video, or telecommunications technology or media

...

### Medicaid Reimbursement

#### 2021 SB 357

Section 2. Telehealth services -- requirements -- limitations.

- (1) Providers enrolled in the Medicaid program may provide medically necessary services by means of telehealth if the service:
  - (a) is clinically appropriate for delivery by telehealth as specified by the department by rule or policy;
  - (b) comports with the guidelines of the applicable Medicaid provider manual; and
  - (c) is not specifically required in the applicable provider manual to be provided in a face-to-face manner.
- (2) A provider shall:
  - (a) ensure an enrollee receiving telehealth services has the same rights to confidentiality and security as provided for traditional office visits;
  - (b) follow consent and patient information protocols consistent with the protocols followed for in person visits; and
  - (c) comply with recordkeeping requirements established by the department by rule.
- (3) Telehealth services:
  - (a) may be provided using secure portal messaging, secure instant messaging, telephone communication, or audiovisual communication;
  - (b) may not be provided in a setting or manner not otherwise authorized by law; and
  - (c) must be reimbursed at the same rate of payment as services delivered in person.
- (4) An enrollee's residence is not reimbursable as an enrolled originating site provider.

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(5) The department shall adopt rules for the provision of telehealth services, including but not limited to:

- (a) billing procedures for enrolled providers;
- (b) the services considered clinically appropriate for telehealth purposes;
- (c) recordkeeping requirements for providers, including originating site providers; and
- (d) other requirements for originating site providers, including allowable provider types, reimbursement rates, and requirements for the secure technology to be used at originating sites.

(6) Nothing in this section may be construed as altering the scope of practice of any enrolled provider delivering services by means of telehealth.

...

Section 11. Section 53-6-113, MCA, is amended to read: "53-6-113. Department to adopt rules.

(1) The department shall adopt appropriate rules necessary for the administration of the Montana Medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in Medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

...

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

...

- (b) deliver services by means of telehealth in accordance with [section 2].

...

Section 12. Section 53-6-155, MCA, is amended to read: "53-6-155. Definitions. As used in this part, unless expressly provided otherwise, the following definitions apply:

...

(14) (a) "Originating site provider" means an enrolled provider who is operating a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq., and assisting an enrollee with the technology necessary for a telehealth visit.

- (b) An originating site provider is not required to participate in the delivery of the health care service.

...

(17) (a) "Telehealth" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across distance, including but not limited to the use of secure portal messaging, secure instant messaging, audiovisual communications, and audio-only communications.

- (b) The term includes both clinical and nonclinical services."

## Private Payer Reimbursement

### [2021 HB 43](#)

Section 1. Section 2-18-704, MCA, is amended to read: "2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

...

(7) An insurance contract or plan issued under this part must include coverage for:

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...

(b) telehealth services, as provided for in 33-22-138

...

Section 2. Section 20-25-1303, MCA, is amended to read: "20-25-1303.

Duties of commissioner -- group benefits plans and employee premium levels not mandatory subjects for collective bargaining. (1) The commissioner shall:

...

(2) (a) The Except as provided in subsection (2)(b), the provisions of Title 33 do not apply to the commissioner when exercising the duties provided for in this part.

(b) Group benefit plans designed under this part must include coverage for telehealth services as provided in 33-22-138.

...

Section 3. Section 20-25-1403, MCA, is amended to read: "20-25-1403. Authorization to establish self-insured health plan for students -- requirements -- exemption.

(1) The commissioner may establish a self-insured student health plan for enrolled students of the system and their dependents, including students of a community college district. In developing a self-insured student health plan, the commissioner shall:

...

(5) (a) Except as provided in subsection (5)(b), the provisions of Title 33 do not apply to the commissioner when exercising the duties provided for in this part.

(b) A self-insured student health plan established under this part must include coverage for telehealth services as provided in 33-22-138."

Section 4. Section 33-22-138, MCA, is amended to read: "33-22-138. Coverage for telehealth services -- rulemaking. (1) Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage for health care services must provide coverage for health care services provided by a health care provider or health care facility by means of telehealth if the services are otherwise covered by the policy, certificate, contract, or agreement.

(2) A policy, certificate, contract, or agreement may not:

(a) impose restrictions involving:

(i) the site at which the patient is physically located and receiving health care services by means of telehealth; or

(ii) the site at which the health care provider is physically located and providing the services by means of telehealth; or

(b) distinguish between telehealth services provided to patients in rural locations and telehealth services provided to patients in urban locations.

(3) Coverage under this section must be equivalent to the coverage for services that are provided in person by a health care provider or health care facility.

(4) Nothing in this section may be construed to require:

(a) a health insurance issuer to provide coverage for services that are not medically necessary, subject to the terms and conditions of the insured's policy;

(b) coverage of an otherwise noncovered benefit;

(c) a health care provider to be physically present with a patient at the site where the patient is located unless the health care provider who is providing health care services by means of telehealth determines that the presence of a health care provider is necessary; or

- (d) except as provided in 50-46-310 or as provided in Title 37 and related administrative rules, a patient to have a previously established patient-provider relationship with a specific health care provider in order to receive health care services by means of telehealth.
- (5) Coverage under this section may be subject to deductibles, coinsurance, and copayment provisions. Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical services covered under the plan may not be imposed on the coverage for services provided by means of telehealth.
- (6) This section does not apply to disability income, hospital indemnity, Medicare supplement, specified disease, or long-term care policies.
- (7) The commissioner may adopt rules necessary to implement the provisions of this section.
- (8) For the purposes of this section, the following definitions apply:
  - (a) "Health care facility" means a critical access hospital, hospice, hospital, long-term care facility, mental health center, outpatient center for primary care, or outpatient center for surgical services licensed pursuant to Title 50, chapter 5.
  - (b) "Health care provider" means an individual:
    - (i) licensed pursuant to Title 37, chapter 3, 4, 6, 7, 10, 11, 15, 17, 20, 22, 23, 24, 25, 26, or 35;
- ...
- (c) (i) "Telehealth" means the use of audio, video, or other telecommunications technology or media, including audio-only communication, that is:
  - (A) used by a health care provider or health care facility to deliver health care services; and
  - (B) delivered over a secure connection that complies with state and federal privacy laws.
- (ii) The term does not include delivery of health care services by means of facsimile machines or electronic messaging alone. The use of facsimile and electronic message is not precluded if used in conjunction with other audio, video, or telecommunications technology or media.

# Nebraska

## Requirements and Permissible Practices

### [Nebraska Revised Statute 38-120.01](#)

Telehealth, defined.

Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a credential holder in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient's home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a credential holder at another site for medical evaluation, and telemonitoring.

### [Nebraska Revised Statute 38-120.02](#)

Telemonitoring, defined.

Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a credential holder for analysis and storage.

### [Nebraska Revised Statute 38-1,143](#)

Telehealth; provider-patient relationship; prescription authority; applicability of section.

(1) Except as otherwise provided in subsection (4) of this section, any credential holder under the Uniform Credentialing Act may establish a provider-patient relationship through telehealth.

(2) Any credential holder under the Uniform Credentialing Act who is providing a telehealth service to a patient may prescribe the patient a drug if the credential holder is authorized to prescribe under state and federal law.

(3) The department may adopt and promulgate rules and regulations pursuant to section [38-126](#) that are consistent with this section.

(4) This section does not apply to a credential holder under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the Dialysis Patient Care Technician Registration Act, the Environmental Health Specialists Practice Act, the Funeral Directing and Embalming Practice Act, the Massage Therapy Practice Act, the Medical Radiography Practice Act, the Nursing Home Administrator Practice Act, the Perfusion Practice Act, the Surgical First Assistant Practice Act, the Veterinary Medicine and Surgery Practice Act, or the Water Well Standards and Contractors' Practice Act.

### [Neb. Admin. R. & Regs. Tit. 172, Ch. 56, § 008](#)

#### [008. UNPROFESSIONAL CONDUCT.](#)

Unprofessional conduct is set out in Neb. Rev. Stat. § 38-179 and includes the following:

...

(M) Prescribing drugs to an individual based solely on answers to questions provided by teledentistry without first establishing a proper dentist-patient relationship;

...

### [Neb. Admin. R. & Regs. Tit. 471, Ch. 6, § 002](#)

#### [Ch. 6, § 002 Formerly cited as 471 NE ADC Ch. 6, § 6-001](#)

#### [002. DEFINITIONS.](#)

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The following definitions apply:

...

002.06 TELEDENTISTRY. Teledentistry is the use of technology, including digital radiographs, digital photos and videos, and electronic health records, to facilitate delivery of oral healthcare and oral health education services from a provider in one location to a patient in a physically different location. Teledentistry is to be used for the purposes of evaluation, diagnosis, or treatment.

[Neb. Admin. R. & Regs. Tit. 471, Ch. 6, § 006](#)

[Ch. 6, § 006](#)

[006. TELEDENTISTRY.](#)

006.01 GENERAL REQUIREMENTS. Teledentistry follows the requirements of telehealth in accordance with 471 NAC 1. Services requiring hands on professional care are excluded.

## Medicaid Reimbursement

[Nebraska Revised Statute 71-8501](#)

Act, how cited.

Sections [71-8501](#) to [71-8508](#) shall be known and may be cited as the Nebraska Telehealth Act.

[Nebraska Revised Statute 71-8502](#)

Legislative findings.

The Legislature finds that:

- (1) Access to health care facilities and health care practitioners is critically important to the citizens of Nebraska;
- (2) Access to a continuum of health care services is restricted in some medically underserved areas of Nebraska, and many health care practitioners in such areas are isolated from mentors, colleagues, and information resources necessary to support them personally and professionally;
- (3) The use of telecommunications technology to deliver health care services can reduce health care costs, improve health care quality, improve access to health care, and enhance the economic health of communities in medically underserved areas of Nebraska; and
- (4) The full potential of delivering health care services through telehealth cannot be realized without the assurance of payment for such services and the resolution of existing legal and policy barriers to such payment.

[Nebraska Revised Statute 71-8503](#)

Terms, defined.

For purposes of the Nebraska Telehealth Act:

- (1) Department means the Department of Health and Human Services;
- (2) Health care practitioner means a Nebraska medicaid-enrolled provider who is licensed, registered, or certified to practice in this state by the department;
- (3) Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care practitioner in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient's home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care practitioner at another site for medical evaluation, and telemonitoring;

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- (4) Telehealth consultation means any contact between a patient and a health care practitioner relating to the health care diagnosis or treatment of such patient through telehealth; and
- (5) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care practitioner for analysis and storage.

[Nebraska Revised Statute 71-8504](#)

Act; how construed.

The Nebraska Telehealth Act does not: (1) Alter the scope of practice of any health care practitioner; (2) authorize the delivery of health care services in a setting or manner not otherwise authorized by law; or (3) limit a patient's right to choose in-person contact with a health care practitioner for the delivery of health care services for which telehealth is available.

[Nebraska Revised Statute 71-8505](#)

71-8505.

Written statement; requirements.

(1) Prior to an initial telehealth consultation under section [71-8506](#), a health care practitioner who delivers a health care service to a patient through telehealth shall ensure that the following written information is provided to the patient:

- (a) A statement that the patient retains the option to refuse the telehealth consultation at any time without affecting the patient's right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the patient would otherwise be entitled;
- (b) A statement that all existing confidentiality protections shall apply to the telehealth consultation;
- (c) A statement that the patient shall have access to all medical information resulting from the telehealth consultation as provided by law for patient access to his or her medical records; and
- (d) A statement that dissemination of any patient identifiable images or information from the telehealth consultation to researchers or other entities shall not occur without the written consent of the patient.

(2) The patient shall sign a written statement prior to an initial telehealth consultation, indicating that the patient understands the written information provided pursuant to subsection (1) of this section and that this information has been discussed with the health care practitioner or his or her designee. Such signed statement shall become a part of the patient's medical record.

(3) If the patient is a minor or is incapacitated or mentally incompetent such that he or she is unable to sign the written statement required by subsection (2) of this section, such statement shall be signed by the patient's legally authorized representative.

(4) This section shall not apply in an emergency situation in which the patient is unable to sign the written statement required by subsection (2) of this section and the patient's legally authorized representative is unavailable.

[Nebraska Revised Statute 71-8506](#)

Medical assistance program; reimbursement; requirements.

(1) In-person contact between a health care practitioner and a patient shall not be required under the medical assistance program established pursuant to the Medical Assistance Act and Title XXI of the federal Social Security Act, as amended, for health care services delivered through telehealth that are otherwise eligible for reimbursement under such program and

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federal act. Such services shall be subject to reimbursement policies developed pursuant to such program and federal act. This section also applies to managed care plans which contract with the department pursuant to the Medical Assistance Act only to the extent that:

- (a) Health care services delivered through telehealth are covered by and reimbursed under the medicaid fee-for-service program; and
- (b) Managed care contracts with managed care plans are amended to add coverage of health care services delivered through telehealth and any appropriate capitation rate adjustments are incorporated.

(2) The reimbursement rate for a telehealth consultation shall, as a minimum, be set at the same rate as the medical assistance program rate for a comparable in-person consultation, and the rate shall not depend on the distance between the health care practitioner and the patient.

(3) The department shall establish rates for transmission cost reimbursement for telehealth consultations, considering, to the extent applicable, reductions in travel costs by health care practitioners and patients to deliver or to access health care services and such other factors as the department deems relevant. Such rates shall include reimbursement for all two-way, real-time, interactive communications, unless provided by an Internet service provider, between the patient and the physician or health care practitioner at the distant site which comply with the federal Health Insurance Portability and Accountability Act of 1996 and rules and regulations adopted thereunder and with regulations relating to encryption adopted by the federal Centers for Medicare and Medicaid Services and which satisfy federal requirements relating to efficiency, economy, and quality of care.

#### [Nebraska Revised Statute 71-8507](#)

Health care facility; duties.

A health care facility licensed under the Health Care Facility Licensure Act that receives reimbursement under the Nebraska Telehealth Act for telehealth consultations shall establish quality of care protocols and patient confidentiality guidelines to ensure that such consultations meet the requirements of the act and acceptable patient care standards.

#### [Nebraska Revised Statute 71-8508](#)

Rules and regulations.

The department shall adopt and promulgate rules and regulations to carry out the Nebraska Telehealth Act, including, but not limited to, rules and regulations to: (1) Ensure the provision of appropriate care to patients; (2) prevent fraud and abuse; and (3) establish necessary methods and procedures.

#### [TITLE 471 NEBRASKA MEDICAL ASSISTANCE PROGRAM SERVICES CHAPTER 1 ADMINISTRATION](#)

...

004. TELEHEALTH SERVICES FOR PHYSICAL AND BEHAVIORAL HEALTH SERVICES. This section applies to medical services in Medicaid fee-for-service and Managed Care.

004.01 DEFINITIONS. The following definitions apply to this section: 004.01

(A) CHILD. An individual under 19 years of age. 004.01

(B) COMPARABLE SERVICE. A service provided face-to-face. 004.01

(C) DISTANT SITE. The location of the provider of the telehealth service. 004.01

(D) ORIGINATING SITE. The location of the client at the time of the telehealth consultation.

004.01

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(E) TELEHEALTH CONSULTATION. Any contact between a client and a health care practitioner relating to the health care diagnosis or treatment of such client through telehealth. For the purposes of telehealth services, a consultation includes any service delivered through telehealth. 004.01

(F) TELEMONTORING. The remote monitoring of a client's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care practitioner for analysis and storage.

004.02 APPLICABLE LAWS. Health care practitioners providing telehealth services must follow all applicable state and federal laws and regulations governing their practice and the services they provide.

004.03 ORIGINATING SITES. Health care practitioners must ensure that the originating sites meet the standards for telehealth services. Originating sites must provide a place where the client's right to receive confidential and private services is protected.

004.04 INFORMED CONSENT. Before an initial telehealth consultation, the health care practitioner must provide the client the following written information which must be acknowledged by the client in writing or via email:

(A) Alternative options are available, including in-person services. These alternatives are specifically listed on the client's informed consent statement;

(B) All existing laws and protections for services received in-person also apply to telehealth, including:

(i) Confidentiality of information;

(ii) Access to medical records; and

(iii) Dissemination of client identifiable information;

(C) Whether the telehealth consultation will be or will not be recorded;

(D) The identification of all the parties who will be present at each telehealth consultation, and a statement indicating that the client has the right to exclude anyone from either the originating or the distant site; and

(E) The written consent form becomes a part of the client's medical record and a copy must be provided to the client or the client's authorized representative.

...

004.06 TELECOMMUNICATIONS TECHNOLOGY COSTS. Telehealth services and transmission costs are covered by Medicaid when:

(1) The technology used meets industry standards;

(2) The technology is Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant; and

(3) The telehealth technology solution in use at both the originating and the distant site must be sufficient to allow the health care practitioner to appropriately complete the service billed to Medicaid.

004.06(A) STANDARDS. The standards above apply to any peripheral diagnostic scope or device used during the telehealth consultation.

...

004.07 TELEMONTORING REIMBURSEMENT. Medicaid will reimburse for telemonitoring when all of the following requirements are met:

(1) The services are from the originating site;

(2) The client is cognitively capable to operate the equipment or has a willing and able person to assist in the transmission of electronic data;

(3) The originating site has space for all program equipment and full transmission capability; and

(4) The provider must maintain a client's record containing data supporting the medical necessity of the service, all transmissions and subsequent review received from the client, and how the data transmitted from the client is being utilized in the continuous development and implementation of the client's plan of care.

004.07(A) PER DIEM RATE. Telemonitoring is paid at a daily per diem rate set by Medicaid and includes the following:

- (i) Health care practitioner review and interpretation of the client data;
- (ii) Equipment and all supplies, accessories, and services necessary for proper functioning and effective use of the equipment;
- (iii) Medically necessary visits to the home by a health care practitioner; and
- (iv) Training on the use of equipment and completion of necessary records.

004.07(B) FIXED PAYMENT. No additional or separate payment beyond the fixed payment is allowable.

004.08 PRACTITIONER CONSULTATION REIMBURSEMENT. Medicaid will reimburse a consulting health care practitioner when all of the following requirements are met:

- (1) After obtaining and analyzing the transmitted information, the consulting health care practitioner reports back to the referring health care practitioner;
- (2) The consulting health care practitioner must bill for services using the appropriate modifier; and
- (3) Payment is not made to the referring health care practitioner who sends the medical documentation.

...

004.09 REIMBURSEMENT OF TELEHEALTH. Telehealth services are reimbursed by Medicaid at the same rate as the service when it is delivered in person in accordance with each service specific chapter in Title 471 NAC.

004.10 REIMBURSEMENT OF ORIGINATION SITE FEE. The originating site fee is paid to the Medicaid-enrolled facility hosting the client for telehealth services at a rate set forth in the Medicaid fee schedule or under arrangement with the Managed Care Organization (MCO).

004.11 OUT-OF-STATE TELEHEALTH SERVICES. Out-of-State telehealth services are covered if the telehealth services otherwise meet the regulatory requirements for payment for services provided outside Nebraska and:

- (A) When the distant site is located in another state and the originating site is located in Nebraska; or
- (B) When the Nebraska client is located at an originating site in another state, whether or not the provider's distant site is located in or out of Nebraska.

004.12 DOCUMENTATION. The medical record for telehealth services must follow all applicable statutes and regulations on documentation. The use of telehealth technology must be documented in the same medical record, and must include the following telehealth information:

- (A) Documentation of which site initiated the call;
- (B) Documentation of the telecommunication technology utilized; and
- (C) The time the service began and ended.

## Private Payer Reimbursement

### [Nebraska Revised Statute 44-312](#)

Telehealth and telemonitoring services covered under policy, certificate, contract, or plan; insurer; duties.

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(1) For purposes of this section:

(a) Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care provider in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient's home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care provider at another site for medical evaluation, and telemonitoring; and

(b) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care provider for analysis and storage.

(2) Any insurer offering (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (b) any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, or (c) any self-funded employee benefit plan to the extent not preempted by federal law, shall provide upon request to a policyholder, certificate holder, or health care provider a description of the telehealth and telemonitoring services covered under the relevant policy, certificate, contract, or plan.

(3) The description shall include:

(a) A description of services included in telehealth and telemonitoring coverage, including, but not limited to, any coverage for transmission costs;

(b) Exclusions or limitations for telehealth and telemonitoring coverage, including, but not limited to, any limitation on coverage for transmission costs;

(c) Requirements for the licensing status of health care providers providing telehealth and telemonitoring services; and

(d) Requirements for demonstrating compliance with the signed written statement requirement in section [71-8505](#).

#### [Nebraska Revised Statute 44-7,107](#)

Telehealth; asynchronous review by dermatologist; coverage.

(1) For purposes of this section:

(a) Asynchronous review means the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care provider at another site for medical evaluation;

...

(c) Telehealth has the same meaning as in section [44-312](#).

(2) Any insurer offering (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (b) any hospital, medical, or surgical expense-incurred policy, or (c) any self-funded employee benefit plan to the extent not preempted by federal law, shall not exclude, in any policy, certificate, contract, or plan offered or renewed on or after August 24, 2017, a service from coverage solely because the service is delivered through telehealth and is not provided through in-person consultation or contact between a licensed health care provider and a patient.

...

(c) It is not a violation of this subsection for an insurer to include a deductible, copayment, or coinsurance requirement for a health care service provided through telehealth if such costs do not exceed those included for the same services provided through in-person contact.

*Nebraska, continued*

(4) Nothing in this section shall be construed to require an insurer to provide coverage for services that are not medically necessary.

(5) This section does not apply to any policy, certificate, contract, or plan that provides coverage for a specified disease or other limited-benefit coverage.

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# Nevada

## Requirements and Permissible Practices

### CHAPTER 629 – HEALING ARTS GENERALLY GENERAL PROVISIONS

#### Definitions

#### [NRS 629.031 “Provider of health care” defined.](#)

Except as otherwise provided by a specific statute:

1. “Provider of health care” means:

...

(c) A dentist;

...

#### TELEHEALTH

#### [NRS 629.510 Legislative findings and declarations.](#)

The Legislature hereby finds and declares that:

1. Health care services provided through telehealth are often as effective as health care services provided in person;
2. The provision of services through telehealth does not detract from, and often improves, the quality of health care provided to patients and the relationship between patients and providers of health care; and
3. It is the public policy of this State to:
  - (a) Encourage and facilitate the provision of services through telehealth to improve public health and the quality of health care provided to patients and to lower the cost of health care in this State; and
  - (b) Ensure that services provided through telehealth are covered by policies of insurance to the same extent as though provided in person or by other means.

#### [NRS 629.515 Valid license or certificate required; exception; restrictions; jurisdiction over and applicability of laws. As amended by 2021 SB 5](#)

1. Except as otherwise provided in this subsection, before a provider of health care who is located at a distant site may use telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient, the provider must hold a valid license or certificate to practice his or her profession in this State, including, without limitation, a special purpose license issued pursuant to [NRS 630.261](#). The requirements of this subsection do not apply to a provider of health care who is providing services within the scope of his or her employment by or pursuant to a contract entered into with an urban Indian organization, as defined in 25 U.S.C. § 1603.
2. The provisions of this section must not be interpreted or construed to:
  - (a) Modify, expand or alter the scope of practice of a provider of health care; or
  - (b) Authorize a provider of health care to provide services in a setting that is not authorized by law or in a manner that violates the standard of care required of the provider of health care.
3. A provider of health care who is located at a distant site and uses telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient:
  - (a) Is subject to the laws and jurisdiction of the State of Nevada, including, without limitation, any regulations adopted by an occupational licensing board in this State,

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regardless of the location from which the provider of health care provides services through telehealth.

(b) Shall comply with all federal and state laws that would apply if the provider were located at a distant site in this State.

4. A provider of health care may establish a relationship with a patient using telehealth when it is clinically appropriate to establish a relationship with a patient in that manner. The State Board of Health may adopt regulations governing the process by which a provider of health care may establish a relationship with a patient using telehealth.

5. As used in this section:

(a) "Distant site" means the location of the site where a telehealth provider of health care is providing telehealth services to a patient located at an originating site.

(b) "Originating site" means the location of the site where a patient is receiving telehealth services from a provider of health care located at a distant site.

(c) "Telehealth" means the delivery of services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, not including, facsimile or electronic mail. The term includes, without limitation, the delivery of services from a provider of health care to a patient at a different location through the use of:

(1) Synchronous interaction or an asynchronous system of storing and forwarding information; and

(2) Audio-only interaction, whether synchronous or asynchronous.

## PRESCRIPTIONS

### General Provisions

[NRS 639.235 Persons authorized to prescribe and write prescriptions; procedure for filling certain prescriptions written by persons not licensed in this State.](#)

1. No person other than a practitioner holding a license to practice his or her profession in this State may prescribe or write a prescription, except that a prescription written by a person who is not licensed to practice in this State, but is authorized by the laws of another state to prescribe, shall be deemed to be a legal prescription unless the person prescribed or wrote the prescription in violation of the provisions of [NRS 453.3611](#) to [453.3648](#), inclusive.

2. If a prescription that is prescribed by a person who is not licensed to practice in this State, but is authorized by the laws of another state to prescribe, calls for a controlled substance listed in:

(a) Schedule II, the registered pharmacist who is to fill the prescription shall establish and document that the prescription is authentic and that a bona fide relationship between the patient and the person prescribing the controlled substance did exist when the prescription was written.

(b) Schedule III or IV, the registered pharmacist who is to fill the prescription shall establish that the prescription is authentic and that a bona fide relationship between the patient and the person prescribing the controlled substance did exist when the prescription was written. This paragraph does not require the registered pharmacist to inquire into such a relationship upon the receipt of a similar prescription subsequently issued for that patient.

3. A pharmacist who fills a prescription described in subsection 2 shall record on the prescription or in the prescription record in the pharmacy's computer:

(a) The name of the person with whom the pharmacist spoke concerning the prescription;

(b) The date and time of the conversation; and

(c) The date and time the patient was examined by the person prescribing the controlled substance for which the prescription was issued.

4. For the purposes of subsection 2, a bona fide relationship between the patient and the person prescribing the controlled substance shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics, including, without limitation, through telehealth, within or outside this State or the United States by the person prescribing the controlled substances within the 6 months immediately preceding the date the prescription was issued.

**[NRS 639.23911 Initial prescription for certain controlled substances for treatment of pain: Requirements for issuance; condition on issuing additional prescriptions.](#)**

1. Before issuing an initial prescription for a controlled substance listed in schedule II, III or IV for the treatment of pain, a practitioner, other than a veterinarian, must:

(a) Have established a bona fide relationship, as described in subsection 4 of [NRS 639.235](#), with the patient;

(b) Perform an evaluation and risk assessment of the patient that meets the requirements of subsection 1 of [NRS 639.23912](#);

(c) Establish a preliminary diagnosis of the patient and a treatment plan tailored toward treating the pain of the patient and the cause of that pain;

(d) Document in the medical record of the patient the reasons for prescribing the controlled substance instead of an alternative treatment that does not require the use of a controlled substance; and

(e) Obtain informed consent to the use of the controlled substance that meets the requirements of subsection 2 of [NRS 639.23912](#) from:

(1) The patient, if the patient is 18 years of age or older or legally emancipated and has the capacity to give such consent;

(2) The parent or guardian of a patient who is less than 18 years of age and not legally emancipated; or

(3) The legal guardian of a patient of any age who has been adjudicated mentally incapacitated.

2. If a practitioner, other than a veterinarian, prescribes a controlled substance listed in schedule II, III or IV for the treatment of pain, the practitioner shall not issue more than one additional prescription that increases the dose of the controlled substance unless the practitioner meets with the patient, in person or using telehealth, to reevaluate the treatment plan established pursuant to paragraph (c) of subsection 1.

## Medicaid Reimbursement

### CHAPTER 695G - MANAGED CARE COVERAGE BY MANAGED CARE ORGANIZATIONS

**[NRS 695G.162 Required provision concerning coverage for services provided through telehealth. As amended by 2021 SB 5](#)**

1. A health care plan issued by a managed care organization for group coverage must include coverage for services provided to an insured through telehealth to the same extent and, except for services provided through audio-only interaction, in the same amount as though provided in person or by other means.

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2. A managed care organization shall not:
  - (a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;
  - (b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;
  - (c) Refuse to provide the coverage described in subsection 1 because of:
    - (1) The distant site from which a provider of health care provides services through telehealth or the originating site at which a member receives services through telehealth; or
    - (2) The technology used to provide the services;
  - (d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.
  - (e) Categorize a service provided through telehealth differently for purposes relating to coverage or reimbursement than if the service had been provided in person or through other means.
3. A health care plan of a managed care organization must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. Such a health care plan may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.
4. The provisions of this section do not require a managed care organization to:
  - (a) Ensure that covered services are available to an insured through telehealth at a particular originating site;
  - (b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or
  - (c) Enter into a contract with any provider of health care or cover any service if the managed care organization is not otherwise required by law to do so.
5. Evidence of coverage that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.
6. As used in this section:
  - (a) "Distant site" has the meaning ascribed to it in [NRS 629.515](#).
  - (b) "Originating site" has the meaning ascribed to it in [NRS 629.515](#).
  - (c) "Provider of health care" has the meaning ascribed to it in [NRS 439.820](#).
  - (d) "Telehealth" has the meaning ascribed to it in [NRS 629.515](#).

### Private Payer Reimbursement

#### CHAPTER 695B - NONPROFIT CORPORATIONS FOR HOSPITAL, MEDICAL AND DENTAL SERVICE

##### [NRS 695B.1904 Required provision concerning coverage for services provided through telehealth](#). As amended by [2021 SB 5](#)

1. A contract for hospital, medical or dental services subject to the provisions of this chapter must include services provided to an insured through telehealth to the same extent and, except

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for services provided through audio-only interaction, in the same amount as though provided in person or by other means.

2. A medical services corporation that issues contracts for hospital, medical or dental services shall not:

(a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of:

(1) The distant site from which a provider of health care provides services through telehealth or the originating site at which a member receives services through telehealth; or

(2) The technology used to provide the services;

(d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.

(e) Categorize a service provided through telehealth differently for purposes relating to coverage or reimbursement than if the service had been provided in person or through other means.

3. A contract for hospital, medical or dental services must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. A contract for hospital, medical or dental services may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.

4. The provisions of this section do not require a medical services corporation that issues contracts for hospital, medical or dental services to:

(a) Ensure that covered services are available to an insured through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the medical services corporation is not otherwise required by law to do so.

5. A contract for hospital, medical or dental services subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 5, 2021, has the legal effect of including the coverage required by this section, and any provision of the contract or the renewal which is in conflict with this section is void.

6. As used in this section:

(a) "Distant site" has the meaning ascribed to it in [NRS 629.515](#).

(b) "Originating site" has the meaning ascribed to it in [NRS 629.515](#).

(c) "Provider of health care" has the meaning ascribed to it in [NRS 439.820](#).

(d) "Telehealth" has the meaning ascribed to it in [NRS 629.515](#).

## CHAPTER 695D - PLANS FOR DENTAL CARE

### [NRS 695D.216 Required provision concerning coverage for services provided through telehealth. As amended by 2021 SB 5](#)

1. A plan for dental care must include coverage for services provided to a member through telehealth to the same extent and, except for services provided through audio-only interaction, in the same amount as though provided in person or by other means.
2. An organization for dental care shall not:
  - (a) Require a member to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;
  - (b) Require a provider of health care to demonstrate that it is necessary to provide services to a member through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;
  - (c) Refuse to provide the coverage described in subsection 1 because of:
    - (3) The distant site from which a provider of health care provides services through telehealth or the originating site at which a member receives services through telehealth; or
    - (4) The technology used to provide the services;
  - (d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.
  - (e) Categorize a service provided through telehealth differently for purposes relating to coverage or reimbursement than if the service had been provided in person or through other means.
3. A plan for dental care must not require a member to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. A plan for dental care may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.
4. The provisions of this section do not require an organization for dental care to:
  - (a) Ensure that covered services are available to a member through telehealth at a particular originating site;
  - (b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or
  - (c) Enter into a contract with any provider of health care or cover any service if the organization for dental care is not otherwise required by law to do so.
5. A plan for dental care subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.
6. As used in this section:
  - (a) "Distant site" has the meaning ascribed to it in [NRS 629.515](#).
  - (b) "Originating site" has the meaning ascribed to it in [NRS 629.515](#).
  - (c) "Provider of health care" has the meaning ascribed to it in [NRS 439.820](#).
  - (d) "Telehealth" has the meaning ascribed to it in [NRS 629.515](#).

# New Hampshire

## Requirements and Permissible Practices

### TITLE XXX

### OCCUPATIONS AND PROFESSIONS

#### CHAPTER 310-A

#### OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

310-A:1-g Telemedicine and Telehealth Services. –

I. “Telemedicine” means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

II. “Telehealth” means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

III. Individuals licensed, certified, or registered pursuant to RSA 137-F; RSA 151-A; RSA 315; RSA 316-A; RSA 317-A; RSA 326-B; RSA 326-D; RSA 326-H; RSA 327; RSA 328-E; RSA 328-F; RSA 328-G; RSA 329-B; RSA 330-A; RSA 330-C; RSA 327-A; RSA 329; RSA 326-B; RSA 318; RSA 328-I; RSA 328-J may provide services through telemedicine or telehealth, provided the services rendered are authorized by scope of practice. Nothing in this provision shall be construed to expand the scope of practice for individuals regulated under this chapter.

IV. Notwithstanding any provision of law to the contrary, an out-of-state healthcare professional providing services by means of telemedicine or telehealth shall be required to be licensed, certified, or registered by the appropriate licensing board within the division of health professions. This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II.

V. An individual providing services by means of telemedicine or telehealth directly to a patient shall:

(a) Use the same standard of care as used in an in-person encounter;

(b) Maintain a medical record; and

(c) Subject to the patient’s consent, forward the medical record to the patient’s primary care or treating provider, if appropriate.

VI. Under this section, Medicaid coverage for telehealth services shall comply with the provisions of 42 C.F.R. section 410.78 and RSA 167:4-d.

(Editor’s Note: Dentists and dental hygienists are licensed under RSA 317-A.)

### CHAPTER 317-A

### DENTISTS AND DENTISTRY

#### Examinations and Licenses

#### Section 317-A:7-b

**317-A:7-b Telemedicine.** – Persons licensed by the board shall be permitted to provide services through the use of telemedicine. “Telemedicine” means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

## Medicaid Reimbursement

TITLE XII  
PUBLIC SAFETY AND WELFARE  
CHAPTER 167  
PUBLIC ASSISTANCE TO BLIND, AGED, OR DISABLED PERSONS, AND TO DEPENDENT CHILDREN

### 167:4-d Medicaid Coverage of Telehealth Services.

I. It is the intent of this section to recognize the application of telehealth for covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care by which an individual at an originating site shall receive medical services which are clinically appropriate for delivery through telehealth from a health care provider at a distant site without in-person contact with the provider.

II. In this section:

(a) "Telehealth services" shall comply with 42 C.F.R. section 410.78, except for 42 C.F.R. section 410.78(b)(4). The use of the term "telemedicine" shall comply with the Centers for Medicare and Medicaid Services requirements governing the aforementioned telehealth services.

(b) "Distant site" means the location of the health care provider delivering services through telemedicine at the time the services are provided.

(c) "Doorways" means the statewide points of entry for the delivery of substance use services.

(d) "Originating site" means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including, but not limited to, a health care provider's office, a hospital, or a health care facility, or the patient's home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient's workplace.

(e) "Remote patient monitoring" means the use of electronic technology to remotely monitor a patient's health status through the collection and interpretation of clinical data while the patient remains at an originating site. Remote patient monitoring may or may not take place in real time. Remote patient monitoring shall include assessment, observation, education and virtual visits provided by all covered providers including licensed home health care providers.

(f) "Store and forward," as it pertains to telemedicine and as an exception to 42 C.F.R. section 410.78, means the use of asynchronous electronic communications between a patient at an originating site and a health care service provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients. This includes the forwarding and/or transfer of stored medical data from the originating site to the distant site through the use of any electronic device that records data in its own storage and forwards its data to the distant site via telecommunication for the purpose of diagnostic and therapeutic assistance.

III. (a) Coverage under this section shall include the use of telehealth or telemedicine for Medicaid-covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care:

(1) Which is an appropriate application of telehealth services provided by physicians and other health care providers, as determined by the department based on the Centers for

Medicare and Medicaid Services regulations, and also including persons providing psychotherapeutic services as provided in He-M 426.08 and 426.09;

(2) By which telemedicine services for primary care, remote patient monitoring, and substance use disorder services shall only be covered in the event that the patient has already established care at an originating site via face-to-face in-person service. A provider shall not be required to establish care via face-to-face in-person service when:

- (a) The provider is a Department of Veteran Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);
  - (b) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;
  - (c) The patient is being treated by, and is physically located in a doorway as defined in RSA 167:4-d, II(c);
  - (d) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or
  - (e) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f); and
- (3) By which an individual shall receive medical services from a physician or other health care provider who is an enrolled Medicaid provider without in-person contact with that provider.

(b) The Medicaid program shall provide coverage and reimbursement for health care services provided through telemedicine on the same basis as the Medicaid program provides coverage and reimbursement for health care services provided in person.

(c) The combined amount of reimbursement that the Medicaid program allows for the compensation to the distant site and the originating site shall not be less than the total amount allowed for health care services provided in person.

(d) There shall be no restriction on eligible originating or distant sites for telehealth services. An originating site means the location of the member at the time the service is being furnished via a telecommunication system. A distant site means the location of the provider at the time the service is being furnished via a telecommunication system.

(e) The Medicaid program shall provide reimbursement for all modes of telehealth, including video and audio, audio-only, or other electronic media provided by medical providers to treat all members for all medically necessary services.

(f) Medical providers below shall be allowed to perform health care services through the use of all modes of telehealth, including video and audio, audio-only, or other electronic media. Medical providers include, but are not limited to, the following:

...

(6) Dentists, governed by RSA 317-A;

...

(g) Nothing in this section shall be construed to prohibit the Medicaid program from providing coverage for only those services that are medically necessary and subject to all other terms and conditions of the coverage. Services delivered through telehealth under this section shall comply with all applicable state and federal law or regulation as allowed by the Medicaid program. Any conflict with the provisions of this section and federal law or regulation shall preempt and supersede any provision of this section.

IV. This section shall be conditioned upon review and approval of a state plan amendment submitted by the department to the Centers for Medicare and Medicaid Services, as deemed necessary.

...

V. The department shall adopt rules, pursuant to RSA 541-A, necessary to carry out the purposes of this section.

## Private Payer Reimbursement

### TITLE XXXVII

### INSURANCE

### CHAPTER 415-J

### NEW HAMPSHIRE TELEMEDICINE ACT

**415-J:1 New Hampshire Telemedicine Act.** – This chapter shall be known and may be cited as the New Hampshire telemedicine act.

#### **415-J:2 Definitions.** –

In this chapter:

I. “Distant site” means the location of the health care provider delivering services through telemedicine at the time the services are provided.

I-a. “Health benefit policy” means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, those contracts executed by the state of New Hampshire on behalf of state employees under RSA 21-I, by an insurer.

II. “Insurer” means an accident and sickness insurer, fraternal benefit society, hospital service corporation, medical service corporation, health care corporation, health maintenance organization, preferred provider organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies.

II-a. “Originating site” means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including, but not limited to, a health care provider’s office, a hospital, or a health care facility, or the patient’s home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient’s workplace.

II-b. “Remote patient monitoring” means the use of electronic technology to remotely monitor a patient’s health status through the collection and interpretation of clinical data while the patient remains at an originating site. Remote patient monitoring may or may not take place in real time. Remote patient monitoring shall include assessment, observation, education, and virtual visits provided by all covered providers including licensed home health care providers.

II-c. “Store and forward,” as it pertains to telemedicine, means the use of asynchronous electronic communications between a patient at an originating site and a health care service provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients. This includes the forwarding and/or transfer of stored medical data from the originating site to the distant site through the use of any electronic device that records data in its own storage and forwards its data to the distant site via telecommunication for the purpose of diagnostic and therapeutic assistance.

III. "Telemedicine," as it pertains to the delivery of health care services, means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. Telemedicine does not include the use of facsimile.

**415-J:3 Coverage for Telemedicine Services. –**

I. It is the intent of the general court to recognize the application of telemedicine for covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care by which an individual at an originating site shall receive medical services which are clinically appropriate for delivery through telemedicine from a health care provider at a distant site without in-person contact with the provider. For the purposes of this chapter, covered services include remote patient monitoring and store and forward.

II. An insurer offering a health plan in this state may not deny coverage on the sole basis that the coverage is provided through telemedicine if the health care service would be covered if it were provided through in-person consultation between the covered person and a health care provider.

III. An insurer offering a health plan in this state shall provide coverage and reimbursement for health care services provided through telemedicine on the same basis as the insurer provides coverage and reimbursement for health care services provided in person.

IV. An insurer shall provide reasonable compensation to an originating site operated by a health care provider or a licensed health care facility if the health care provider or licensed health care facility is authorized to bill the insurer directly for health care services. In the event of a dispute between a provider and an insurance carrier relative to the reasonable compensation under this section, the insurance commissioner shall have exclusive jurisdiction under RSA 420-J:8-e to determine if the compensation is commercially reasonable. The provider and the insurance carrier shall each make best efforts to resolve any dispute prior to applying to the insurance commissioner for resolution, which shall include presenting to the other party evidence supporting its contention that the compensation level it is proposing is commercially reasonable.

V. The combined amount of reimbursement that a health benefit plan allows for the compensation to the distant site and the originating site shall be the same as the total amount allowed for health care services provided in person.

VI. Nothing in this section shall be construed to prohibit an insurer from paying reasonable compensation to a provider at a distant site in addition to a fee paid to the health care provider.

VII. If an insurer excludes a health care service from its in-person reimbursable service, then comparable services shall not be reimbursable as a telemedicine service.

VIII. An insurer shall not impose on coverage for health care services provided through telemedicine any additional benefit plan limitations to include annual or lifetime dollar maximums on coverage, deductibles, copayments, coinsurance, benefit limitation or maximum benefits that are not equally imposed upon similar services provided in-person.

IX. Nothing in this section shall be construed to allow an insurer to reimburse more for a health care service provided through telemedicine than would have been reimbursed if the health care service was provided in person.

X. There shall be no restriction on eligible originating or distant sites for telehealth services. An originating site means the location of the member at the time the service is being furnished via a telecommunication system. A distant site means the location of the provider at the time the service is being furnished via a telecommunication system.

XI. An insurer shall provide reimbursement for all modes of telehealth, including video and audio, audio-only, or other electronic media provided by medical providers to treat all members for all medically necessary services.

XII. The following medical providers shall be allowed to perform health care services through the use of all modes of telehealth, including video and audio, audio-only, or other electronic media. Medical providers include, but are not limited to:

...

(f) Dentists, under RSA 317-A;

...

XIII. Nothing in this section shall be construed to prohibit an insurer from providing coverage for only those services that are medically necessary and subject to the terms and conditions of the covered person's policy.



## New Jersey

### Requirements and Permissible Practices

#### C.45:1-61 Definitions relative to telemedicine and telehealth.

1. As used in P.L.2017, c.117 (C.45:1-61 et al.):

“Asynchronous store-and-forward” means the acquisition and transmission of images, diagnostics, data, and medical information either to, or from, an originating site or to, or from, the health care provider at a distant site, which allows for the patient to be evaluated without being physically present.

“Cross-coverage service provider” means a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, who engages in a remote medical evaluation of a patient, without in-person contact, at the request of another health care provider who has established a proper provider-patient relationship with the patient.

“Distant site” means a site at which a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, is located while providing health care services by means of telemedicine or telehealth.

“Health care provider” means an individual who provides a health care service to a patient, and includes, but is not limited to, a licensed physician, nurse, nurse practitioner, psychologist, psychiatrist, psychoanalyst, clinical social worker, physician assistant, professional counselor, respiratory therapist, speech pathologist, audiologist, optometrist, or any other health care professional acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes.

“On-call provider” means a licensed or certified health care provider who is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the provider has temporarily assumed responsibility, as designated by the patient’s primary care provider or other health care provider of record.

“Originating site” means a site at which a patient is located at the time that health care services are provided to the patient by means of telemedicine or telehealth.

“Telehealth” means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

“Telemedicine” means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care provider who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening health care provider, and in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.). “Telemedicine” does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

“Telemedicine or telehealth organization” means a corporation, sole proprietorship, partnership, or limited liability company that is organized for the primary purpose of administering services in the furtherance of telemedicine or telehealth.

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C.45:1-62 Provision of health care through use of telemedicine, telehealth; requirements for provider.

2. a. Unless specifically prohibited or limited by federal or State law, a health care provider who establishes a proper provider-patient relationship with a patient may remotely provide health care services to a patient through the use of telemedicine. A health care provider may also engage in telehealth as may be necessary to support and facilitate the provision of health care services to patients.

b. Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey; (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided.

c. (1) Telemedicine services shall be provided using interactive, real-time, two-way communication technologies.

(2) A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient's medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person.

(3) The identity, professional credentials, and contact information of a health care provider providing telemedicine or telehealth services shall be made available to the patient during and after the provision of services. The contact information shall enable the patient to contact the health care provider, or a substitute health care provider authorized to act on behalf of the provider who provided services, for at least 72 hours following the provision of services.

(4) A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient's medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.

(5) Following the provision of services using telemedicine or telehealth, the patient's medical information shall be made available to the patient upon the patient's request, and, with the patient's affirmative consent, forwarded directly to the patient's primary care provider or health care provider of record, or, upon request by the patient, to other health care providers. For patients without a primary care provider or other health care provider of record, the health care provider engaging in telemedicine or telehealth may advise the patient to contact a primary care provider, and, upon request by the patient, assist the patient with locating a primary care provider or other in-person medical assistance that, to the extent possible, is located within reasonable proximity to the

patient. The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up care where necessary, including making appropriate referrals for emergency or complimentary care, if needed. Consent may be oral, written, or digital in nature, provided that the chosen method of consent is deemed appropriate under the standard of care.

d. (1) Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care.

(2) Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider-patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online questionnaire.

e. The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian.

...

g. A health care provider who engages in telemedicine or telehealth, as authorized by P.L.2017, c.117 (C.45:1-61 et al.), shall maintain a complete record of the patient's care, and shall comply with all applicable State and federal statutes and regulations for recordkeeping, confidentiality, and disclosure of the patient's medical record.

h. A health care provider shall not be subject to any professional disciplinary action under Title 45 of the Revised Statutes solely on the basis that the provider engaged in telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.).

i. (1) In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the State boards or other entities that, pursuant to Title 45 of the Revised Statutes, are responsible for the licensure, certification, or registration of health care providers in the State, shall each adopt rules and regulations that are applicable to the health care providers under their respective jurisdictions, as may be necessary to implement the provisions of this section and facilitate the provision of telemedicine and telehealth services. Such rules and regulations shall, at a minimum:

(a) include best practices for the professional engagement in telemedicine and telehealth;

(b) ensure that the services patients receive using telemedicine or telehealth are appropriate, medically necessary, and meet current quality of care standards;

(c) include measures to prevent fraud and abuse in connection with the use of telemedicine and telehealth, including requirements concerning the filing of claims and maintaining appropriate records of services provided; and

(d) provide substantially similar metrics for evaluating quality of care and patient outcomes in connection with services provided using telemedicine and telehealth as currently apply to services provided in person.

(2) In no case shall the rules and regulations adopted pursuant to paragraph (1) of this subsection require a provider to conduct an initial in-person visit with the patient as a condition of providing services using telemedicine or telehealth.

(3) The failure of any licensing board to adopt rules and regulations pursuant to this subsection shall not have the effect of delaying the implementation of this act, and shall not prevent health care providers from engaging in telemedicine or telehealth in accordance with the provisions of this act and the practice act applicable to the provider's professional licensure, certification, or registration.

#### C.45:1-63 Establishment of proper provider-patient relationship; exceptions.

3. a. Any health care provider who engages in telemedicine or telehealth shall ensure that a proper provider-patient relationship is established. The establishment of a proper provider-patient relationship shall include, but shall not be limited to:

(1) properly identifying the patient using, at a minimum, the patient's name, date of birth, phone number, and address. When properly identifying the patient, the provider may additionally use the patient's assigned identification number, social security number, photo, health insurance policy number, or other appropriate patient identifier associated directly with the patient;

(2) disclosing and validating the provider's identity and credentials, such as the provider's license, title, and, if applicable, specialty and board certifications;

(3) prior to initiating contact with a patient in an initial encounter for the purpose of providing services to the patient using telemedicine or telehealth, reviewing the patient's medical history and any available medical records; and

(4) prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, determining whether the provider will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in person. The provider shall make this determination prior to each unique patient encounter.

b. Telemedicine or telehealth may be practiced without a proper provider-patient relationship, as defined in subsection a. of this section, in the following circumstances:

(1) during informal consultations performed by a health care provider outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;

(2) during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a properly licensed or certified health care provider in this State;

(3) when a health care provider furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or

(4) when a substitute health care provider, who is acting on behalf of an absent health care provider in the same specialty, provides health care services on an on-call or

cross-coverage basis, provided that the absent health care provider has designated the substitute provider as an on-call provider or cross-coverage service provider.

#### C.45:1-64 Annual registration, report.

4. a. Each telemedicine or telehealth organization operating in the State shall annually register with the Department of Health.

b. Each telemedicine or telehealth organization operating in the State shall submit an annual report to the Department of Health in a manner as determined by the commissioner. The annual report shall include de-identified encounter data including, but not limited to: the total number of telemedicine and telehealth encounters conducted; the type of technology utilized to provide services using telemedicine or telehealth; the category of medical condition for which services were sought; the geographic region of the patient and the provider; the patient's age and sex; and any prescriptions issued. The commissioner may require the reporting of any additional information as the commissioner deems necessary and appropriate, subject to all applicable State and federal laws, rules, and regulations for recordkeeping and privacy. Commencing six months after the effective date of P.L.2017, c.117 (C.45:1-61 et al.), telemedicine and telehealth organizations shall include in the annual report, for each telemedicine or telehealth encounter: the patient's race and ethnicity; the diagnostic codes; the evaluation management codes; and the source of payment for the encounter.

c. The Department of Health shall compile the information provided in the reports submitted by telemedicine and telehealth organizations pursuant to subsection b. of this section to generate Statewide data concerning telemedicine and telehealth services provided in the State. The department shall annually share the Statewide data with the Department of Human Services, the Department of Banking and Insurance, the Telemedicine and Telehealth Review Commission established pursuant to section 5 of P.L.2017, c.117 (C.45:1-65), State boards and other entities that, under Title 45 of the Revised Statutes, are responsible for the professional licensure, certification, or registration of health care providers in the State who provide health care services using telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.), and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1). The department shall also transmit a report to the Legislature and the Telemedicine and Telehealth Review Commission that includes: an analysis of each rule and regulation adopted pursuant to subsection i. of section 2 of P.L.2017, c.117 (C.45:1-62) by a State board or other entity responsible for the professional licensure, certification, or registration of health care providers in the State who provide health care services using telemedicine or telehealth; and an assessment of the effect that telemedicine and telehealth is having on health care delivery, health care outcomes, population health, and in-person health care services provided in facility-based and office-based settings.

d. A telemedicine or telehealth organization that fails to register with the Department of Health pursuant to subsection a. of this section or that fails to submit the annual report required pursuant to subsection b. of this section shall be liable to such disciplinary actions as the Commissioner of Health may prescribe by regulation.

#### C.45:1-65 Telemedicine and Telehealth Review Commission.

5. a. Six months after the effective date of P.L.2017, c.117 (C.45:1-61 et al.), there shall be established in the Department of Health the Telemedicine and Telehealth Review Commission, which shall review the information reported by telemedicine and telehealth organizations pursuant to subsection b. of section 4 of P.L.2017, c.117 (C.45:1-64) and make recommendations

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for such executive, legislative, regulatory, administrative, and other actions as may be necessary and appropriate to promote and improve the quality, efficiency, and effectiveness of telemedicine and telehealth services provided in this State.

b. The commission shall consist of seven members, as follows: the Commissioner of Health, or a designee, who shall serve ex officio, and six public members, with two members each to be appointed by the Governor, the Senate President, and the Speaker of the General Assembly. The public members shall be health care professionals with a background in the provision of health care services using telemedicine and telehealth. The public members shall serve at the pleasure of the appointing authority, and vacancies in the membership shall be filled in the same manner as the original appointments.

c. Members of the commission shall serve without compensation but may be reimbursed for necessary travel expenses incurred in the performance of their duties within the limits of funds made available for that purpose.

d. The members shall select a chairperson and a vice chairperson from among the members. The chairperson may appoint a secretary, who need not be a member of the commission. The Department of Health shall provide staff and administrative support to the commission.

e. The commission shall meet at least twice a year and at such other times as the chairperson may require. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available for its purposes.

f. The commission shall report its findings and recommendations to the Governor, the Commissioner of Health, the State boards or other entities that, pursuant to Title 45 of the Revised Statutes, are responsible for the licensure, certification, or registration of health care providers in the State who provide health care services using telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.), and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature no later than two years after the date the commission first meets. The commission shall expire upon submission of its report.

#### C.45:1-66 Severability.

6. If any provision of P.L.2017, c.117 (C.45:1-61 et al.) or its application to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or application of P.L.2017, c.117 (C.45:1-61 et al.) which can be given effect without the invalid provision or application, and, to this end, the provisions of P.L.2017, c.117 (C.45:1-61 et al.) are severable.

### Medicaid Reimbursement

#### C.30:4D-6k State Medicaid, NJ FamilyCare programs to provide coverage, payment

7. a. The State Medicaid and NJ FamilyCare programs shall provide coverage and payment for health care services delivered to a benefits recipient through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. The State Medicaid and NJ FamilyCare programs may limit coverage to services that are delivered by participating health care providers, but may not charge any deductible,

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copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation.

c. Nothing in this section shall be construed to:

(l) prohibit the State Medicaid or NJ FamilyCare programs from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the recipient's benefits plan; or

(2) allow the State Medicaid or NJ FamilyCare programs to require a benefits recipient to use telemedicine or telehealth in lieu of obtaining an in-person service from a participating health care provider.

d. The Commissioner of Human Services, in consultation with the Commissioner of Children and Families, shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this section and to secure federal financial participation for State expenditures under the federal Medicaid program and Children's Health Insurance Program.

e. As used in this section:

"Benefits recipient" or "recipient" means a person who is eligible for, and who is receiving, hospital or medical benefits under the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), or under the NJ FamilyCare program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as appropriate.

"Participating health care provider" means a licensed or certified health care provider who is registered to provide health care services to benefits recipients under the State Medicaid or NJ FamilyCare programs, as appropriate.

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

### Private Payer Reimbursement

#### C.26:2S-29 Carrier offering a health benefits plan to provide coverage, payment.

8. a. A carrier that offers a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A carrier may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation.

c. Nothing in this section shall be construed to:

(1) prohibit a carrier from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow a carrier to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The Commissioner of Banking and Insurance shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Carrier" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Covered person" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Health benefits plan" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

#### C.52:14-17.29w State Health Benefits Commission to provide coverage, payment.

9. a. The State Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A health benefits contract purchased by the State Health Benefits Commission may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation.

c. Nothing in this section shall be construed to:

(1) prohibit a health benefits contract from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow the State Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The State Health Benefits Commission shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).



C.52:14-17.46.6h School Employees Health Benefits Commission to provide coverage, payment.

10. a. The School Employees' Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A health benefits contract purchased by the School Employees' Health Benefits Commission may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation.

c. Nothing in this section shall be construed to:

(1) prohibit a health benefits contract from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow the School Employees' Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The School Employees' Health Benefits Commission shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

11. This act shall take effect immediately, and section 5 of this act shall expire upon submission of the commission's report.

## New Mexico

### Requirements and Permissible Practices

#### NMSA Section 61-5A-3 Definitions.

...

AA. "teledentistry" means a dentist's, dental hygienist's or dental therapist's use of electronic information, imaging and communication technologies, including interactive audio, video and data communications as well as store-and-forward technologies, to provide and support dental health care delivery, diagnosis, consultation, treatment, transfer of dental data and education." (Editorial Note: SB 200 also clarifies that dentists and dental hygienists who practice teledentistry are subject to disciplinary proceedings established by Section 61-5A-21 NMSA).

...

#### NMSA 61-5A-4. Scope of practice

A. As used in the Dental Health Care Act, "practice of dentistry" means:

...

(5) with specific reference to the teeth, gingivae, jaws or adjacent hard or soft tissues of the oral and maxillofacial region in living persons, to propose, agree or attempt to do or make an examination or give an estimate of cost with intent to, or undertaking to:

...

(j) provide limited diagnostic and treatment planning via teledentistry; or

...

#### NMSA 61-5A-21. Disciplinary proceedings; application of uniform licensing act

...

F. A dentist, dental hygienist or dental therapist practicing teledentistry is subject to the provisions of this section.

### ARTICLE 25

#### New Mexico Telehealth Act

##### **24-25-1. Short title.**

Chapter [24](#), Article [25](#) NMSA 1978 may be cited as the "New Mexico Telehealth Act".

##### **24-25-2. Findings and purpose.**

A. The legislature finds that:

- (1) lack of primary care, specialty providers and transportation continue to be significant barriers to access to health services in medically underserved rural areas;
- (2) there are parts of this state where it is difficult to attract and retain health professionals, as well as to support local health facilities in providing a continuum of health care;
- (3) many health care providers in medically underserved areas are isolated from mentors and colleagues and from the information resources necessary to support them personally and professionally;
- (4) using information technology to deliver medical services and information from one location to another is part of a multifaceted approach to address the problems of provider distribution and the development of health systems in medically underserved areas by improving communication capabilities and providing convenient access to up-to-date information, consultations and other forms of support;

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(5) the use of telecommunications to deliver health services has the potential to reduce costs, improve quality, change the conditions of practice and improve access to health care in rural, medically underserved areas; and

(6) telehealth will assist in maintaining or improving the physical and economic health of medically underserved communities by keeping the source of general health, behavioral health and oral health care in the local area, strengthening the health infrastructure and preserving health-care-related jobs.

B. The purpose of the New Mexico Telehealth Act is to provide a framework for health care providers to follow in providing telehealth services to New Mexico citizens in a manner that provides efficient and effective access to quality health services. Telehealth services include consultations, direct patient care and education for health care professionals, support personnel, students, families, patients and other consumers of health care services.

### **24-25-3. Definitions.**

As used in the New Mexico Telehealth Act:

A. "health care provider" means a person licensed to provide health care to patients in New Mexico, including:

...

(3) a dentist;

...

(18) a dental hygienist;

...

B. "originating site" means a place where a patient may receive health care via telehealth. An originating site may include:

(1) a licensed inpatient center;

(2) an ambulatory surgical or treatment center;

(3) a skilled nursing center;

(4) a residential treatment center;

(5) a home health agency;

(6) a diagnostic laboratory or imaging center;

(7) an assisted living center;

(8) a school-based health program;

(9) a mobile clinic;

(10) a mental health clinic;

(11) a rehabilitation or other therapeutic health setting;

(12) the patient's residence;

(13) a federally qualified health center; or

(14) a community health center; and

C. "telehealth" means the use of electronic information, imaging and communication technologies, including interactive audio, video, data communications as well as store-and-forward technologies, to provide and support health care delivery, diagnosis, consultation, treatment, transfer of medical data and education.

### **24-25-4. Telehealth authorized; procedure.**

The delivery of health care via telehealth is recognized and encouraged as a safe, practical and necessary practice in New Mexico. No health care provider or operator of an originating site shall be disciplined for or discouraged from participating in telehealth pursuant to the New Mexico Telehealth Act. In using telehealth procedures, health care providers and operators of

originating sites shall comply with all applicable federal and state guidelines and shall follow established federal and state rules regarding security, confidentiality and privacy protections for health care information.

#### 24-25-5. Scope of act.

A. The New Mexico Telehealth Act does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

B. Because the use of telehealth improves access to quality health care and will generally benefit the citizens of New Mexico, health insurers, health maintenance organizations, managed care organizations and third-party payors offering services to the citizens of New Mexico are encouraged to use and provide coverage for telehealth within the scope of their plans or policies. The state's medical assistance program is also encouraged to include telehealth within the scope of its plan or policy.

#### [New Mexico Administrative Code 16.5.1.7](#)

...

**FF. "Teledentistry"** means a dentist's use of health information technology in real time to provide limited diagnostic treatment planning services in cooperation with another dentist, a dental hygienist, a community health coordinator, dental therapist or a student enrolled in a program of study to become a dental assistant, dental hygienist, dental therapist or dentist.

### Medicaid Reimbursement

New Mexico Administrative Code  
TITLE 8 SOCIAL SERVICES  
CHAPTER 308 MANAGED CARE PROGRAM  
PART 9 BENEFIT PACKAGE

[8.308.9.18](#) **TELEMEDICINE SERVICES:** The benefit package includes telemedicine services as detailed in 8.310.2 NMAC.

- A. The MCO must:
- (1) promote and employ broad-based utilization of statewide access to Health Insurance Portability and Accountability Act (HIPAA)-compliant telemedicine service systems including, but not limited to, access to text telephones or teletype (TTYs) and 711 telecommunication relay services;
  - (2) follow state guidelines for telemedicine equipment or connectivity;
  - (3) follow accepted HIPAA and 42 CFR part two regulations that affect telemedicine transmission, including but not limited to staff and contract provider training, room setup, security of transmission lines, etc; the MCO shall have and implement policies and procedures that follow all federal and state security and procedure guidelines;
  - (4) identify, develop, and implement training for accepted telemedicine practices;
  - (5) participate in the needs assessment of the organizational, developmental, and programmatic requirements of telemedicine programs;
  - (6) report to HSD on the telemedicine outcomes of telemedicine projects and submit the telemedicine report; and

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(7) ensure that telemedicine services meet the following shared values, which are ensuring: competent care with regard to culture and language needs; work sites are distributed across the state, including native American sites for both clinical and educational purposes; and coordination of telemedicine and technical functions at either end of network connection.

**B.** The MCO shall participate in project extension for community healthcare outcomes (ECHO), in accordance with state prescribed requirements and standards, and shall:

(1) work collaboratively with HSD, the university of New Mexico, and providers on project ECHO;

(2) identify high needs, high cost members who may benefit from project ECHO participation;

(3) identify its PCPs who serve high needs, high cost members to participate in project ECHO;

(4) assist project ECHO with engaging its MCO PCPs in project ECHO's center for medicare and medicaid innovation (CMMI) grant project;

(5) reimburse primary care clinics for participating in the project ECHO model;

(6) reimburse "intensivist" teams;

(7) provide claims data to HSD to support the evaluation of project ECHO;

(8) appoint a centralized liaison to obtain prior authorization approvals related to project ECHO; and

(9) track quality of care and outcome measures related to project ECHO.

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 309 ALTERNATIVE BENEFIT PROGRAM**  
**PART 4 MAD ADMINISTERED BENEFITS AND LIMITATION OF SERVICES**

**8.309.4.16 TELEMEDICINE SERVICES:** The benefit package includes telemedicine services as detailed in 8.310.2 NMAC.

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 310 HEALTH CARE PROFESSIONAL SERVICES**  
**PART 2 GENERAL BENEFIT DESCRIPTION**

**8.310.2.12 SERVICES:** MAD covers services and procedures that are medically necessary for the diagnosis and treatment of an illness or injury as indicated by the MAP eligible recipient's condition. All services must be furnished within the limits of provider program rules and within the scope of their practice board and licensure.

...

**M. Telemedicine services:**

(1) The telemedicine originating-site is the location of a MAP eligible recipient at the time the service is being furnished via an interactive telemedicine communications system. The origination-site can be any medically warranted site. An interactive telemedicine communication system must include both interactive audio and video and be delivered on a real-time basis at the originating and distant-sites. Coverage for services rendered through telemedicine shall be determined in a manner consistent with Medicaid coverage for health

care services provided through in person consultation. For telemedicine services, when the originating-site is in New Mexico and the distant-site (consulting telemedicine provider) is outside New Mexico, the provider at the distant-site must be licensed for telemedicine to the extent required by New Mexico state law and regulations or meet federal requirements for providing services to IHS facilities or tribal contract facilities. Provision of telemedicine services does not require that a certified medicaid healthcare provider be physically present with the patient at the originating site unless the telemedicine consultant at the distant site deems it necessary.

(2) The distant-site is the location where the consulting telemedicine provider is physically located at time of the telemedicine service. All services are covered to the same extent the service and the provider are covered when not provided through telemedicine. For these services, use of the telemedicine communications system fulfills the requirement for a face-to-face encounter.

(3) MAD will reimburse for services delivered through store-and forward. To be eligible for payment under store-and-forward, the service must be provided through the transference of digital images, sounds, or previously recorded video from one location to another; to allow a consulting provider to obtain information, analyze it, and report back to the referring physician providing the telemedicine consultation. Store-and-forward telemedicine includes encounters that do not occur in real time (asynchronous) and are consultations that do not require a face-to-face live encounter between patient and telemedicine provider.

(4) Telemedicine providers: Reimbursement for professional services at the originating-site and the distant-site are made at the same rate as when the services provided are furnished without the use of a telecommunication system. In addition, reimbursement is made to the originating-site for an interactive telemedicine system fee at the lesser of the provider's billed charge; or the maximum allowed by MAD for the specific service or procedure.

(5) A telemedicine originating-site communication system fee is covered if the MAP eligible recipient was present at and participated in the telemedicine visit at the originating-site and the system in use meets the definition of a telemedicine system.

(6) Noncovered telemedicine services: A service provided through telemedicine is subject to the same program restrictions, limitations and coverage which exist for the service when not provided through telemedicine.

...

**TITLE 8            SOCIAL SERVICES**  
**CHAPTER 310    HEALTH CARE PROFESSIONAL SERVICES**  
**PART 12            INDIAN HEALTH SERVICE AND TRIBAL 638 FACILITIES**

**8.310.12.12 - COVERED SERVICES**

...

**C.            Services not subject to office of management and budget (OMB) codes or rates:**  
Some services are covered by MAD when occurring within an IHS or a tribal facility but are not included or billed at the OMB rate. These services are covered to the extent described under applicable rules for the service, and include:

...

(8)            telemedicine's originating site facility fee; a telemedicine originating site fee is covered when the requirements of 8.310.2 NMAC are met; both the originating and distant sites may be IHS or tribal facilities at two different locations or if the distant site is under contract to the IHS or tribal facility and would qualify to be an enrolled provider; a telemedicine originating site fee is not payable if the telemedicine technology is used to connect an

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employee or staff member of a facility to the eligible recipient being seen at the same facility; however, even if the service does not qualify for a telemedicine originating site fee, the use of telemedicine technology may be appropriate thereby allowing the service provided to meet the standards to qualify as an encounter by providing the equivalent of face-to-face contact.

...

TITLE 8 SOCIAL SERVICES  
CHAPTER 320 EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT)  
SERVICES  
PART 6 SCHOOL-BASED SERVICES FOR MAP ELIGIBLE RECIPIENTS UNDER  
TWENTY-ONE YEARS OF AGE  
8.320.6.13 COVERED SERVICES:

...

I. **Telemedicine services:** MAD covers school-based services provided via telemedicine; see 8.310.2 NMAC.

...

### Private Payer Reimbursement

#### NMSA 59A-22-49.3. Coverage for telemedicine services.

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for services provided via telemedicine to the same extent that the health insurance plan, policy or contract covers the same services when those services are provided via in-person consultation or contact. An insurer shall not impose any unique condition for coverage of services provided via telemedicine.

B. An insurer shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by an insurer that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act [Chapter [59A](#), Article [57](#) NMSA 1978].

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. An insurer shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the health insurance plan, policy or contract provider network where no in-network provider is available and accessible, as availability and accessibility are defined in network adequacy standards issued by the superintendent.

G. An insurer may charge a deductible, copayment, or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. An insurer shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the health insurance plan, policy or contract, or impose upon any person receiving benefits pursuant to this section any copayment,

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coinsurance or deductible amounts, or any plan, policy or contract year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the health insurance plan, policy or contract.

I. An insurer shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the insurer reimburses for comparable services delivered via in-person consultation or contact.

J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

K. The provisions of this section shall not apply to an individual policy, plan or contract intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

L. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a distance. "Telemedicine" allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located, along with the use of electronic media and health information. "Telemedicine" allows patients in remote locations to access medical expertise without travel.

## New Mexico Administrative Code

### TITLE 13 INSURANCE

#### CHAPTER 10 HEALTH INSURANCE

##### PART 34 STANDARDS FOR ACCIDENT ONLY, SPECIFIED DISEASE OR ILLNESS, HOSPITAL INDEMNITY, AND RELATED EXCEPTED BENEFITS

#### 13.10.34.8 PROHIBITED PLAN PROVISIONS:

...

K. **Telemedicine services.** A plan shall pay a benefit to a covered person for eligible telemedicine or otherwise covered services, but shall not offer a benefit for a telemedicine service provided through a contracted provider.

...

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## New York

### Requirements, Permissible Practices and Medicaid Reimbursement

#### Public Health Law

#### Chapter 45. Of the Consolidated Laws

#### Article 29-G. Telehealth Delivery of Services

#### McKinney's Public Health Law § 2999-cc

#### [§ 2999-cc. Definitions](#)

As used in this article, the following terms shall have the following meanings:

1. "Distant site" means a site at which a telehealth provider is located while delivering health care services by means of telehealth. Any site within the United States or United States' territories is eligible to be a distant site for delivery and payment purposes.
2. "Telehealth provider" means:
  - ...
  - (c) a dentist licensed pursuant to article one hundred thirty-three of the education law;
  - ...
  - (y) any other provider as determined by the commissioner pursuant to regulation or, in consultation with the commissioner, by the commissioner of the office of mental health, the commissioner of the office of addiction services and supports, or the commissioner of the office for people with developmental disabilities pursuant to regulation.
3. "Originating site" means a site at which a patient is located at the time health care services are delivered to him or her by means of telehealth.
4. "Telehealth" means the use of electronic information and communication technologies by telehealth providers to deliver health care services, which shall include the assessment, diagnosis, consultation, treatment, education, care management and/or self-management of a patient. Telehealth shall not include delivery of health care services by means of facsimile machines, or electronic messaging alone, though use of these technologies is not precluded if used in conjunction with telemedicine, store and forward technology, or remote patient monitoring. For purposes of this section, telehealth shall be limited to telemedicine, store and forward technology, remote patient monitoring and audio-only telephone communication, except that with respect to the medical assistance program established under section three hundred sixty-six of the social services law, and the child health insurance plan under title one-A of article twenty-five of this chapter, telehealth shall include audio-only telephone communication only to the extent defined in regulations as may be promulgated by the commissioner. This subdivision shall not preclude the delivery of health care services by means of "home telehealth" as used in section thirty-six hundred fourteen of this chapter.
5. "Telemedicine" means the use of synchronous, two-way electronic audio-visual communications to deliver clinical health care services, which shall include the assessment, diagnosis, and treatment of a patient, while such patient is at the originating site and a telehealth provider is at a distant site.
6. "Store and forward technology" means the asynchronous, electronic transmission of a patient's health information in the form of patient-specific digital images and/or pre-recorded videos from a provider at an originating site to a telehealth provider at a distant site.
7. "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technologies to collect personal health information and medical data from a patient at an originating site that is transmitted to a telehealth provider at a

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distant site for use in the treatment and management of medical conditions that require frequent monitoring. Such technologies may include additional interaction triggered by previous transmissions, such as interactive queries conducted through communication technologies or by telephone. Such conditions shall include, but not be limited to, congestive heart failure, diabetes, chronic obstructive pulmonary disease, wound care, polypharmacy, mental or behavioral problems, and technology-dependent care such as continuous oxygen, ventilator care, total parenteral nutrition or enteral feeding. Remote patient monitoring shall be ordered by a physician licensed pursuant to article one hundred thirty-one of the education law, a nurse practitioner licensed pursuant to article one hundred thirty-nine of the education law, or a midwife licensed pursuant to article one hundred forty of the education law, with which the patient has a substantial and ongoing relationship.

**McKinney's Public Health Law § 2999-dd**  
[§ 2999-dd. Telehealth delivery of services](#)

1. Health care services delivered by means of telehealth shall be entitled to reimbursement under section three hundred sixty-seven-u of the social services law; provided however, reimbursement for additional modalities, provider categories and originating sites specified in accordance with section twenty-nine hundred ninety-nine-ee of this article, and audio-only telephone communication defined in regulations promulgated pursuant to subdivision four of section twenty-nine hundred ninety-nine-cc of this article, shall be contingent upon federal financial participation.
2. The department of health, the office of mental health, the office of alcoholism and substance abuse services, and the office for people with developmental disabilities shall coordinate on the issuance of a single guidance document, to be updated as appropriate, that shall: (a) identify any differences in regulations or policies issued by the agencies, including with respect to reimbursement pursuant to section three hundred sixty-seven-u of the social services law; and (b) be designed to assist consumers, providers, and health plans in understanding and facilitating the appropriate use of telehealth in addressing barriers to care.
3. (a) Dental telehealth services shall adhere to the standards of appropriate patient care required in other dental health care settings, including but not limited to appropriate patient examination, taking of x-rays, and review of a patient's medical and dental history. All dental telehealth providers shall identify themselves to patients, including providing the professional's New York state license number. No dental telehealth provider shall attempt to waive liability for its telehealth services in advance of delivering such telehealth services and no dental telehealth provider shall attempt to prevent a patient from filing any complaint with any governmental agency or authority.  
(b) This subdivision shall not be construed to diminish requirements for other telehealth services.
4. Nothing in this article shall be deemed to allow any person to provide any service for which a license, registration, certification or other authorization under title eight of the education law is required and which the person does not possess.

**McKinney's Public Health Law § 2999-ee**  
[§ 2999-ee. Telehealth delivery of services](#)

§ 2999-ee. Increased application of telehealth. In order to increase the application of telehealth in behavioral health, oral health, maternity care, care management, services provided in

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emergency departments, and services provided to certain high-need populations to the extent such services are deemed appropriate for the populations served, and notwithstanding the definitions set forth in section twenty-nine hundred ninety-nine-cc of this article, in consultation with the commissioner of the office of children and family services, the commissioner of the office of mental health, the commissioner of the office of addiction services and supports, or the commissioner of the office for people with developmental disabilities, as applicable, the commissioner may specify in regulation additional acceptable modalities for the delivery of health care services via telehealth, including but not limited to audio-only or video-only telephone communications, online portals and survey applications, and may specify additional categories of originating sites at which a patient may be located at the time health care services are delivered to the extent such additional modalities and originating sites are deemed appropriate for the populations served.

### Private Payer Reimbursement

#### **McKinney's Insurance Law § 4306-g** [§ 4306-g. Telehealth delivery of services](#)

(a) A corporation shall not exclude from coverage a service that is otherwise covered under a contract that provides comprehensive coverage for hospital, medical or surgical care because the service is delivered via telehealth, as that term is defined in subsection (b) of this section; provided, however, that a corporation may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the contract. A corporation may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. A corporation may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

(b) For purposes of this section, "telehealth" means the use of electronic information and communication technologies by a health care provider to deliver health care services to an insured individual while such individual is located at a site that is different from the site where the health care provider is located.

#### **McKinney's Insurance Law § 3217-h** [§ 3217-h. Telehealth delivery of services](#)

(a) An insurer shall not exclude from coverage a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care because the service is delivered via telehealth, as that term is defined in subsection (b) of this section; provided, however, that an insurer may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the policy. An insurer may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. An insurer may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

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*New York, continued*

(b) For purposes of this section, “telehealth” means the use of electronic information and communication technologies by a health care provider to deliver health care services to an insured individual while such individual is located at a site that is different from the site where the health care provider is located.

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## North Carolina

### Requirements and Permissible Practices

#### § 90-29. Necessity for license; dentistry defined; exemptions as amended by SB 146

...

(b) A person shall be deemed to be practicing dentistry in this State who does, undertakes or attempts to do, or claims the ability to do any one or more of the following acts or things which, for the purposes of this Article, constitute the practice of dentistry:

...

(6) Administers an anesthetic of any kind in the treatment of dental or oral diseases or physical conditions, or in preparation for or incident to any operation within the oral cavity; provided, however, that this subsection shall not apply to a lawfully qualified nurse anesthetist who administers such anesthetic under the supervision and direction of a licensed dentist or physician; physician, or to a registered dental hygienist qualified to administer local anesthetics.

...

(11) Owns, manages, supervises, controls or conducts, either himself, by and through another person or other persons, or by use of any electronic or other digital means, any enterprise wherein any one or more of the acts or practices set forth in subdivisions (1) through (10) above are done, attempted to be done, or represented to be done.

#### § 90-30.2. Teledentistry practice; definitions; requirements as added by SB 146

(a) The following definitions apply in this section:

(1) Authorized person.—An appropriate person with legal authority to make the health care treatment decision for a patient.

(2) Licensed dental hygienist.—An individual who holds a valid license to practice dental hygiene duly issued by the North Carolina Board of Dental Examiners in accordance with Article 16 of this Chapter.

(3) Licensed dentist.—A person who holds a valid license to practice dentistry duly issued by the North Carolina Board of Dental Examiners in accordance with this Article.

(4) Licensee.—A person who is a licensed dental hygienist or licensed dentist in this State.

(5) Practice of teledentistry.—The provision of dental services by use of any electronic or other digital means, as authorized in G.S. 90-29(b)(11) and provided for in subsection (b) of this section.

(6) Supervision.—Acts are deemed to be under the supervision of a licensed dentist when performed pursuant to the licensed dentist's order, control, and approval and do not require the physical presence of the licensed dentist.

(b) Practice of Teledentistry Requirements.—For the purposes of this Article, the practice of teledentistry includes any of the following:

(1) Delivery of service.—Teledentistry services may be delivered by a licensed dentist or a licensed dental hygienist who is under the supervision of a licensed dentist. Licensees shall comply with all rules of professional conduct and applicable State and federal law relevant to licensed dentists and licensed dental hygienists when delivering teledentistry services.

(2) Encounter location.—The location of service is determined at the time teledentistry services are initiated, as follows:

a. When the service is between patient and provider, the location of the patient is the originating site, and the location of the provider is the distant site.

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- b. When the service is between providers, conducted for the purposes of consultation, the location of the provider initiating the consult is the originating site, and the location of the consulting provider is the distant site.
- (3) Data.—Any licensee, patient, or authorized person may transmit data, electronic images, and related information as appropriate to provide teledentistry services to a patient.
- (4) Patient care.—A licensee using teledentistry services in the provision of dental services to a patient shall take appropriate steps to establish the licensee-patient relationship, conduct all appropriate evaluations and history of the patient, and provide access to comprehensive dental care where clinically indicated.
- (5) Evaluations.—Notwithstanding any provision of law to the contrary, patient evaluations may be conducted by a licensed dentist using teledentistry modalities.
- (c) Informed Consent.—A licensee who provides or facilitates the use of teledentistry shall ensure that the informed consent of the patient or authorized person is obtained before services are provided through teledentistry. All informed consents shall be included in the patient’s dental records. To obtain an informed consent, the licensee shall do all of the following:
- (1) Confirm the identity of the requesting patient.
  - (2) Verify and authenticate the patient’s health history.
  - (3) Disclose the licensee’s identity, applicable credentials, and contact information, including a current phone number and mailing address of the licensee’s practice.
  - (4) Obtain an appropriate informed consent from the requesting patient after disclosures have been made regarding the delivery models and treatment methods and limitations, including any special informed consents regarding the use of teledentistry services.
  - (5) In addition to other areas that must be discussed in traditional in-person dental encounters with a patient before treatment, the informed consent shall inform the patient or authorized person and document acknowledgment of the risk and limitations of all of the following:
    - a. The use of electronic communications in the provision of care.
    - b. The potential for breach of confidentiality, or inadvertent access of protected health information using electronic and digital communication in the use of teledentistry.
    - c. The types of activities permitted using teledentistry services.
  - (6) Inform the patient or authorized person that it is the role of the licensed dentist to determine whether the condition being diagnosed or treated is appropriate for a teledentistry encounter.
  - (7) Obtain written consent from the patient or authorized person to forward patient-identifiable information to a third party.
  - (8) Provide the patient and authorized person with contact information for the North Carolina State Board of Dental Examiners and a description of, or link to, the patient complaint process.
- (d) Confidentiality.—The licensee shall ensure that any electronic and digital communication used in the practice of teledentistry is secure to maintain confidentiality of the patient’s medical information as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all other applicable laws and administrative regulations. Patients receiving services through teledentistry under this section are entitled to protection of their medical information no less stringent than the requirements that apply to patients receiving in-person services.
- (e) Patient Dental Records.—Records of teledentistry services provided to a patient or authorized person shall be held to the same record retention standards as records of traditional in-person dental encounters. A patient record established during the use of teledentistry

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services shall be accessible to both the licensee and the patient or authorized person, consistent with all established State and federal laws and regulations governing patient health care records. In addition to other areas that must be included in traditional in-person dental encounters, the licensee shall document or record in the patient dental record all of the following:

- (1) The patient's presenting problem.
- (2) The patient's diagnosis.
- (3) The patient's treatment plan.
- (4) A description of all services that were provided through teledentistry.

(f) Prescribing.—The indication, appropriateness, and safety considerations for each prescription for medication, laboratory services, or dental laboratory services provided through the use of teledentistry shall be evaluated by the licensed dentist in accordance with applicable law and current standards of care, including those for appropriate documentation. A licensed dentist's use of teledentistry carries the same professional accountability as a prescription issued in connection with an in-person encounter. A licensed dentist who prescribes any type of analgesic or pain medication as part of the provision of teledentistry services shall comply with all applicable North Carolina Controlled Substance Reporting System requirements.

**§ 90–41. Disciplinary action, as amended by SB 146**

(a) The North Carolina State Board of Dental Examiners shall have the power and authority to (i) Refuse to issue a license to practice dentistry; (ii) Refuse to issue a certificate of renewal of a license to practice dentistry; (iii) Revoke or suspend a license to practice dentistry; and (iv) Invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper;

in any instance or instances in which the Board is satisfied that such applicant or licensee:

...

- (27) Has allowed fee-splitting for the use of teledentistry services; or
- (28) Has limited, in any way, a patient's right or ability to raise grievances or file complaints with any appropriate oversight body, including the North Carolina State Board of Dental Examiners, the North Carolina Department of Justice, Division of Medicaid Investigations, and the North Carolina Department of Health and Human Services, Division of Health Benefits, Office of Compliance and Program Integrity.

# North Dakota

## Permitted Practices and Requirements

North Dakota Century Code  
CHAPTER 43-28  
DENTISTS  
[As amended by HB 1151](#)

43-28-01. Definitions.

As used in this chapter and chapter 43-20, unless the context otherwise requires:

...

8. "Telehealth" has the same meaning as in section 26.1 – 36 – 09.15.

**SECTION 4. A new section to chapter 43-28 of the North Dakota Century Code is created and enacted as follows:**

Standard of care and professional ethics – Telehealth.

A dentist is held to the same standard of care and ethical standards, whether practicing traditional in – person dentistry or telehealth. The following apply in the context of telehealth:

1. Professional ethical standards require a dentist to practice only in areas in which the dentist has demonstrated competence, based on the dentist's training, ability, and experience.
2. A dentist may not practice telehealth unless a bona fide dentist-patient relationship is established in person or through telehealth. A dentist practicing telehealth shall verify the identity of the patient seeking care and shall disclose to the patient the dentist's identity, physical location, contact information, and licensure status.
3. Before a dentist initially diagnoses or treats a patient for a specific illness, disease, or condition, the dentist shall perform an examination or evaluation. A dentist may perform an examination or evaluation entirely through telehealth if the examination or evaluation may be performed in accordance with the standard of care required for an in – person dental examination or evaluation. A dentist may not use telehealth to perform an initial examination or evaluation in circumstances in which the standard of care necessitates an in – person dental examination.
  - a. An appropriate telehealth examination or evaluation may include an examination utilizing secure videoconferencing in conjunction with store – and – forward technology or appropriate diagnostic testing that would be required during an in – person examination or evaluation or an examination conducted with an appropriately licensed intervening dental health care provider, practicing within the scope of the dental health care provider's profession, providing necessary physical findings to the dentist during a live, two – way telehealth encounter. An examination or evaluation consisting only of a static online questionnaire or an audio conversation does not meet the standard of care.
  - b. The use of telehealth does not expand the scope of practice for a dental health care provider, and may not be used to circumvent the licensure requirements established for dental health care providers in this state.
  - c. A dentist who practices telehealth in this state must have adequate knowledge of the availability and location of local dentists and dental health care providers to provide

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followup care to a patient following a dental telehealth encounter, including emergent and acute care facilities, in order to enable a patient to receive followup care. Once a dentist conducts an appropriate examination or evaluation, whether in – person or by telehealth, and establishes a patient – dentist relationship, subsequent followup care may be provided as deemed appropriate by the treating dentist, or by another dentist licensed by the board designated by the treating dentist to act temporarily in the treating dentist’s absence.

4. A dentist practicing telehealth is subject to all North Dakota laws governing the adequacy of dental records and the provision of dental records to the patient and other dental health care providers treating the patient.

5. A dentist practicing telehealth must have procedures for providing in-person services or for the referral of a patient requiring dental services that cannot be provided by telehealth to another dentist who practices in the area of the state and the patient can readily access.

## North Dakota Century Code

### CHAPTER 19-02.1

#### NORTH DAKOTA FOOD, DRUG, AND COSMETIC ACT

...

19-02.1-15.1. Requirements for dispensing controlled substances and specified drugs – Penalty.

1. As used in this section:

...

c. “In-person medical evaluation” means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other practitioners, and must include one of the following actions:

(1) The prescribing practitioner examines the patient at the time the prescription or drug order is issued;

(2) The prescribing practitioner has performed a prior examination of the patient within twelve months;

(3) Another prescribing practitioner practicing within the same health system, group, or clinic as the prescribing practitioner has examined the patient within twelve months;

(4) A consulting practitioner to whom the prescribing practitioner has referred the patient has examined the patient within twelve months; or

(5) The referring practitioner has performed an examination in the case of a consultant practitioner issuing a prescription or drug order when providing services by means of telemedicine.

d. “Internet” and “practice of telemedicine” have the meanings set forth in the Ryan Haight Online Pharmacy Consumer Protection Act of 2008 [Pub. L. 110-425; 21 U.S.C. 802-803].

...

f. “Valid prescription” means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by a practitioner who has conducted an in-person medical evaluation of the patient.

2. A controlled substance or specified drug may not be delivered, distributed, or dispensed without a valid prescription. It is also unlawful for a person to knowingly or intentionally aid or abet in these activities. An example of such an activity includes knowingly or intentionally serving as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance or specified drug.

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**North Dakota Administrative Code**

CHAPTER 20-01-02

DEFINITIONS

20-01-02-01. Definitions.

[As amended by rules adopted by the Board of Dental Examiners](#)

...

35. "Telehealth" means the federal Health Insurance Portability and Accountability Act compliant practice of providing health care to a patient of record, using electronic technology or secure communication technologies between a licensee in one location and a patient in another location.

...

**North Dakota Administrative Code**

DENTISTS

CHAPTER 20-02-01

GENERAL REQUIREMENTS

[As amended by rules adopted by the Board of Dental Examiners](#)

...

20-02-01-09. Retention of records.

Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. All entries in the patient record must be dated, initialed, and handwritten in ink or computer printed. Digital radiographs must be transferred by compact or optical disc, electronic communication, or printing on high quality photographic paper. All transferred film or digital radiographs must reveal images of diagnostic quality using proper exposure settings and processing procedures. For purposes of this section:

1. "Dental record" or "patient's chart" means the detailed history of the physical examination, diagnosis, treatment, patient-related communications, and management of a patient documented in chronological order. The dental record must contain the following components:
  - a. Personal data to include name, address, date of birth, name of patient's parent or guardian, name and telephone number of a person to contact in case of an emergency, and patient's insurance information.
  - b. Patient's reason for visit or chief complaint.
  - c. Dental and physical health history.
  - d. Clinical examination must include record of existing oral health status, radiographs used, and any other diagnostic aids used.
  - e. Diagnosis.
  - f. Dated treatment plan except for routine dental care such as preventive services.
  - g. Informed consent must include notation of treatment options discussed with the patient, including prognosis of such treatment plan, benefits and risks of each treatment, and documentation of the treatment the patient has chosen.
  - h. Corrections of records must be legible, written in ink, and contain no erasures or use of "white-outs." If incorrect information is placed in the record, it must be crossed out with one single line and initialed by a dental health care worker.
  - i. Progress notes must include a chronology of the patient's progress throughout the course of all treatment and postoperative visits of treatment provided; medications used; materials placed; the treatment provider by name or initials; name of collaborating dentist; administration information of nitrous oxide inhalation; any medication dispensed before, during, or after discharge; and patient status at discharge.

j. Each patient shall have access to health provider information as it pertains to their treating doctor or potential doctors. Any entity, utilizing telehealth must provide upon request of a patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with the provision of services to a patient before, prior to, or during the rendering of dental services.

2. "Patient" means an individual who has received dental care services from a provider for treatment of a dental condition. 3. "Retention of records" means a dentist shall retain a patient's dental record for a minimum of six years after the patient's last examination, prescription, or treatment. Records for minors shall be retained for a minimum of either one year after the patient reaches the age of eighteen or six years after the patient's last examination, prescription, or treatment, whichever is longer. Proper safeguards shall be maintained to ensure safety of records from destructive elements. The requirements of this rule apply to electronic records as well as to records kept by any other means.

### Medicaid Reimbursement

North Dakota statutes and regulations do not require the state to reimburse for teledentistry. The state will reimburse synchronous teledentistry as outline in this [state Medicaid policy memo](#).

### Private Payer Reimbursement

#### North Dakota Century Code

CHAPTER 26.1-36

ACCIDENT AND HEALTH INSURANCE

[As amended by HB 1465](#)

...

26.1-36-09.15. Coverage of telehealth services.

1. As used in this section: a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.

b. "E - visit" means a face-to-face digital communication initiated by a patient to a provider through the provider's online patient portal.

c. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.

d. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.

e. "Nonpublic facing product" means a remote communication product that, as a default, allows only the intended parties to participate in the communication.

f. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.

g. "Policy" means an accident and health insurance policy, contract, or evidence of coverage on a group, individual, blanket, franchise, or association basis.

h. "Secure connection" means a connection made using a nonpublic facing remote communication product that employs end - to - end encryption, and which allows only an individual and the person with whom the individual is communicating to see what is transmitted.

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i. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.

j. "Telehealth": (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site and that is delivered over a secure connection that complies with the requirements of state and federal laws. (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology. (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions, or audio-only telephone unless for the purpose of e - visits or a virtual check - in.

k. "Virtual check - in" means a brief communication via telephone or other telecommunications device to decide whether an office visit or other service is needed.

2. An insurer may not deliver, issue, execute, or renew a policy that provides health benefits coverage unless that policy provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the insurer with the health services providers in the same manner as the insurer establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
5. This section does not require:
  - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
  - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
  - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
  - d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.



# Compilation of State Laws and Regulations Addressing Teledentistry or Telehealth Conducted by Oral Health Practitioners

## States O-W

This document is a compilation of state statutes and regulations that address teledentistry or telehealth conducted by oral health practitioners. Each state’s laws and regulations may be divided into three parts: requirements and permissible practices, Medicaid reimbursement and private payer reimbursement. Some states do not address all three of these topic areas and, as a result, a state may have fewer sections.

Because this analysis only focuses on laws as they apply to oral health care providers, it may not include telehealth policies that apply to other groups of health care practitioners.

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# Ohio

## Requirements and Permissible Practices

### Ohio Revised Code

#### Title 47 Occupations-Professions

#### Chapter 4715 Dentists; Dental Hygienists

#### [Section 4715.43 | Teledentistry; definitions; permit.](#)

- (A) As used in this section and in sections [4715.431](#) to [4715.437](#) of the Revised Code:
- (1) "Authorizing dentist" means the holder of a current, valid teledentistry permit issued under this section who authorizes a dental hygienist or expanded function dental auxiliary to perform services under section [4715.431](#) of the Revised Code.
  - (2) "Dental hygiene services" means the prophylactic, preventive, and other procedures that dentists are authorized by this chapter and rules of the state dental board to assign to dental hygienists, except for procedures while a patient is anesthetized, definitive root planing, definitive subgingival curettage, the administration of local anesthesia, and the procedures specified in rules adopted by the board as described in division (C)(3) of section [4715.22](#) of the Revised Code.
  - (3) "Interim therapeutic restoration" means a direct provisional restoration placed to stabilize a tooth until a licensed dentist can assess the need for further treatment. "Interim therapeutic restoration" includes the removal of debris, other than carious or noncarious tooth structure, from the carious lesion using air or water irrigation.
  - (4) "Synchronous, real-time communication" means a live, two-way interaction between a patient and a dentist conducted through audiovisual technology.
  - (5) "Teledentistry" means the delivery of dental services through the use of synchronous, real-time communication and the delivery of services of a dental hygienist or expanded function dental auxiliary pursuant to a dentist's authorization.
- (B) A dentist who desires to provide dental services through teledentistry shall apply to the state dental board for a teledentistry permit. The application must be made under oath on a form prescribed by the board and be accompanied by a twenty-dollar application fee. To be eligible for the permit, the dentist must meet the requirements established by the board in rules adopted under section [4715.436](#) of the Revised Code.

The state dental board shall issue a teledentistry permit to a dentist who is in good standing with the board and satisfies all of the requirements of this section.

### Ohio Revised Code

#### Title 47 Occupations-Professions

#### Chapter 4715 Dentists; Dental Hygienists

#### [Section 4715.431 | Scope of permit.](#)

- (A) If all of the conditions in division (B) of this section are met, an authorizing dentist may do either of the following under a teledentistry permit without examining a patient in person:
- (1) Authorize a dental hygienist or expanded function dental auxiliary to perform services as set forth in division (E) or (F) of this section, as applicable, at a location where no dentist is physically present;
  - (2) Prescribe a drug that is not a controlled substance for a patient who is at a location where no dentist is physically present.

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- (B) The conditions that must be met under division (A) of this section are the following:
- (1) The authorizing dentist must prepare a written authorization that includes all of the following:
    - (a) The authorizing dentist's name and permit number;
    - (b) The name of the dental hygienist or expanded function dental auxiliary;
    - (c) The patient's name;
    - (d) The name and address of the location where the services are to be provided;
    - (e) The date of the authorization;
    - (f) A statement signed by the dental hygienist or expanded function dental auxiliary agreeing to comply with the written protocols or written standing orders the authorizing dentist establishes, including those for dealing with emergencies;
    - (g) Any other information the dentist considers appropriate.
  - (2) Before any dental services are provided all of the following must occur:
    - (a) The patient is notified that an authorizing dentist will perform a clinical evaluation through teledentistry.
    - (b) The patient is given an explanation of alternatives to, and the capabilities and limitations of, teledentistry.
    - (c)(i) Subject to division (B)(2)(c)(ii) of this section, the patient consents to the provision of services through teledentistry and the consent is documented in the patient's record.
      - (ii) If the services to be provided are the placement of interim therapeutic restorations or the application of silver diamine fluoride, the requirements for informed consent in rules adopted under division (C) of section [4715.436](#) of the Revised Code have been met.
  - (3) The authorizing dentist establishes the patient's identity and physical location through synchronous, real-time communication.
  - (4) The authorizing dentist provides dental services through teledentistry only as is appropriate for the patient and in accordance with appropriate standards of care.
  - (5) The authorizing dentist establishes a diagnosis and treatment plan and documents it in the patient's record.
  - (6) The authorizing dentist specifies the services the dental hygienist or expanded function dental auxiliary is authorized to provide to the patient.
  - (7) The dental hygienist or expanded function dental auxiliary is employed by, or under contract with, one of the following:
    - (a) The authorizing dentist;
    - (b) A dentist who is any of the following:
      - (i) The authorizing dentist's employer;
      - (ii) A shareholder in a professional association formed under Chapter 1785. of the Revised Code of which the authorizing dentist is a shareholder;
      - (iii) A member or manager of a limited liability company formed under Chapter 1705. or 1706. of the Revised Code of which the authorizing dentist is a member or manager;
      - (iv) A shareholder in a corporation formed under division (B) of section [1701.03](#) of the Revised Code of which the authorizing dentist is a shareholder;
      - (v) A partner or employee of a partnership, formed under Chapter 1775. of the Revised Code, of which the authorizing dentist is a partner or employee;
      - (vi) A partner or employee of a limited liability partnership, formed under Chapter 1775. of the Revised Code, of which the authorizing dentist is a partner or employee.
- (C) A dentist retains responsibility for ensuring the safety and quality of services provided to patients through teledentistry. Services delivered through teledentistry must be consistent with

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in-person services. Persons involved with providing services through teledentistry must abide by laws addressing the privacy and security of the patient's dental and medical information.

(D) An authorizing dentist may not have more than a total of three dental hygienists and expanded function dental auxiliaries working under the dentist's authorization pursuant to this section at any time.

(E)(1) If authorized to do so by an authorizing dentist in accordance with this section, a dental hygienist may provide dental hygiene services at a location where no dentist is physically present if all of the following requirements are met:

(a) The dental hygienist has at least one year and a minimum of one thousand five hundred hours of experience in the practice of dental hygiene.

(b) The dental hygienist has completed a course described in division (C)(2) of section [4715.22](#) of the Revised Code on the identification and prevention of potential medical emergencies.

(c) The authorizing dentist has evaluated the dental hygienist's skills.

(d) The dental hygienist complies with written protocols or written standing orders established by the authorizing dentist, including written protocols established for emergencies.

(2) If authorized to do so by an authorizing dentist in accordance with this section, a dental hygienist may place interim therapeutic restorations when a dentist is not physically present at the location where the dental hygienist is practicing if the requirements of division (E)(1) of this section are met and the dental hygienist has successfully completed a state dental board-approved course in the proper placement of interim therapeutic restorations.

(3) If authorized to do so by an authorizing dentist in accordance with this section, a dental hygienist may apply silver diamine fluoride when a dentist is not physically present at the location where the dental hygienist is practicing if the requirements of division (E)(1) of this section are met and the dental hygienist has successfully completed a state dental board-approved course in the application of silver diamine fluoride.

(F)(1) If authorized to do so by an authorizing dentist in accordance with this section, an expanded function dental auxiliary may provide the services listed in divisions (A)(2) to (10) of section [4715.64](#) of the Revised Code, and any additional procedures authorized pursuant to division (A)(11) of that section, when a dentist is not physically present at the location where the expanded function dental auxiliary is practicing if all of the following requirements are met:

(a) The expanded function dental auxiliary has at least one year and a minimum of one thousand five hundred hours of experience practicing as an expanded function dental auxiliary.

(b) The expanded function dental auxiliary has completed a course described in division (C)(2) of section [4715.64](#) of the Revised Code on the identification and prevention of potential medical emergencies.

(c) The authorizing dentist has evaluated the expanded function dental auxiliary's skills.

(d) The expanded function dental auxiliary complies with written protocols or written standing orders established by the authorizing dentist, including written protocols for emergencies.

(2) If authorized to do so by an authorizing dentist in accordance with this section, an expanded function dental auxiliary who meets the requirements of division (F)(1) of this section and has successfully completed a state dental board-approved course in the proper placement of interim therapeutic restorations may place interim therapeutic restorations when a dentist is not physically present at the location where the expanded function dental auxiliary is practicing.

(3) If authorized to do so by an authorizing dentist in accordance with this section, an expanded function dental auxiliary who meets the requirements of division (F)(1) of this section and has successfully completed a state dental board-approved course in the application of silver diamine fluoride may apply silver diamine fluoride when a dentist is not physically present at the location where the expanded function dental auxiliary is practicing.

(4) If authorized to do so by an authorizing dentist in accordance with this section, an expanded function dental auxiliary who meets the requirements of division (F)(1) of this section and holds a current, valid dental x-ray machine operator certificate issued by the board pursuant to section [4715.53](#) of the Revised Code may perform, for the purpose of contributing to the provision of dental care to a dental patient, standard, diagnostic radiologic procedures when a dentist is not physically present at the location where the expanded function dental auxiliary is practicing.

### Ohio Revised Code

#### Title 47 Occupations-Professions

#### Chapter 4715 Dentists; Dental Hygienists

#### [Section 4715.432 | Expiration; renewal.](#)

A teledentistry permit issued under section [4715.43](#) of the Revised Code expires on the thirty-first day of December of the first odd-numbered year occurring after the permit's issuance. A dentist who desires to renew a permit shall apply, under oath, to the state dental board on a form prescribed by the board and pay a renewal fee of twenty dollars.

The board shall renew a teledentistry permit for a two- year period if the dentist is in good standing with the board and meets all of the following conditions:

(A) Submits a complete application;

(B) Pays the renewal fee;

(C) Verifies with the board the locations where dental hygienists and expanded function dental auxiliaries have provided services pursuant to the dentist's authorization since the teledentistry permit was most recently issued or renewed.

### Ohio Revised Code

#### Title 47 Occupations-Professions

#### Chapter 4715 Dentists; Dental Hygienists

#### [Section 4715.433 | Suspension or revocation.](#)

The state dental board may, in accordance with Chapter 119. of the Revised Code, suspend or revoke a permit issued under section [4715.43](#) of the Revised Code if the permit holder fails to comply with sections [4715.431](#) to [4715.437](#) of the Revised Code, including any rules adopted by the board under section [4715.346](#) of the Revised Code.

### Ohio Revised Code

#### Title 47 Occupations-Professions

#### Chapter 4715 Dentists; Dental Hygienists

#### [Section 4715.434 | List of locations.](#)

At the request of the state dental board, an authorizing dentist, or a dental hygienist or expanded function dental auxiliary who has been authorized to perform services in accordance with section [4715.431](#) of the Revised Code, shall make available to the board a list of all locations where the dental hygienist or expanded function dental auxiliary provided services,

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the locations where the hygienist or auxiliary is expected to provide services in the future, or both, as specified in the board's request.

#### Ohio Revised Code

##### Title 47 Occupations-Professions

##### Chapter 4715 Dentists; Dental Hygienists

##### [Section 4715.435 | Authorized persons.](#)

(A) No person shall provide services under section [4715.431](#) of the Revised Code unless one of the following applies:

(1) The person is a dentist who holds a current, valid teledentistry permit issued under section [4715.43](#) of the Revised Code.

(2) The person is providing services in accordance with section [4715.431](#) of the Revised Code and is either a dental hygienist or an expanded function dental auxiliary.

(B) No person shall authorize a dental hygienist or expanded function dental auxiliary to provide services under section [4715.431](#) of the Revised Code unless the person is a dentist who holds a current, valid teledentistry permit issued under section [4715.43](#) of the Revised Code and the dental hygienist or expanded function dental hygienist will provide the services in accordance with division (E) or (F) of section [4715.431](#) of the Revised Code, as appropriate.

(C) No authorizing dentist shall authorize a dental hygienist or expanded function dental auxiliary to diagnose a patient's oral health care status.

No dental hygienist or expanded function dental auxiliary shall diagnose a patient's oral health care status as part of services provided under section [4715.431](#) of the Revised Code.

#### Ohio Revised Code

##### Title 47 Occupations-Professions

##### Chapter 4715 Dentists; Dental Hygienists

##### [Section 4715.436 | Rules.](#)

The state dental board shall adopt rules in accordance with Chapter 119. of the Revised Code as it considers necessary to implement sections [4715.43](#) to [4715.435](#) of the Revised Code. The rules shall include all of the following:

(A) Requirements that must be met for issuance of a teledentistry permit under section [4715.43](#) of the Revised Code;

(B) Approval of courses on the proper placement of interim therapeutic restorations and the application of silver diamine fluoride, as authorized under section [4715.431](#) of the Revised Code.

(C) Requirements for obtaining informed consent for the placement of interim therapeutic restorations or the application of silver diamine fluoride when the patient is not examined in person by a dentist and the services are provided under a teledentistry permit, as described in section [4715.431](#) of the Revised Code.

The rules may specify procedures a dental hygienist is not permitted to perform when practicing in the absence of the authorizing dentist pursuant to section [4715.431](#) of the Revised Code.

#### Ohio Revised Code

##### Title 47 Occupations-Professions

##### Chapter 4715 Dentists; Dental Hygienists

##### [Section 4715.437 | Construction of teledentistry provisions.](#)

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Nothing in sections [4715.43](#) to [4715.436](#) of the Revised Code authorizes any activity prohibited by division (F) of section [4715.22](#) of the Revised Code, prohibited or not authorized by section [4715.23](#) of the Revised Code, or prohibited by this chapter or a rule adopted by the state dental board under this chapter.

**Ohio Administrative Code**  
**Chapter 4715-23 | Teledentistry**

[Rule 4715-23-01 | Requirements for teledentistry permit.](#)

(A) Each applicant for a teledentistry permit shall submit the statutory fee and an application to the board.

(1) On this application, the dentist applicant for a teledentistry permit shall state under oath whether:

(a) The applicant has read all laws and rules governing teledentistry in the state of Ohio, including but not limited to sections [4715.43](#) to [4715.437](#) of the Revised Code and this chapter of the Administrative Code.

(b) The applicant has the necessary equipment required to safely and securely deliver dental services through teledentistry, specifically regarding synchronous, real-time communication.

(c) The applicant has established all necessary policies, protocols, and orders to safely deliver dental services through teledentistry at all locations where dental services will be provided through teledentistry.

(d) The applicant's Ohio license to practice dentistry is in good standing.

(e) The license or registration of dental hygienists and expanded function dental auxiliaries who will provide dental services through teledentistry for the applicant are in good standing.

(f) Any dental hygienist or expanded function dental auxiliary who provides placement of interim therapeutic restorations and application of silver diamine fluoride, has completed the appropriate course prescribed by the board.

(g) The applicant understands that:

(i) The applicant retains responsibility for ensuring the safety and quality of services provided to patients through teledentistry,

(ii) Dental services delivered through teledentistry must conform to accepted standards for the profession, and

(iii) Persons involved with providing services through teledentistry must abide by laws addressing the privacy and security of the patient's dental and medical information as well as other information required to be kept confidential as required by law.

(2) The applicant shall provide on the application form the following information:

(a) Address where dental services will be provided through teledentistry.

(b) Name and license or registration number of each dental hygienist or expanded function dental auxiliary who will perform dental services through teledentistry when the dentist is not physically present and the location where they will provide these services.

(c) A description of all equipment used to establish and maintain synchronous, real-time communication during the provision of dental services through teledentistry. Any description must include manufacturer name and model number.

(B) Each holder of a teledentistry permit shall:

Before providing dental services through teledentistry, notify the Board via e-mail or regular U.S. mail within seven calendar days of:

- (1) The address where dental services will be provided through teledentistry, if not included on permit application.
- (2) Name and license or registration number of each dental hygienist and expanded function dental auxiliary who will perform dental services through teledentistry when the dentist is not physically present and the location where they will provide these services, if not included on permit application.

[Rule 4715-23-02 | Courses on proper placement of interim therapeutic restorations and application of silver diamine fluoride.](#)

(A) Any course that meets the following criteria shall satisfy the requirements of section [4715.431](#) of the Revised Code for a board-approved course on either placement of interim therapeutic restorations or application of silver diamine fluoride.

(1) Each course must be:

- (a) A two-hour continuing education course with at least one continuing education hour of didactic education and at least one continuing education hour of clinical hands-on training.
- (b) Provided by a board-approved sponsor of continuing education under Chapter 4715-8 of the Administrative Code, and
- (c) Dedicated solely to the proper placement of interim therapeutic restorations or application of silver diamine fluoride.

(2) For a course on the proper placement of interim therapeutic restorations, course content shall include:

- (a) Biological background information, including, but not limited to, materials used in and the scientific basis for the proper placement of interim therapeutic restorations.
- (b) Proper isolation and placement technique, including, but not limited to, the use of cotton rolls and iso-vac.
- (c) Knowledge of poor seal with interim restorations, including, but not limited to, the consequences of a poor seal, leakage, and re-cavitation.
- (d) Detection of arresting dental caries and the use of a periodontal probe.
- (e) Replacement of treatment, including, but not limited to, the necessity of a new diagnosis by a dentist before reapplication.

(3) For a course on the application of silver diamine fluoride, course content shall include:

- (a) Biological background information, including, but not limited to, materials used in and the scientific basis for the application of silver diamine fluoride.
- (b) Proper isolation and placement technique, including, but not limited to, the use of cotton rolls and iso-vac.
- (c) Knowledge of potential problems associated with silver diamine fluoride, including, but not limited to, staining, need for treatment, and failure to arrest caries.
- (d) Detection of arresting dental caries and the use of periodontal probe.
- (e) Reapplication of treatment, including, but not limited to, the necessity of a new diagnosis by a dentist before reapplication.

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- (B) To meet the course requirements for both proper placement of interim therapeutic restoration and application of silver diamine fluoride, a dental hygienist or expanded function dental auxiliary must complete both courses dedicated to each respective subject.
- (C) No course shall instruct that the use of a dental explorer or sickle probe is appropriate during the application of silver diamine fluoride or placement of interim therapeutic restorations.

[Rule 4715-23-03 | Requirements for obtaining informed consent.](#)

- (A) When services are provided under a teledentistry permit and the patient is not examined in person by the authorizing dentist, informed consent must be obtained before the placement of interim therapeutic restorations or the application of silver diamine fluoride.
- (B) To obtain informed consent, the authorizing dentist must:
- (1) Determine that the patient is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence,
  - (2) Inform the patient that the authorizing dentist will perform a clinical evaluation and diagnosis of caries through teledentistry,
  - (3) For the application of silver diamine fluoride,
    - (a) Inform the patient of the potential for staining teeth by providing color photos of the result of application,
    - (b) Inform the patient that application is permanent and may only be reversed through loss or restoration of the tooth,
    - (c) Inquire whether the patient has an allergy to silver, and
    - (d) Inform the patient that the treatment will require active monitoring and possible reapplication.
  - (4) Explain alternatives to, and the capabilities and limitations of, teledentistry,
  - (5) Explain that the patient may decline to receive services through teledentistry,
  - (6) Document in the patient record any discussion with the patient about teledentistry and whether informed consent was obtained, and
  - (7) Comply with the requirements set forth in division (B) of section [4715.431](#) of the Revised Code.

- (C) If the patient is less than eighteen years of age, a parent or legal guardian must provide informed consent for the patient and meet the same requirements as provided in paragraph (B) of this rule.

[Rule 4715-23-04 | Procedures not permitted.](#)

No authorizing dentist shall authorize a dental hygienist or expanded function dental auxiliary to provide a dental service or any other function prohibited by law or rule, including section [4715.435](#) of the Revised Code.

[Rule 4715-23-05 | Equipment requirements for teledentistry.](#)

- (A) All equipment used to provide dental services through teledentistry must comply with the Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), as well as all state and federal laws and regulations.
- (B) Authorizing dentists providing dental services through teledentistry

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- (1) Are solely responsible for securing and protecting all patient records and data related to the provision of dental services through teledentistry, and
  - (2) Must take reasonable steps to prevent the compromise, breach, or theft of patient records or data related to the provision of dental services through teledentistry.
- (C) Contingency plan - Authorizing dentists providing dental services through teledentistry must have a contingency plan established to:
- (1) Refer patients to a local healthcare provider in the event of a dental emergency;
  - (2) Manage an interruption in connection or communication while providing dental services through teledentistry.
- (D) Dedicated space - All equipment used for providing dental services through teledentistry must be utilized in a space dedicated to providing dental services through teledentistry. This space may also function as a space in which dental services are provided when the dentist is physically present.
- (E) Encryption - Authorizing dentists must ensure that all data connections and storage (including cloud storage) used in the provision of dental services through teledentistry are encrypted.
- (F) High definition intraoral camera High definition intraoral cameras must be used to provide dental services through teledentistry.
- (G) Microphone - A microphone must be utilized to allow verbal communication between the dentist, patient, and staff during the provision of dental services through teledentistry.
- (H) Digital x-ray machine - A digital x-ray machine capable of producing high definition images that can be immediately transmitted to the authorizing dentist during the patients appointment must be available while providing dental and diagnostic services through teledentistry.
- (I) Patient records - All patient records must be transmitted, transported, handled, stored, protected, and secured in compliance with HIPAA, HITECH, as well as all state and federal laws and regulations.

#### [Rule 4715-23-06 | Authorization.](#)

- (A) An authorizing dentist who is providing dental services through teledentistry may not at any time have more than a total of three dental hygienists and expanded function dental auxiliaries working under the dentists authorization pursuant to section [4715.431](#) of the Revised Code. Because teledentistry requires synchronous, real-time communication, an authorizing dentist must remain attentive and available to attend to the health and safety of all patients regardless of whether the dentist is physically present or not physically present with the patient. If an authorizing dentist supervises any dental hygienist or expanded function dental auxiliary on the same day as the authorizing dentist authorizes any dental hygienist or expanded function dental auxiliary to provide dental services through teledentistry, the authorizing dentist should not have more than a total of:
- (1) Four dental hygienists practicing clinical hygiene under the supervision of the authorizing dentist pursuant to section [4715.23](#) of the Revised Code or three dental hygienists providing dental services through teledentistry pursuant to section [4715.431](#) of the Revised Code.
  - (2) two expanded function dental auxiliaries practicing as expanded function dental auxiliaries under the supervision of the authorizing dentist pursuant to section [4715.64](#) of the Revised Code or three expanded function dental auxiliaries providing dental services through teledentistry pursuant to section [4715.431](#) of the Revised Code, except that the total number practicing under the supervision of the authorizing dentist pursuant to section [4715.64](#) of the Revised Code shall not exceed two.

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(B) Nothing in this rule shall prohibit:

- (1) Any dental hygienist to practice as a dental hygienist when the authorizing dentist is not physically present at the location where the dental hygienist is practicing, under section [4715.22](#) of the Revised Code,
- (2) Any expanded function dental auxiliary to practice as an expanded function dental auxiliary when the authorizing dentist is not physically present at the location where the expanded function dental auxiliary is practicing, under section [4715.64](#) of the Revised Code,
- (3) Any dental assistant or qualified personnel to practice as a dental assistant or qualified personnel when the authorizing dentist is not physically present at the location where the dental assistant or qualified personnel is practicing, under section [4715.39](#) of the Revised Code,
- (4) Any dental x-ray machine operator to practice as a dental x-ray machine operator when the authorizing dentist is not physically present at the location where the dental x-ray machine operator is practicing, under section [4715.56](#) of the Revised Code, or
- (5) Any dental hygienists to practice in accordance with a permit issued pursuant to section [4715.363](#) of the Revised Code authorizing practice under the oral health access supervision of a dentist.

## Medicaid Reimbursement

Ohio Administrative Code  
Chapter 5160-1 | General Provisions  
[Rule 5160-1-18 | Telehealth.](#)

(A) For the purposes of this rule, the following definitions apply:

- (1) "Patient site" is the physical location of the patient at the time a health care service is provided through the use of telehealth.
- (2) "Practitioner site" is the physical location of the treating practitioner at the time a health care service is provided through the use of telehealth.
- (3) "Telehealth" is the direct delivery of health care services to a patient related to diagnosis, treatment, and management of a condition.
  - (a) Telehealth is the interaction with a patient via synchronous, interactive, real-time electronic communication comprising both audio and video elements; or
  - (b) The following activities that are asynchronous or do not have both audio and video elements:
    - (i) Telephone calls;
    - (ii) Remote patient monitoring; and
    - (iii) Communication with a patient through secure electronic mail or a secure patient portal.
  - ...
  - (d) Conversations or electronic communication between practitioners regarding a patient without the patient present is not considered telehealth unless the service would allow billing for practitioner to practitioner communication in a non-telehealth setting.

(B) Eligible providers.

- (1) The following practitioners are eligible to render services through the use of telehealth:  
...

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- (l) Dentists as defined in Chapter 4715. of the Revised Code.
- (q) Other practitioners if specifically authorized in rule promulgated under agency 5160 of the Administrative Code.
- (2) The following provider types are eligible to bill for services rendered through the use of telehealth.
  - (a) Any practitioner identified in paragraph (B)(1) of this rule, except for the following dependent practitioners:
    - (i) Supervised practitioners, trainees, residents, and interns as defined in rules [5160-4-05](#) and [5160-8-05](#) of the Administrative Code;
    - (ii) Occupational therapist assistant as defined in section [4755.04](#) of the Revised Code;
    - (iii) Physical therapist assistant as defined in section [4755.40](#) of the Revised Code;
    - (iv) Speech-language pathology aides, audiology aides, and individuals holding a conditional license as defined in section 4753. of the Revised Code.
  - (b) A professional medical group.
  - (c) A professional dental group.
  - (d) A federally qualified health center (FQHC) or rural health clinic (RHC) as defined in Chapter 5160-28 of the Administrative Code.
  - (e) Ambulatory health care clinics (AHCC) as defined in Chapter 5160-13 of the Administrative Code.
  - (f) Outpatient hospitals on behalf of licensed psychologists and independent practitioners not eligible to separately bill when practicing in an outpatient hospital setting.
  - (g) Medicaid school program (MSP) providers as defined in Chapter 5160-35 of the Administrative Code.
  - (h) Private duty nurses.
  - (i) Home health and hospice agencies.
  - (j) Behavioral health providers as defined in paragraphs (A)(1) and (A)(2) of rule [5160-27-01](#) of the Administrative Code.
  - (k) Hospitals operating an outpatient hospital behavioral health program in accordance with rule [5160-2-76](#) of the Administrative Code.
- (C) Provider responsibilities when providing services through telehealth.
  - (1) It is the responsibility of the practitioner to deliver telehealth services in accordance with all state and federal laws including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any HIPAA related directives from the office for civil rights (OCR) at the department of health and human services (HHS) issued during COVID-19 national emergency and 42 C.F.R. part 2 (January 1, 2020).
  - (2) It is the responsibility of the practitioner to deliver telehealth services in accordance with rules set forth by their respective licensing board and accepted standards of clinical practice.
  - (3) The practitioner site is responsible for maintaining documentation in accordance with paragraph (C)(1) of this rule for the health care service delivered through the use of telehealth and to document the specific telehealth modality used.
  - (4) For practitioners who render services to an individual through telehealth for a period longer than twelve consecutive months, the telehealth practice or practitioner is expected to conduct at least one in-person annual visit or refer the individual to a practitioner or their usual source of clinical care that is not an emergency department for an in-person annual visit.

(D) Payment may be made only for the following medically necessary health care services identified in appendix A to this rule when delivered through the use of telehealth from the practitioner site:

- (1) When provided by a patient centered medical home as defined in rule [5160-19-01](#) of the Administrative Code or behavioral health provider as defined in rule [5160-27-01](#) of the Administrative Code, evaluation and management of a new patient described as "office or other outpatient visit" with medical decision making not to exceed moderate complexity.
  - (2) Evaluation and management of an established patient described as "office or other outpatient visit" with medical decision making not to exceed moderate complexity.
  - (3) Inpatient or office consultation for a new or established patient when providing the same quality and timeliness of care to the patient other than by telehealth is not possible, as documented in the medical record.
  - (4) Mental health or substance use disorder services described as "psychiatric diagnostic evaluation" or "psychotherapy."
  - (5) Remote evaluation of recorded video or images submitted by an established patient.
  - (6) Virtual check-in by a physician or other qualified health care professional who can report evaluation and management services, provided to an established patient.
  - (7) Online digital evaluation and management service for an established patient.
  - (8) Remote patient monitoring.
  - (9) Audiology, speech-language pathology, physical therapy, and occupational therapy services, including services provided in the home health setting.
  - (10) Medical nutrition services.
  - (11) Lactation counseling provided by dietitians.
  - (12) Psychological and neuropsychological testing.
  - (13) Smoking and tobacco use cessation counseling.
  - (14) Developmental test administration.
  - (15) Limited or periodic oral evaluation.
  - (16) Hospice services.
  - (17) Private duty nursing services.
  - (18) State plan home health services.
  - (19) Dialysis related services.
  - (20) Services under the specialized recovery services (SRS) program as defined in rule [5160-43-01](#) of the Administrative Code.
  - (21) Notwithstanding paragraph (D)(2) of this rule, behavioral health services covered under Chapter 5160-27 of the Administrative Code.
  - (22) Optometry services.
- (E) Submission and payment of telehealth claims.
- (1) The practitioner site may submit either a professional or institutional claim for health care services delivered through the use of telehealth.
  - (2) An institutional (facility) claim may be submitted by an outpatient hospital for telehealth services provided by licensed psychologists and independent practitioners not eligible to separately bill when practicing in an outpatient hospital setting. Other telehealth services provided in a hospital setting may be billed in accordance with rule [5160-2-02](#) of the Administrative Code.
  - (3) Medicaid-covered services may be provided through telehealth, as appropriate, if otherwise payable under the Medicaid school program as defined in Chapter 5160-35 of the Administrative Code.
  - (4) Except for services billed by behavioral health providers as defined in paragraphs (A)(1) and (A)(2) of rule [5160-27-01](#) of the Administrative Code and FQHC and RHC services

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defined in rules [5160-28-03.1](#) and 5160-28-03.3 of the Administrative Code, the payment amount for a health care service delivered through the use of telehealth is the lesser of the submitted charge or the maximum amount shown in appendix DD to rule [5160-1-60](#) of the Administrative Code for the date of service.

(5) For a covered telehealth service that is also an FQHC or RHC service, the face-to-face requirement is waived and payment is made in accordance with Chapter 5160-28 of the Administrative Code.

(6) Individuals who meet the definition of inmate in a penal facility or a public institution as defined in rule [5160:1-1-03](#) of the Administrative Code are not eligible for telehealth services under this rule.

(7) For any professional claim submitted for health care services utilizing telehealth to be paid, it is the responsibility of the provider to follow ODM billing guidelines found on the ODM website, [www.medicare.ohio.gov](http://www.medicare.ohio.gov).

(8) For telehealth services billed by behavioral health providers as defined in paragraphs (A)(1) and (A)(2) of rule [5160-27-01](#) of the Administrative Code, payment is made in accordance with Chapter 5160-27 of the Administrative Code.

(9) Unless stated otherwise in the billing guidelines, professional claims submitted for health care services utilizing telehealth must include:

(a) A "GT" modifier;

(b) A place of service code that reflects the physical location of the treating practitioner at the time a health care service is provided through the use of telehealth.

(c) A modifier as identified in appendix B to this rule if the physical location of the patient is one of the following locations:

(i) The patient's home (including homeless shelter, assisted living facility, group home, and temporary lodging);

(ii) School;

(iii) Inpatient hospital;

(iv) Outpatient hospital;

(v) Nursing facility;

(vi) Intermediate care facility for individuals with an intellectual disability.

(10) Procedure codes for eligible telehealth services are listed in appendix A to this rule. To qualify for payment, a service should:

(a) Be clinically appropriate;

(b) Meet professional standards of care;

(c) Be rendered in accordance with the scope of licensure; and

(d) Be rendered in accordance with the standards of practice for the provider's respective licensure.

**Ohio Administrative Code**  
**Chapter 5160-5 | Dental Program**  
[Rule 5160-5-01 | Dental services.](#)

(A) This rule sets forth provisions governing payment for professional, non-institutional dental services. Provisions governing payment for dental services performed as the following service types are set forth in:

...

(6) Telehealth services, rule [5160-1-18](#) of the Administrative Code.

(B) Definitions.

- (1) "Metropolitan statistical area (MSA)" has the same meaning as in 40 C.F.R. 58.1 (October 1, 2020).
  - (2) "Non-rural county" is a county to which the definition of rural county does not apply.
  - (3) "Rural county" is a county for which either of the following criteria is satisfied:
    - (a) The county is not located within a MSA; or
    - (b) At least seventy-five per cent of the population of the county lives outside the urban areas within the county.
- (C) Providers of dental services.
- (1) Rendering providers. The following eligible medicaid providers may render a dental service:
    - (a) A dentist practicing in Ohio;
    - (b) A dental resident acting within their licensure and scope of practice; or
    - (c) A dentist practicing in a state other than Ohio who meets the requirements established by the dental examining board in that state.
  - (2) Billing providers. The following eligible Medicaid providers may receive Medicaid payment for submitting a claim for a dental service:
    - (a) A dentist;
    - (b) A professional dental group; or
    - (c) A fee-for-service clinic.
- (D) Coverage policies for dental services are set forth in appendix A to this rule.
- (E) Other conditions.
- (1) Dental services are subject to a copayment of three dollars per date of service per provider unless the patient is excluded from the copayment requirement pursuant to rule [5160-1-09](#) of the Administrative Code.
  - (2) For an item that requires multiple fittings and special construction (e.g., dentures), the first visit date is the date of service for purposes of prior authorization or claim submission. Payment for the item will not be made, however, until it has been delivered to the patient.
  - (3) Additional documentation requirements apply to dental services rendered to an individual living in a supervised residence such as a long-term care facility (LTCF).
    - (a) Whenever a provider updates an individual's medical or dental history, diagnosis, prognosis, or treatment plan, the provider is to keep a copy on file and send a copy of the information to the staff of the residence for inclusion in the individual's file.
    - (b) After a request for treatment has been signed by the individual, the individual's authorized representative, or the individual's attending physician, the provider is to keep a copy on file and send a copy to the staff of the residence.
    - (c) For services that require prior authorization (PA), a copy of the signed request for treatment is to be submitted with the PA request along with any other required documentation.
    - (d) A prior authorization request submitted for complete or partial dentures for a resident of a long-term care facility is to be accompanied by the following documents:
      - (i) A copy of the resident's most recent nursing care plan;
      - (ii) A copy of a consent form signed by the resident or the resident's authorized representative; and
      - (iii) A dentist's signed statement describing the oral examination and assessing the resident's ability to wear dentures.
- (F) Payment of claims.
- (1) For a covered dental service that is identified by a current dental terminology (CDT) code, the following payment amounts apply:

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(a) For a service rendered by a provider whose office address (specified in the provider agreement) is in a non-rural Ohio county or a county outside Ohio, payment is the lesser of the submitted charge or the amount listed in appendix DD to rule [5160-1-60](#) of the Administrative Code.

(b) For a service rendered by a provider whose office address is in a rural Ohio county, payment is the lesser of the submitted charge or one hundred five per cent of the amount listed in appendix DD to rule [5160-1-60](#) of the Administrative Code.

(2) For a covered dental service that is identified by a current procedural terminology (CPT) code, such as oral surgery, payment is the lesser of the submitted charge or the amount listed in appendix DD to rule [5160-1-60](#) of the Administrative Code, regardless of whether the service is provided in a rural or non-rural county.

## Ohio Revised Code

### Title 51 Public Welfare

#### Chapter 5164 Medicaid State Plan Services

#### [Section 5164.95 | Standards for payments for telehealth services.](#)

(A) As used in this section, “telehealth service” means a health care service delivered to a patient through the use of interactive audio, video, or other telecommunications or electronic technology from a site other than the site where the patient is located.

(B) The department of Medicaid shall establish standards for Medicaid payments for health care services the department determines are appropriate to be covered by the Medicaid program when provided as telehealth services. The standards shall be established in rules adopted under section [5164.02](#) of the Revised Code.

## Ohio Revised Code

### Title 51 Public Welfare

#### Chapter 5164 Medicaid State Plan Services

#### [Section 5164.951 | Standards for medicaid payments for services provided through teledentistry.](#)

As used in this section, “teledentistry” has the same meaning as in section [4715.43](#) of the Revised Code.

The department of Medicaid shall establish standards for Medicaid payments for services provided through teledentistry. The standards shall provide coverage for services to the same extent that those services would be covered by the Medicaid program if the services were provided without the use of teledentistry.

## Private Payer

### R.C. § 1751.90

#### 1751.90 Prohibition against denial of coverage for teledentistry

(A) As used in this section, “teledentistry” has the same meaning as in section 4715.43 of the Revised Code.

(B) No individual or group health insuring corporation policy, contract, or agreement shall deny coverage for the costs of any services provided to an insured through teledentistry if those services would be covered if the services were delivered other than through teledentistry.

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(C) The coverage that may not be excluded under division (B) of this section is subject to all terms, conditions, restrictions, exclusions, and limitations that apply to other coverage for services performed by participating and nonparticipating providers.

**R.C. § 3923.90**

**3923.90 Prohibition against denial of coverage for teledentistry**

**Effective: March 20, 2019**

(A) As used in this section, "teledentistry" has the same meaning as in section 4715.43 of the Revised Code.

(B) No individual or group policy of sickness and accident insurance or public employee benefit plan shall deny coverage for the costs of any services provided to an insured through teledentistry if those services would be covered if the services were delivered other than through teledentistry.

(C) The coverage that may not be excluded under division (B) of this section is subject to all terms, conditions, restrictions, exclusions, and limitations that apply to any other coverage for services performed by participating and nonparticipating providers.

# Oklahoma

## Requirements and Permissible Practices

### [59 Okl.St. Ann. § 328.3](#) [§ 328.3. Definitions](#)

As used in the State Dental Act, the following words, phrases, or terms, unless the context otherwise indicates, shall have the following meanings:

...

34. "Teledentistry" means the remote delivery of dental patient care via telecommunications and other technology for the exchange of clinical information and images for dental consultation, preliminary treatment planning and patient monitoring; and

...

### [59 Okl.St. Ann. § 328.54](#) [§ 328.54. Dental practice--Diagnosis via the Internet](#)

A. Any person conducting a diagnosis for the purpose of prescribing medication or treatment or any other action determined to be a dental practice as defined by the State Dental Act, via the Internet or other telecommunications device on any patient that is physically located in this state shall hold a valid Oklahoma state dental license.

B. A dentist holding a valid dental license in Oklahoma may consult, diagnose and treat a patient of record via synchronous or asynchronous telecommunication between the patient and dentist. The dentist must record all activities relating to teledentistry in the patient record and must have an office location in Oklahoma available for follow-up treatment and maintenance of records.

## Medicaid Reimbursement

New law created by [SB 131](#)

...

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4002.4 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority shall develop network adequacy standards for all managed care organizations and dental benefit managers that, at a minimum, meet the requirements of 42 C.F.R., Sections 438.14 and 438.68. Network adequacy standards established under this subsection shall be designed to ensure enrollees covered by the managed care organizations and dental benefit managers who reside in health professional shortage areas (HPSAs) designated under Section 332(a)(1) of the Public Health Service Act (42 U.S.C., Section 254e(a)(1)) have access to in-person health care and telehealth services with providers, especially adult and pediatric primary care practitioners.

...

**Oklahoma Administrative Code**  
**Title 317 – Oklahoma Health Care Authority**  
**Chapter 30 – Medical Providers-Fee for Service**  
**Subchapter 3 – General Provider Policies**

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## Part 1 – GENERAL SCOPE AND ADMINISTRATION

### 317:30-3-27. Telemedicine

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **“Remote patient monitoring”** means the use of digital technologies to collect medical and other forms of health data (e.g. vital signs, weight, blood pressure, blood sugar) from individuals in one (1) location and electronically transmit that information securely to health care providers in a different location for assessment and recommendations.

(2) **“School-based services”** means medically necessary health-related and rehabilitative services that are provided by a qualified school provider to a student under the age of twenty-one (21), pursuant to an Individualized Education Program (IEP), in accordance with the Individuals with Disabilities Education Act. See Oklahoma Administrative Code (OAC) 317:30-5-1020.

(3) **“Store and forward technologies”** means the transmission of a patient’s medical information from an originating site to the health care provider at the distant site; provided, photographs visualized by a telecommunications system shall be specific to the patient’s medical condition and adequate for furnishing or confirming a diagnosis or treatment plan. Store and forward technologies shall not include consultations provided by telephone audio-only communication, electronic mail, text message, instant messaging conversation, website questionnaire, nonsecure video conference, or facsimile transmission.

(4) **“Telehealth”** means the practice of health care delivery, diagnosis, consultation, evaluation and treatment, transfer of medical data or exchange of medical education information by means of a two-way, real-time interactive communication, not to exclude store and forward technologies, between a patient and a health care provider with access to and reviewing the patient’s relevant clinical information prior to the telemedicine visit. Telehealth shall not include consultations provided by telephone audio-only communication, electronic mail, text message, instant messaging conversation, website questionnaire, nonsecure video conference, or facsimile transmission.

(5) **“Telehealth medical service”** means, for the purpose of the notification requirements of OAC 317:30-3-27(d)(2), telehealth services that expressly do not include physical therapy, occupational therapy, and/or speech and hearing services.

(b) **Applicability and scope.** The purpose of this Section is to implement telehealth policy that improves access to health care services, while complying with all applicable state and federal laws and regulations. Telehealth services are not an expansion of SoonerCare-covered services, but an option for the delivery of certain covered services. However, if there are technological difficulties in performing an objective, thorough medical assessment, or problems in the member’s understanding of telehealth, hands-on-assessment and/or in-person care must be provided for the member. Any service delivered using telehealth technology must be appropriate for telehealth delivery and be of the same quality and otherwise on par with the same service delivered in person. A telehealth encounter must maintain the confidentiality and security of protected health information in accordance with applicable state and federal law, including, but not limited to, 42 Code of Federal Regulations (CFR) Part 2, 45 CFR Parts 160 and 164, and 43A Oklahoma Statutes (O.S.) ’ 1-109. For purposes of SoonerCare reimbursement, telehealth is the use of interactive audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment that occurs in real-time and when the member is actively participating during the transmission.

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- (c) **Requirements.** The following requirements apply to all services rendered via telehealth.
- (1) Interactive audio and video telecommunications must be used, permitting encrypted, real-time communication between the physician or practitioner and the SoonerCare member. The telecommunication service must be secure and adequate to protect the confidentiality and integrity of the telehealth information transmitted. As a condition of payment the member must actively participate in the telehealth visit.
  - (2) The telehealth equipment and transmission speed and image must be technically sufficient to support the service billed. If a peripheral diagnostic scope is required to assess the member, it must provide adequate resolution or audio quality for decision making. Staff involved in the telehealth visit need to be trained in the use of the telehealth equipment and competent in its operation.
  - (3) The medical or behavioral health related service must be provided at an appropriate site for the delivery of telehealth services. An appropriate telehealth site is one that has the proper security measures in place; the appropriate administrative, physical, and technical safeguards should be in place that ensures the confidentiality, integrity, and security of electronic protected health information. The location of the room for the encounter at both ends should ensure comfort, privacy, and confidentiality. Both visual and audio privacy are important, and the placement and selection of the rooms should consider this. Appropriate telehealth equipment and networks must be used considering factors such as appropriate screen size, resolution, and security. Providers and/or members may provide or receive telehealth services outside of Oklahoma when medically necessary; however, prior authorization may be required, per OAC 317:30-3-89 through 317:30-3-91.
  - (4) The provider must be contracted with SoonerCare and appropriately licensed or certified, in good standing. Services that are provided must be within the scope of the practitioner's license or certification. If the provider is outside of Oklahoma, the provider must comply with all laws and regulations of the provider's location, including health care and telehealth requirements.
  - (5) If the member is a minor, the provider must obtain the prior written consent of the member's parent or legal guardian to provide services via telehealth, that includes, at a minimum, the name of the provider; the provider's permanent business office address and telephone number; an explanation of the services to be provided, including the type, frequency, and duration of services. Written consent must be obtained annually, or whenever there is a change in the information in the written consent form, as set forth above. The parent or legal guardian need not attend the telehealth session unless attendance is therapeutically appropriate. The requirements of subsection OAC 317:30-3-27©(5), however, do not apply to telehealth services provided in a primary or secondary school setting.
  - (6) If the member is a minor, the telehealth provider shall notify the parent or legal guardian that a telehealth service was performed on the minor through electronic communication whether a text message or email.
  - (7) The member retains the right to withdraw at any time.
  - (8) All telehealth activities must comply with Oklahoma Health Care Authority (OHCA) policy, and all other applicable State and Federal laws and regulations, including, but not limited to, 59 O.S. ' 478.1.
  - (9) The member has access to all transmitted medical information, with the exception of live interactive video as there is often no stored data in such encounters.
  - (10) There will be no dissemination of any member images or information to other entities without written consent from the member or member's parent or legal guardian, if the member is a minor.

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(11) A telehealth service is subject to the same SoonerCare program restrictions, limitations, and coverage which exist for the service when not provided through telehealth; provided, however, that only certain telehealth codes are reimbursable by SoonerCare. For a list of the SoonerCare-reimbursable telehealth codes, refer to the OHCA's Behavioral Health Telehealth Services and Medical Telehealth Services, available on OHCA's website, [www.okhca.org](http://www.okhca.org).

(12) Where there are established service limitations, the use of telehealth to deliver those services will count towards meeting those noted limitations. Service limitations may be set forth by Medicaid and/or other third party payers.

(d) **Additional requirements specific to telehealth services in a school setting.** In order for OHCA to reimburse medically necessary telehealth services provided to SoonerCare members in a primary or secondary school setting, all of the requirements in (c) above must be met, with the exception of ©(5), as well as all of the requirements shown below, as applicable.

(1) **Consent requirements.** Advance parent or legal guardian consent for telehealth services must be obtained for minors, in accordance with 25 O.S. " 2004 through 2005. Additional consent requirements shall apply to school-based services provided pursuant to an IEP, per OAC 317:30-5-1020.

(2) **Notification requirements.** For telehealth medical services provided in a primary or secondary school setting, the telehealth practitioner must provide a summary of the service, including, but not limited to, information regarding the exam findings, prescribed or administered medications, and patient instructions, to:

(A) The SoonerCare member, if he or she is an adult, or the member's parent or legal guardian, if the member is a minor; or

(B) The SoonerCare member's primary care provider, if requested by the member or the member's parent or legal guardian.

...

(c) **Reimbursement.**

(1) Health care services delivered by telehealth such as Remote Patient Monitoring, Store and Forward, or any other telehealth technology, must be compensable by OHCA in order to be reimbursed.

(2) Services provided by telehealth must be billed with the appropriate modifier.

(3) If the technical component of an X-ray, ultrasound or electrocardiogram is performed during a telehealth transmission, the technical component can be billed by the provider that provided that service. The professional component of the procedure and the appropriate visit code should be billed by the provider that rendered that service.

(4) The cost of telehealth equipment and transmission is not reimbursable by SoonerCare.

(f) **Documentation.**

(1) Documentation must be maintained by the rendering provider to substantiate the services rendered.

(2) Documentation must indicate the services were rendered via telehealth, and the location of the services.

(3) All other SoonerCare documentation guidelines apply to the services rendered via telehealth. Examples include but are not limited to:

(A) Chart notes;

(B) Start and stop times;

(C) Service provider's credentials; and

(D) Provider's signature.

(g) **Final authority.** The OHCA has discretion and the final authority to approve or deny any telehealth services based on agency and/or SoonerCare members' needs.

## Private Payer Reimbursement

### Oklahoma Statutes Citationized

#### Title 36. Insurance

#### Chapter 2 - Miscellaneous Provisions

#### Oklahoma Telemedicine Act

#### [Section 6801 - Short Title](#)

This act shall be known and may be cited as the "Oklahoma Telemedicine Act".

#### Section 6802 - Definition of "Telemedicine" as amended by [SB 673](#) and [SB 674](#)

As used in the Oklahoma Telemedicine Act:

1. "Distant site" means a site at which a health care professional licensed to practice in this state is located while providing health care services by means of telemedicine;
2. a. "Health benefit plan" means any plan or arrangement that:
  - (1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident or illness, and
  - (2) is offered by any insurance company, group hospital service corporation or health maintenance organization that delivers or issues for delivery an individual, group, blanket or franchise insurance policy or insurance agreement, a group hospital service contract or an evidence of coverage, or, to the extent permitted by the Employee Retirement Income Security Act of 1974, 29 U.S.C., Section 1001 et seq., by a multiple employer welfare arrangement as defined in Section 3 of the Employee Retirement Income Security Act of 1974, or any other analogous benefit arrangement, whether the payment is fixed or by indemnity,
- b. Health benefit plan shall not include:
  - (1) a plan that provides coverage:
    - (a) only for a specified disease or diseases or under an individual limited benefit policy,
    - (b) only for accidental death or dismemberment,
    - (c) only for dental or vision care,
    - (d) for a hospital confinement indemnity policy,
    - (e) for disability income insurance or a combination of accident-only and disability income insurance, or
    - (f) as a supplement to liability insurance,
  - (2) a Medicare supplemental policy as defined by Section 1882(g)(1) of the Social Security Act (42 U.S.C., Section 1395ss),
  - (3) workers' compensation insurance coverage,
  - (4) medical payment insurance issued as part of a motor vehicle insurance policy,
  - (5) a long-term care policy including a nursing home fixed indemnity policy, unless a determination is made that the policy provides benefit coverage so comprehensive that the policy meets the definition of a health benefit plan,
  - (6) short-term health insurance issued on a nonrenewable basis with a duration of six (6) months or less, or

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- (7) a plan offered by the Employees Group Insurance Division of the Office of Management and Enterprise Services;
3. "Health care professional" means a physician or other health care practitioner licensed, accredited or certified to perform specified health care services consistent with state law;
  4. "Insurer" means any entity providing an accident and health insurance policy in this state including, but not limited to, a licensed insurance company, a not-for-profit hospital service and medical indemnity corporation, a fraternal benefit society, a multiple employer welfare arrangement or any other entity subject to regulation by the Insurance Commissioner;
  5. "mHealth", also referred to as "mobile health", means patient medical and health information and includes the use of the Internet and wireless devices by patients to obtain or create specialized health information and online discussion groups to provide peer-to-peer support;
  6. "Originating site" means a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine, which may include, but shall not be restricted to, a patient's home, workplace or school;
  7. "Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose and other condition-specific data, medication adherence monitoring and interactive video conferencing with or without digital image upload;
  8. "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the health care professional at the distant site, but does not require the patient being present nor must it be in real time;
  9. "Telemedicine" or "telehealth" means technology-enabled health and care management and delivery systems that extend capacity and access, which includes:
    - a. synchronous mechanisms, which may include live audiovisual interaction between a patient and a health care professional or real-time provider-to-provider consultation through live interactive audiovisual means,
    - b. asynchronous mechanisms, which include store and forward transfers, online exchange of health information between a patient and a health care professional and online exchange of health information between health care professionals, but shall not include the use of automated text messages or automated mobile applications that serve as the sole interaction between a patient and a health care professional,
    - c. remote patient monitoring, d. mHealth, and e. other electronic means that support clinical health care, professional consultation, patient and professional health-related education, public health and health administration.
    - d. other electronic means that support clinical health care, professional consultation, patient and professional health-related education, public health and health administration.

### Section 6803 - Telemedicine Services as amended by [SB 674](#)

- A. For services that a health care professional determines to be appropriately provided by means of telemedicine, health care service plans, disability insurer programs, workers' compensation programs, or state Medicaid managed care program contracts issued, amended, or renewed on or after January 1, 1998, shall not require person-to-person contact between a health care professional and a patient.
- B. Subsection A of this section shall apply to health care service plan contracts with the state Medicaid managed care program only to the extent that both of the following apply:

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1. Telemedicine services are covered by, and reimbursed under, the fee-for-service provisions of the state Medicaid managed care program; and
  2. State Medicaid managed care program contracts with health care service plans are amended to add coverage of telemedicine services and make any appropriate capitation rate adjustments.
- C. Any health benefit plan that is offered, issued or renewed in this state by an insurer on or after the effective date of this act shall provide coverage of health care services provided through telemedicine, as provided in this section.
- D. An insurer shall not exclude a service for coverage solely because the service is provided through telemedicine and is not provided through in-person consultation or contact between a health care professional and a patient when such services are appropriately provided through telemedicine. An insurer may limit coverage of services provided by telehealth consistent with coding and clinical standards recognized by the American Medical Association or the Centers for Medicare and Medicaid Services as covered if delivered by telehealth or telemedicine, except as agreed to by the insurer and provider.
- E. An insurer shall reimburse the treating health care professional or the consulting health care professional for the diagnosis, consultation or treatment of the patient delivered through telemedicine services on the same basis and at least at the rate of reimbursement that the insurer is responsible for coverage for the provision of the same, or substantially similar, services through in-person consultation or contact.
- F. An insurer shall not apply any deductible to telemedicine services that accumulates separately from the deductible that applies in the aggregate to all items and services covered under the health benefit plan.
- G. Any copayment or coinsurance applied to telemedicine benefits by an insurer shall not exceed the copayment or coinsurance applied to such benefits when provided through in-person consultation or contact. H. An insurer shall not impose any annual or lifetime durational limits or annual or lifetime dollar maximums for benefits or services provided through telemedicine that are not equally imposed upon all terms and services covered under the health benefit plan.
- I. An insurer shall not impose any type of utilization review on benefits provided through telemedicine unless such type of utilization review is imposed when such benefits are provided through in-person consultation or contact. Any type of utilization review that is imposed on benefits provided through telemedicine shall not occur with greater frequency or more stringent application than such form of utilization review is imposed on such benefits provided through in-person consultation or contact.
- J. An insurer shall not restrict coverage of telemedicine benefits or services to benefits or services provided by a particular vendor, or other third party, or benefits or services provided through a particular electronic communications technology platform; provided, that nothing shall require an insurer to cover any electronic communications technology platform that does not comply with applicable state and federal privacy laws.
- K. An insurer shall not place any restrictions on prescribing medications through telemedicine that are more restrictive than what is required under applicable state and federal law.
- L. No later than January 1, 2023, the State Department of Health shall request a report from the Statewide Health Information Exchange that will provide the following data:
1. The number of providers using telehealth, including the location, frequency and specific services for which telehealth is utilized; and
  2. The overall cost and cost savings associated with the utilization of telehealth services.

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# Oregon

## Requirements and Permissible Practices

### O.R.S. § 679.543

#### [679.543. Use of telehealth by dental care provider](#)

(1) As used in this section, “telehealth” means a variety of methods, through the use of electronic and telecommunications technologies, for the distance delivery of health care services, including dental care services, and clinical information designed to improve a patient’s health status and to enhance delivery of the health care services and clinical information.

(2) A dental care provider authorized by the Oregon Board of Dentistry to practice dental care services may use telehealth if:

(a) In the professional judgment of the dental care provider, the use of telehealth is an appropriate manner in which to provide a dental care service; and

(b) The dental care provider is providing a dental care service that is within the scope of practice of the dental care provider.

(3) The use of telehealth as described in subsection (2) of this section is not an expansion of the scope of practice of a dental care provider.

(4) The board shall treat a dental care service that is delivered by a dental care provider through telehealth as described in subsection (2) of this section the same as the board treats the dental care service when delivered in person. The board shall apply identical quality and practice standards to a particular dental care service regardless of the method of delivery of the dental care service.

#### [OAR 818-001-0002. Definitions](#)

...

(17) “Teledentistry” is defined as the use of information technology and telecommunications to facilitate the providing of dental primary care, consultation, education, and public awareness in the same manner as telehealth and telemedicine.

...

## Medicaid Reimbursement

### [House Bill 2508](#)

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 414.

SECTION 2. (1) As used in this section:

(a)(A) “Audio only” means the use of audio telephone technology, permitting real-time communication between a health care provider and a patient for the purpose of diagnosis, consultation or treatment.

(B) “Audio only” does not include: (i) The use of facsimile, electronic mail or text messages. (ii) The delivery of health services that are customarily delivered by audio telephone technology and customarily not billed as separate services by a health care provider, such as the sharing of laboratory results.

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- (b) "Telemedicine" means the mode of delivering health services using information and telecommunication technologies to provide consultation and education or to facilitate diagnosis, treatment, care management or self-management of a patient's health care.
- (2) To encourage the efficient use of resources and to promote cost-effective procedures in accordance with ORS 413.011 (1)(L), the Oregon Health Authority shall reimburse the cost of health services delivered using telemedicine, including but not limited to:
- (a) Health services transmitted via landlines, wireless communications, the Internet and telephone networks;
  - (b) Synchronous or asynchronous transmissions using audio only, video only, audio and video and transmission of data from remote monitoring devices; and
  - (c) Communications between providers or between one or more providers and one or more patients, family members, caregivers or guardians.
- (3)(a) The authority shall pay the same reimbursement for a health service regardless of whether the service is provided in person or using any permissible telemedicine application or technology.
- (b) Paragraph (a) of this subsection does not prohibit the use of value-based payment methods, including global budgets or capitated, bundled, risk-based or other value-based payment methods, and does not require that any value-based payment method reimburse telemedicine health services based on an equivalent fee-for-service rate.
- (4) The authority shall include the costs of telemedicine services in its rate assumptions for payments made to clinics or other providers on a prepaid capitated basis.
- (5) This section does not require the authority or a coordinated care organization to pay a provider for a service that is not included within the Healthcare Procedure Coding System or the American Medical Association's Current Procedural Terminology codes.
- (6) The authority shall adopt rules to ensure that coordinated care organizations reimburse the cost of health services delivered using telemedicine, consistent with subsections (2) and (3) of this section.

#### [Division 120](#)

#### [MEDICAL ASSISTANCE PROGRAMS](#)

#### **410-120-1180**

#### **Medical Assistance Benefits: Out-of-State Services**

(1) A provider located in a state other than Oregon whose services are rendered in that state shall be licensed and otherwise certified by the proper agencies in the state of residence as qualified to render the services. Certain cities within 75 miles of the Oregon border may be closer for Oregon residents than major cities in Oregon, and therefore, these areas are considered contiguous areas, and providers are treated as providing in-state services.

#### [Health Systems Division: Medical Assistance Programs - Chapter 410](#)

#### [Division 120](#)

#### [MEDICAL ASSISTANCE PROGRAMS](#)

#### **410-120-1990**

#### **Telehealth**

(1) For the purpose of this general rule, the Authority defines telehealth as the use of electronic information and telecommunications technologies to support and promote long-distance clinical healthcare, patient and professional health-related education, public health and health administration.

- (a) Information related to telehealth services may be transmitted via landlines and wireless communications, including the Internet and telephone networks;

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(b) Services can be synchronous (using audio and video, video only or audio-only) or asynchronous (using audio and video, audio, or text-based media) and may include transmission of data from remote monitoring devices. Communications may be between providers, or between one or more providers and one or more patients, family members/caregivers /guardians.

(2) Telehealth encompasses different types of programs, services and delivery mechanisms for medically appropriate services for covered physical, behavioral and oral health conditions within the patient's defined benefit package. This overarching fee for service rule applies to all program-specific rules or as set forth in the individual program provider rules. Providers are prohibited from excluding or otherwise limiting OHP members to using exclusively telehealth services, except where Authority has implemented section (7) of this rule.

(3) Patient choice and accommodation for telehealth shall encompass the following standards and services:

(a) Providers shall provide meaningful access to telehealth services by assessing patients' capacities to use specific approved methods of telehealth delivery that comply with accessibility standards including alternate formats, and provides the optimal quality of care for the patient given their capacity;

(b) Pursuant to Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act and the corresponding Code of Federal Regulation (CFR) at 45 CFR Part 92 (Section 1557) and The Americans with Disabilities Act and Amendments Act of 2008 (ADA), providers' telehealth services shall accommodate the needs of individuals who have difficulty communicating due to a medical condition, who need accommodation due to a disability, advanced age or who have limited English proficiency (LEP) and including providing access to auxiliary aids and services as defined in Code of Federal Regulation (CFR) at 45 CFR Part 92 (Section 1557);

(c) Providers shall provide meaningful access to health care services for LEP and Deaf and hard of hearing patients and their families by working with qualified and certified health care interpreters, to provide language access services as described in OAR 333-002-0040;

(d) Providers' telehealth services shall be culturally and linguistically appropriate as described in the relevant standards:

(A) National Culturally and Linguistically Appropriate Services (CLAS) Standards:  
<https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>.

(B) Tribal based practice standards:  
<https://www.oregon.gov/OHA/HSD/AMH/Pages/EBP.aspx>.

(C) Services shall be provided using a trauma informed approach. "Trauma Informed Approach" means approach undertaken by providers and healthcare or human services programs, organizations, or systems in providing mental health and substance use disorders treatment wherein there is a recognition and understanding of the signs and symptoms of trauma in, and the intensity of such trauma on, individuals, families, and others involved within a program, organization, or system. It then considers those signs, symptoms, and their intensity and fully integrates that knowledge when implementing and providing potential paths for recovery from mental health or substance use disorders. The Trauma Informed Approach also means that providers and healthcare or human services programs, organizations, or systems can actively resist re-traumatization of the individuals being served within their respective entities.

(4) Privacy and security standards for telehealth services shall be met by satisfying the following:

(a) Prior to the delivery of services via a telehealth modality, a patient oral, recorded, or written consent to receive services using a telehealth delivery method in the language that the patient understands must be obtained and documented by Providers annually. Consent



must be updated at least annually thereafter. For LEP and Deaf and hard of hearing patients and their families, providers must use qualified and certified health care interpreters when obtaining patient consent.

(b) Consistent with ORS 109.640, provision of birth control information and services shall be provided to any person regardless of age without consent of parent or legal guardian.

(c) Consistent with ORS 109.640, provision of any other medical or dental diagnosis and treatment shall be provided to any person 15 years of age or older without consent of parent or legal guardian.

(d) Services provided using a telehealth platform shall comply with Health Insurance Portability and Accountability Act (HIPAA), <https://aspe.hhs.gov/report/health-insurance-portability-and-accountability-act-1996>, and with the Authority's Privacy and Confidentiality Rules (Chapter 943 Division 14) except as noted in section (7) below.

(e) The patient may be located in the community, or in a health care setting.

(f) OHP enrolled providers may be located in any location where patient privacy and confidentiality can be ensured.

(g) Persons providing interpretive services and supports shall be in a location where patient privacy and confidentiality can be ensured.

(5) Telehealth providers shall meet the following requirements:

(a) Shall be enrolled with the Authority as an Oregon Health Plan (OHP) provider, per 410-120-1260.

(b) Shall provide services via telehealth that are within their respective certification or licensing board's scope of practice and comply with telehealth requirements including, but not limited to:

(A) Documenting patient and provider agreement of consent to receive services;

(B) Allowed physical location of provider and patient;

(C) Establishing or maintaining an appropriate provider-patient relationship.

(c) Providers billing for covered telehealth services are responsible for:

(A) Complying with HIPAA and the Authority's Privacy and Confidentiality Rules and security protections for the patient in connection with the telehealth communication and related records requirements (OAR chapter 943 division 14 and 120, OAR 410-120-1360 and 1380, 42 CFR Part 2, if applicable, and ORS 646A.600 to 646A.628 (Oregon Consumer Identity Theft Protection Act) except as noted in section (7) below;

(B) Obtaining and maintaining technology used in telehealth communication that is compliant with privacy and security standards in HIPAA and the Authority's Privacy and Confidentiality Rules described in subsection (A) except as noted in section (7) below;

(C) Developing and maintaining policies and procedures to prevent a breach in privacy or exposure of patient health information or records (whether oral or recorded in any form or medium) to unauthorized persons and timely breach reporting;

(D) Maintaining clinical and financial documentation related to telehealth services as required in OAR 410-120-1360 and any program specific rules in OAR Ch 309 and Ch 410;

(E) Complying with all federal and state statutes as required in OAR 410-120-1380.

(6) Authority will only pay for telehealth services meeting all of the following requirements:

(a) Services provided shall be medically and clinically appropriate for covered conditions within the Health Evidence Review Commission's (HERC) prioritized list and in compliance with relevant guideline notes;

(b) The Authority shall provide reimbursement for telehealth services at the same reimbursement rate as if it were provided in person. As a condition of reimbursement, providers shall agree to reimburse Certified and Qualified Health Care Interpreters (HCIs)

for interpretation services provided via telehealth at the same rate as if interpretation services were provided in-person, per OARs 410-141-3515(12) and 410-141-3860(12);  
(c) When allowed by individual certification or licensing boards' scope of practice standards, telehealth delivered services for covered conditions are covered:

(A) When an established relationship exists between a provider and patient as defined by a patient who has received in-person professional services from the physician or other qualified health care professional within the same practice within the past three years;  
and

(B) For establishing a patient-provider relationship.

(d) All physical, behavioral and oral telehealth services except School Based Health Services (SBHS) shall include Place of Service code 02;

(e) All claim types except Dental services, shall use modifiers GT or 95 when the telehealth delivered service utilizes a synchronous audio and video modality. When provision of the same service via synchronous audio and video is not available or feasible (e.g. the patient declines to enable video, or necessary consents cannot reasonably be obtained with appropriate documentation in patient's medical record) the claim should not include any modifiers but should continue billing Place of Service as 02.

(7) In the event of a declared emergency or changes in federal requirements, the Authority may adopt flexibilities to remove administrative barriers and support telehealth delivered services:

(a) The Authority will follow guidance from the US Department of Health and Human Services (HHS) Office for Civil Rights (OCR) which may allow enforcement discretion related to privacy or security requirements;

(b) The Authority may expand network capacity through remote care and telehealth services provided across state lines;

(c) The Authority may expand access to telehealth services for new patients.

## Oregon Administrative Rules

### Health Systems Division: Medical Assistance Programs - Chapter 410

#### Division 123

#### DENTAL/DENTURIST SERVICES

#### [OAR 410-123-1060. Definition of Terms](#)

...

(45) "Teledentistry" means the modalities specified in OAR 410-123-1265, using electronic and telecommunications technologies, for the distance delivery of dental care services and clinical information designed to improve a patient's health status and to enhance delivery of the health care services and clinical information.

...

#### [OAR 410-123-1265 Teledentistry](#)

(1) Teledentistry can take multiple forms, both synchronous and asynchronous, including but not limited to:

(a) Live video, a two-way interaction between a patient and dentist using audiovisual technology;

(b) Store and forward, an asynchronous transmission of recorded health information such as radiographs, photographs, video, digital impressions, or photomicrographs transmitted through a secure electronic communication system to a dentist, and it is reviewed at a later

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- point in time by a dentist. The dentist at a distant site reviews the information without the patient being present in real time;
- (c) Remote patient monitoring, where personal health and dental information is collected by dental care providers in one location then transmitted electronically to a dentist in a distant site location for use in care; and
  - (d) Mobile communication devices such as cell phones, tablet computers, or personal digital assistants may support mobile dentistry, health care, public health practices, and education.
- (2) All billing requirements stated in this rule apply to all delivery modalities referenced in section (5) of this rule.
- (3) Billing Provider Requirements, as referenced in OAR 410-120-1990:
- (a) Dentists providing Medicaid services must be licensed to practice dentistry within the State of Oregon or within the contiguous area of Oregon and must be enrolled as a Health Systems Division (Division) provider;
  - (b) Providers billing for covered teledentistry/telehealth services are responsible for the following:
    - (A) Complying with Health Insurance Portability and Accountability Act (HIPAA) and Oregon Health Authority (Authority) Confidentiality and Privacy Rules and security protections for the patient in connection with the telemedicine communication and related records. See OAR 410-120-1990.
    - (B) Obtaining and maintaining technology used in the telehealth communication that is compliant with privacy and security standards in HIPAA and Department Privacy and Confidentiality Rules described in subsection (5)(b)(A);
    - (C) Ensuring policies and procedures are in place to prevent a breach in privacy or exposure of patient health information or records (whether oral or recorded in any form or medium) to unauthorized individuals;
    - (D) Maintaining clinical and financial documentation related to telehealth services as required in OARs 410-120-1360 and 410-120-1990.
  - (c) A patient receiving services through teledentistry shall be notified of the right to receive interactive communication with the distant dentist and shall receive an interactive communication with the distant dentist upon request;
  - (d) The patient's chart documentation shall reflect notification of the right to interactive communication with the distant site dentist;
  - (e) A patient may request to have real time communication with the distant dentist at the time of the visit or within 30 days of the original visit.
- (4) General Billing Requirements:
- (a) Unless authorized in OAR 410-120-1200 Exclusions or OAR 410-120-1990, other types of telecommunications such as telephone calls, images transmitted via facsimile machines, and electronic mail are not covered:
    - (A) When those types are not being used in lieu of teledentistry, due to limited teledentistry equipment access; or
    - (B) When those types and specific services are not specifically allowed in this rule per the Oregon Health Evidence Review Commission's Prioritized List of Health Services.
  - (b) The dentist may bill for teledentistry on the same type of claim form as other types of procedures unless in conflict with the Dental Services rules;
  - (c) All Dental Services rules, criteria, and limits apply to teledentistry services in the same manner as other services;
  - (d) As stated in ORS 679.543 and this rule, payment for dental services may not distinguish between services performed using teledentistry, real time, or store-and-forward and services performed in-person.

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- (5) Teledentistry billing requirements:
  - (a) The dentist who completes diagnosis and treatment planning and the oral evaluation also documents these services using the traditional CDT codes. This provider also reports the teledentistry event using D9995 or D9996 as appropriate. See the Dental Billing Instructions for details at: [www.oregon.gov/oha/HSD/OHP/Pages/Policy-Dental.aspx](http://www.oregon.gov/oha/HSD/OHP/Pages/Policy-Dental.aspx);
  - (b) The originating site may bill a CDT code only if a separately identifiable service is performed within the scope of practice of the practitioner providing the service. The service must meet all criteria of the CDT code billed.
- (6) An assessment-D0191 is a limited inspection performed to identify possible signs of oral or systemic disease, malformation or injury, and the potential need for referral for diagnosis and treatment. This code may be billed using the modality of teledentistry:
  - (a) When D0191 is reported in conjunction with an oral evaluation (D0120-D0180) using teledentistry, D0191 shall be disallowed even if done by a different provider;
  - (b) The assessment and evaluation may not be billed or covered by both the originating site dental care provider and a distant site dentist using the modality of teledentistry, even if due to store-and-forward review, if the dates of services are on different days.

## Oregon Administrative Rules

### Health Systems Division: Medical Assistance Programs - Chapter 410

#### Division 141 OREGON HEALTH PLAN

#### [410-141-3566 Telehealth Service and Reimbursement Requirements](#)

- (1) For the purpose of this rule, the Authority defines telehealth as the use of electronic information and telecommunications technologies to support and promote long-distance clinical health care, patient and professional health-related education, public health and health administration.
  - (a) Information related to telehealth services may be transmitted via landlines, and wireless communications, including the Internet and telephone networks;
  - (b) Services can be synchronous (using audio and video, video only or audio only) or asynchronous (using audio and video, audio, or text-based media) and may include transmission of data from remote monitoring devices. Communications may be between providers, or be between one or more providers and one or more patients, family members /caregivers /guardians).
- (2) Telehealth encompasses different types of programs, services and delivery mechanisms for medically appropriate services for covered physical, behavioral and oral health conditions within the patient's defined benefit package.
- (3) CCOs shall provide reimbursement for telehealth services and reimburse Certified and Qualified Health Care Interpreters (HCIs) for interpretation services provided via telemedicine at the same reimbursement rate as if it were provided in person. This requirement does not supersede the CCOs direct agreement(s) with providers, including but not limited to, alternative payment methodologies, quality and performance measures or Value Based Payment methods described in the CCO contract. However, nothing either in this requirement or within CCO direct agreement(s) with providers referenced herein supersedes any federal or state requirements with regard to the provision and coverage of health care interpreter services.
- (4) Providers are prohibited from excluding or otherwise limiting OHP members to using exclusively telehealth services, except where Authority has implemented section (9) of this rule.
- (5) CCOs shall ensure patient choice and accommodation encompass the following standards and services:
  - (a) Consistent with Care Coordination requirements in OAR 410-141- 3865, CCOs shall work with their contracted providers to ensure meaningful access to services by assessing

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members' capacities to use specific approved methods of telehealth delivery that comply with accessibility standards including alternate formats, and provides the optimal quality of care for the patient given their capacity;

(b) Pursuant to Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act and the corresponding Code of Federal Regulation (CFR) at 45 CFR Part 92 (Section 1557) and The Americans with Disabilities Act and Amendments Act of 2008 (ADA), CCOs shall provide access to auxiliary aids and services to ensure that telehealth services accommodate the needs of individuals who have difficulty communicating due to a medical condition, who need accommodation due to a disability, advanced age or who have limited English proficiency (LEP);

(c) CCOs shall ensure access to health care services for LEP and Deaf and hard of hearing patients and their families through the use of qualified and certified health care interpreters, embedded or third-party interpretive services to provide meaningful language access services as described in OAR 333-002-0040;

(d) CCOs shall ensure that telehealth services provided are culturally and linguistically appropriate as described in the relevant standards:

(A) National Culturally and Linguistically Appropriate Services (CLAS) Standards,

<https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>;

(B) Tribal based practice standards,

<https://www.oregon.gov/OHA/HSD/AMH/Pages/EBP.aspx>;

(C) Trauma-informed approach to care as defined in 410-141-3500.

(6) Consistent with OAR 410-120-1990 privacy and security standards must be met by satisfying the following:

(a) Prior to the delivery of services via a telehealth modality, a patient oral, recorded, or written consent to receive services using a telehealth delivery method shall be obtained and documented annually. Consent must be updated at least annually thereafter. For LEP and Deaf and hard of hearing patients and their families, providers must use qualified and certified health care interpreters, when obtaining patient consent.

(b) Consistent with ORS 109.640, provision of birth control information and services shall be provided to any person regardless of age without consent of parent or legal guardian.

(c) Consistent with ORS 109.640, provision of any other medical or dental diagnosis and treatment shall be provided to any person 15 years of age or older without consent of parent or legal guardian.

(d) Services provided using a telehealth platform shall comply with Health Insurance Portability and Accountability Act (HIPAA, <https://aspe.hhs.gov/report/health-insurance-portability-and-accountability-act-1996>) and with the Authority's Privacy and Confidentiality Rules (Chapter 943 Division 14) except as noted in section (9) below.

(e) The patient may be located in the community or in a health care setting.

(f) Providers may be located in any location where privacy can be ensured.

(g) Persons providing interpretive services and supports shall be in any location where patient privacy and confidentiality can be ensured.

(7) CCOs shall ensure their network providers offer telehealth services that meet the following requirements:

(a) Provide services via telehealth that are within their respective certification or licensing board's scope of practice and comply with telehealth requirements including but not limited to:

(A) Documenting patient and provider agreement of consent to receive services;

(B) Allowed physical location of provider and patient;

(C) Establishing or maintaining an appropriate provider-patient relationship.

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- (b) Complying with HIPAA and the Authority's Privacy and Confidentiality Rules and security protections for the patient in connection with the telehealth communication and related records requirements (OAR chapter 943 division 14 and 120, OAR 410-120-1360 and 1380, 42 CFR Part 2, if applicable, and ORS 646A.600 to 646A.628 (Oregon Consumer Identity Theft Protection Act)) except as noted in section (9) below;
  - (c) Obtaining and maintaining technology used in telehealth communication that is compliant with privacy and security standards in HIPAA and the Authority's Privacy and Confidentiality Rules described in subsection (A) except as noted in section (9) below;
  - (d) Ensuring policies and procedures are in place to prevent a breach in privacy or exposure of patient health information or records (whether oral or recorded in any form or medium) to unauthorized persons;
  - (e) Maintaining clinical and financial documentation related to telehealth services as required in OAR 410-120-1360;
  - (f) Complying with all federal and state statutes as required in OAR 410-120-1380.
- (8) CCO reimbursement to network providers offering telehealth services shall meet the following requirements:
- (a) Services provided shall be medically and clinically appropriate for covered conditions within the Health Evidence Review Commission's (HERC) prioritized list and in compliance with relevant guideline notes;
  - (b) Dependent on individual certification or licensing board's scope of practice standards, telehealth delivered services for covered conditions are covered when an established relationship exists between a provider and patient as defined by a patient who has received in person professional services from the physician or other qualified health care professional within the same practice within the past three years, and for establishing a patient-provider relationship;
  - (c) For all claim types except dental, CCOs shall ensure that encounter submissions for services covered using synchronous audio and video include modifiers GT or 95, and can be billed with either telephone codes (e.g. 99441) or regular in-person codes. For all telehealth services including dental, CCOs shall ensure that encounter submissions include Place of Service code 02;
  - (d) All physical, behavioral and oral telehealth services except School Based Health Services (SBHS) shall include Place of Service code 02;
  - (e) When provision of the same service via synchronous audio and video is not available or feasible, e.g. the patient declines to enable video, or necessary consents cannot reasonably be obtained with appropriate documentation in patient's medical record, then encounter submissions should not include any modifiers but should continue billing Place of Service as 02.
- (9) In the event of a declared emergency or changes in federal requirements, the Authority may adopt flexibilities to remove administrative barriers and support telehealth delivered services:
- (a) The Authority will follow guidance from the US Department of Health and Human Services (HHS) Office for Civil Rights (OCR) which may allow enforcement discretion related to privacy or security requirements;
  - (b) The Authority may expand network capacity through remote care and telehealth services provided across state lines;
  - (c) The Authority may expand access to telehealth services for new patients;
  - (d) Should the Authority exercise options in this section (9), all CCO obligations for Network Adequacy requirements as described in OAR 410-141-3515 remain in full effect.

## Private Payer Reimbursement

### 743A.058 Telemedical services, as amended by [HB 2508](#)

ORS 743A.058 is amended to read: 743A.058.

(1) As used in this section:

(a)(A) "Audio only" means the use of audio telephone technology, permitting real-time communication between a health care provider and a patient for the purpose of diagnosis, consultation or treatment.

(B) "Audio only" does not include: (i) The use of facsimile, electronic mail or text messages. (ii) The delivery of health services that are customarily delivered by audio telephone technology and customarily not billed as separate services by a health care provider, such as the sharing of laboratory results.

(b) "Health benefit plan" has the meaning given that term in ORS 743B.005.(c) "Health professional" means a person licensed, certified or registered in this state to provide health care services or supplies.

(d) "Health service" means physical, oral and behavioral health treatment or service provided by a health professional.

(e) "Originating site" means the physical location of the patient.

(f) "State of emergency" includes: (A) A state of emergency declared by the Governor under ORS 401.165; or

(B) A state of public health emergency declared by the Governor under ORS 433.441.

(g) "Telemedicine" means the mode of delivering health services using information and telecommunication technologies to provide consultation and education or to facilitate diagnosis, treatment, care management or self-management of a patient's health care.

(2) A health benefit plan and a dental-only plan must provide coverage of a health service that is provided using [synchronous two-way interactive video conferencing] telemedicine if:

(a) The plan provides coverage of the health service when provided in person by a health professional;

(b) The health service is medically necessary;

(c) The health service is determined to be safely and effectively provided [using synchronous two-way interactive video conferencing] using telemedicine according to generally accepted health care practices and standards; and

(d) The application and technology used to provide the health service meet all standards required by state and federal laws governing the privacy and security of protected health information.

(3) Except as provided in subsection

(4) of this section, permissible telemedicine applications and technologies include:

(a) Landlines, wireless communications, the Internet and telephone networks; and

(b) Synchronous or asynchronous transmissions using audio only, video only, audio and video and transmission of data from remote monitoring devices.

(4) During a state of emergency, a health benefit plan or dental-only plan shall provide coverage of a telemedicine service delivered to an enrollee residing in the geographic area specified in the declaration of the state of emergency, if the telemedicine service is delivered using any commonly available technology, regardless of whether the technology meets all standards required by state and federal laws governing the privacy and security of protected health information.

(5) A health benefit plan and a dental-only plan may not:

(a) Distinguish between rural and urban originating sites in providing coverage under subsection (2) of this section or restrict originating sites that qualify for reimbursement.

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- (b) Restrict a health care provider to delivering services only in person or only via telemedicine.
  - (c) Use telemedicine health care providers to meet network adequacy standards under ORS 743B.505.
  - (d) Require an enrollee to have an established patient-provider relationship with a provider to receive telemedicine health services from the provider or require an enrollee to consent to telemedicine services in person.
  - (e) Impose additional certification, location or training requirements for telemedicine providers or restrict the scope of services that may be provided using telemedicine to less than a provider's permissible scope of practice.
  - (f) Impose more restrictive requirements for telemedicine applications and technologies than those specified in subsection (3) of this section.
  - (g) Impose on telemedicine health services different annual dollar maximums or prior authorization requirements than the annual dollar maximums and prior authorization requirements imposed on the services if provided in person.
  - (h) Require a medical assistant or other health professional to be present with an enrollee at the originating site.
  - (i) Deny an enrollee the choice to receive a health service in person or via telemedicine.
  - (j) Reimburse an out-of-network provider at a rate for telemedicine health services that is different than the reimbursement paid to the out-of-network provider for health services delivered in person.
  - (k) Restrict a provider from providing telemedicine services across state lines if the services are within the provider's scope of practice and:
    - (A) The provider has an established practice within this state;
    - (B) The provider's employer operates health clinics or licensed health care facilities in this state;
    - (C) The provider has an established relationship with the patient; or
    - (D) The patient was referred to the provider by the patient's primary care or specialty provider located in this state.
    - (L) Prevent a provider from prescribing, dispensing or administering drugs or medical supplies or otherwise providing treatment recommendations to an enrollee after having performed an appropriate examination of the enrollee in person, through telemedicine or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically.
  - (m) Establish standards for determining medical necessity for services delivered using telemedicine that are higher than standards for determining medical necessity for services delivered in person.
- (6) A health benefit plan and a dental-only plan shall:
- (a) Work with contracted providers to ensure meaningful access to telemedicine services by assessing an enrollee's capacity to use telemedicine technologies that comply with accessibility standards, including alternate formats, and providing the optimal quality of care for the enrollee given the enrollee's capacity;
  - (b) Ensure access to auxiliary aids and services to ensure that telemedicine services accommodate the needs of enrollees who have difficulty communicating due to a medical condition, who need an accommodation due to disability or advanced age or who have limited English proficiency;
  - (c) Ensure access to telemedicine services for enrollees who have limited English proficiency or who are deaf or hard-of-hearing by providing interpreter services reimbursed at the same rate as interpreter services provided in person; and



- (d) Ensure that telemedicine services are culturally and linguistically appropriate and trauma-informed.
- (7) The coverage under subsection (2) of this section is subject to:
  - (a) The terms and conditions of the health benefit plan or dental-only plan; and
  - (b) Subject to subsection (8) of this section, the reimbursement specified in the contract between the plan and the health professional.
- (8)(a) A health benefit plan and dental-only plan must pay the same reimbursement for a health service regardless of whether the service is provided in person or using any permissible telemedicine application or technology.
  - (b) Paragraph (a) of this subsection does not prohibit the use of value-based payment methods, including capitated, bundled, risk-based or other value-based payment methods, and does not require that any value-based payment method reimburse telemedicine health services based on an equivalent fee-for-service rate.
- (9) This section does not require a health benefit plan or dental-only plan to reimburse a health professional:
  - (a) For a health service that is not a covered benefit under the plan; [or] (b) Who has not contracted with the plan; or
  - (c) For a service that is not included within the Healthcare Procedure Coding System or the American Medical Association's Current Procedural Terminology codes or related modifier codes.
- (10) This section is exempt from ORS 743A.001

## Pennsylvania

Pennsylvania statutes and regulations do not address teledentistry or telehealth conducted by oral health professionals. The [Center for Connected Health Policy](#) has assembled an overview of telehealth laws in the state.

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## Rhode Island

### Requirements and Permissible Practices

#### § 5-31.1-1. Definitions as amended by SB 4

As used in this chapter:

...

(18) “Telemedicine” has the same meaning as provided in § 27-81-3.

#### 5-31.1-40. Telemedicine in the practice of dentistry. As amended by SB 4

(a) Professionals licensed under this chapter utilizing telemedicine in the practice of dentistry are subject to the same standard of care that would apply to the provision of the same dental care service or procedure in an in-person setting.

### Private Payer

#### CHAPTER 27-81

#### The Telemedicine Coverage Act

#### § 27-81-1. Title.

This act shall be known as, and may be cited as, the “Telemedicine Coverage Act.”

#### § 27-81-2. Purpose.

The general assembly hereby finds and declares that:

(1) The advancements and continued development of medical and communications technology have had a profound impact on the practice of medicine and offer opportunities for improving the delivery, cost, and accessibility of health care, particularly in the area of telemedicine.

(2) Geography, weather, availability of specialists, transportation, and other factors can create barriers to accessing the appropriate health care, including behavioral health care, and one way to provide, ensure, or enhance access to health care given these barriers is through the appropriate use of technology to allow healthcare consumers access to qualified healthcare providers.

(3) There is a need in this state to embrace efforts that will encourage health insurers and healthcare providers to support the use of telemedicine, and that will also encourage all state agencies to evaluate and amend their policies and rules to remove any regulatory barriers prohibiting the use of telemedicine services.

#### § 27-81-3. Definitions.

As used in this chapter:

(1) “Distant site” means a site at which a healthcare provider is located while providing healthcare services by means of telemedicine.

(2) “Healthcare facility” means an institution providing healthcare services or a healthcare setting, including, but not limited to: hospitals and other licensed, inpatient centers; ambulatory surgical or treatment centers; skilled nursing centers; residential treatment centers; diagnostic, laboratory and imaging centers; and rehabilitation and other therapeutic-health settings.

(3) “Healthcare professional” means a physician or other healthcare practitioner licensed, accredited, or certified to perform specified healthcare services consistent with state law.

(4) “Healthcare provider” means a healthcare professional or a healthcare facility.

(5) “Healthcare services” means any services included in the furnishing to any individual of medical, podiatric, or dental care, or hospitalization, or incident to the furnishing of that care or

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hospitalization, and the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability.

(6) "Health insurer" means any person, firm, or corporation offering and/or insuring healthcare services on a prepaid basis, including, but not limited to, a nonprofit service corporation, a health maintenance organization, or an entity offering a policy of accident and sickness insurance.

(7) "Health maintenance organization" means a health maintenance organization as defined in chapter 41 of this title.

(8) "Nonprofit service corporation" means a nonprofit hospital-service corporation as defined in chapter 19 of this title, or a nonprofit medical-service corporation as defined in chapter 20 of this title.

(9) "Originating site" means a site at which a patient is located at the time healthcare services are provided to them by means of telemedicine, which can be a patient's home where medically appropriate; provided, however, notwithstanding any other provision of law, health insurers and healthcare providers may agree to alternative siting arrangements deemed appropriate by the parties.

(10) "Policy of accident and sickness insurance" means a policy of accident and sickness insurance as defined in chapter 18 of this title.

(11) "Store-and-forward technology" means the technology used to enable the transmission of a patient's medical information from an originating site to the healthcare provider at the distant site without the patient being present.

(12) "Telemedicine" means the delivery of clinical healthcare services by means of real time, two-way electronic audiovisual communications, including the application of secure video conferencing or store-and-forward technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, treatment, and care management of a patient's health care while such patient is at an originating site and the healthcare provider is at a distant site, consistent with applicable federal laws and regulations. Telemedicine does not include an audio-only telephone conversation, email message, or facsimile transmission between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions.

#### **§ 27-81-4. Coverage of telemedicine services.**

(a) Each health insurer that issues individual or group accident and sickness insurance policies for healthcare services and/or provides a healthcare plan for healthcare services shall provide coverage for the cost of such covered healthcare services provided through telemedicine services, as provided in this section.

(b) A health insurer shall not exclude a healthcare service for coverage solely because the healthcare service is provided through telemedicine and is not provided through in-person consultation or contact, so long as such healthcare services are medically appropriate to be provided through telemedicine services and, as such, may be subject to the terms and conditions of a telemedicine agreement between the insurer and the participating healthcare provider or provider group.

(c) Benefit plans offered by a health insurer may impose a deductible, copayment, or coinsurance requirement for a healthcare service provided through telemedicine.

(d) The requirements of this section shall apply to all policies and health plans issued, reissued, or delivered in the state of Rhode Island on and after January 1, 2018.

(e) This chapter shall not apply to: short-term travel, accident-only, limited or specified disease; or individual conversion policies or health plans; nor to policies or health plans designed for

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issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare; or any other similar coverage under state or federal governmental plans.

**§ 27-81-5. Severability.**

If any provision of this chapter or of any rule or regulation made under this chapter, or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the chapter, rule, or regulation and the application of the provision to other persons or circumstances shall not be affected by this invalidity. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of the chapter.

## South Carolina

South Carolina statutes and regulations do not address teledentistry or telehealth conducted by oral health professionals. The [Center for Connected Health Policy](#) has assembled an overview of telehealth laws in the state.

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# South Dakota

## Requirements and Permissible Practices

### South Dakota Codified Laws

#### Chapter [34-52](#)

#### Telehealth Utilization by Health Care Professionals

##### [SDCL § 34-52-1. Definitions](#) as amended by [SB 96](#)

Terms used in this chapter mean:

- (1) "Health care professional," as defined in § 58-17F-1;
- (2) "Health care facility," any office or institution where health services are provided, including any hospital, clinic, ambulatory surgery center, outpatient care facility, nursing home, assisted living facility, laboratory, or office of a health care professional;
- (3) "Originating site," a site where a patient is located at the time health care services are delivered to the patient via telehealth;
- (4) "Store-and-forward technology," secure electronic information, imaging, or data, including audio, video, and data communication that is transferred or recorded or otherwise stored for asynchronous delivery of health care services to a patient; and
- (5) "Telehealth," the use of secure electronic information, imaging, and communication technologies by a health care professional to deliver health care services to a patient, including interactive audio-video, interactive audio with store and forward, store-and-forward technology, and remote patient monitoring. Telehealth does not include the delivery of health care services through electronic means under the provisions of chapter 27A-10.

##### [SDCL § 34-52-2. Treatment of patients through telehealth--Requirements.](#)

Any health care professional treating a patient in the state through telehealth shall be:

- (1) Fully licensed to practice in the state or employed by a licensed health care facility, an accredited prevention or treatment facility, a community support provider, a nonprofit mental health center, or a licensed child welfare agency under § [36-32-76](#); and
- (2) Subject to any rule adopted by the applicable South Dakota licensing body.

Consultation between a resident health care professional and a nonresident health care professional under this chapter is governed by § [36-2-9](#).

##### [SDCL § 34-52-3. Provider-patient relationship required—Exceptions](#) as amended by [SB 96](#)

Any health care professional who utilizes telehealth shall ensure that a proper health provider-patient relationship is established and includes:

- (1) Verifying and authenticating the location and, to the extent reasonable, identifying the requesting patient;
- (2) Disclosing and validating the health care professional's identity and applicable credentials, as appropriate;
- (3) Obtaining appropriate consent for treatment from a requesting patient after disclosure regarding the delivery models and treatment methods or limitations;
- (4) Establishing a diagnosis through the use of acceptable medical practices, including patient history, mental status examination, physical examination, and appropriate diagnostic and laboratory testing;
- (5) Discussing with the patient the diagnosis and its evidentiary basis and the risks and benefits of various treatment options;
- (6) Ensuring appropriate follow-up care for the patient;

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- (7) Providing a visit summary to the patient or consult note; and
- (8) Utilizing technology sufficient to evaluate or diagnose and appropriately treat a patient for the condition as presented in accordance with the applicable standard of care. Exceptions to the requirements of this section include on-call, cross coverage situations, and consultation with another health care professional who has an ongoing health care provider relationship with the patient and agrees to supervise the patient's care and emergency treatment.

**[SDCL § 34-52-4. Treatment and consultation recommendations.](#)**

Treatment and consultation recommendations made through telehealth via a health care professional shall be appropriately provided and within the health care professional's scope of practice, training, and experience.

**[SDCL § 34-52-5. Face-to-face examination using real-time audio and visual technology.](#)**

A health care professional using telehealth to provide medical care to any patient located in the state shall provide an appropriate face-to-face examination using real-time audio and visual technology prior to diagnosis and treatment of the patient, if a face-to-face encounter would otherwise be required in the provision of the same service not delivered via telehealth.

**[SDCL § 34-52-6. Prescribing drugs.](#)**

Without a proper provider-patient relationship, a health care professional using telehealth may not prescribe a controlled drug or substance, as defined by § [34-20B-3](#), solely in response to an internet questionnaire or consult, including any encounter via telephone.

**[SDCL § 34-52-7. Informed consent.](#)**

A health care professional using telehealth shall follow any applicable state or federal statute or rule for informed consent.

**[SDCL § 34-52-8. Medical records.](#)**

A health care professional or the originating site treating a patient through telehealth shall:

- (1) Maintain a complete record of the patient's care;
- (2) Disclose the record to the patient consistent with state and federal laws; and
- (3) Follow applicable state and federal statutes and regulations for medical record retention and confidentiality.

**[SDCL § 36-6A-1. Definitions](#)**

Terms used in this chapter mean:

...

- (31) "Teledentistry," the practice of dentistry where the patient and the dentist are not in the same physical location, and which utilizes the exchange of clinical information and images over remote distances.

**[SDCL § 36-6A-14. Powers and duties of board](#)**

The board may:

...

- (18) Establish standards for teledentistry;

...

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[SDCL § 36-6A-49.3. Teledentistry services to patient located in state is practice of dentistry in state](#)

Any person who, while located outside this state, practices dentistry through teledentistry and provides the dental services to a patient located in this state, is engaged in the practice of dentistry in this state.

[SDCL § 36-6A-49.4. Teledentistry services to comply with chapter as if services provided in person](#)

Any services provided by a licensee or registrant through teledentistry or electronic means shall comply with the provisions of this chapter as if the services were provided in person by a licensee or registrant.

[SDCL § 58-17F-1. Definitions.](#)

...

(8) "Health care professional," a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with state law;

...

**Private Payer**

[SDCL § 58-17-167. Definitions pertaining to telehealth coverage.](#)

Terms used in §§ [58-17-167](#) to [58-17-170](#), inclusive, mean:

- (1) "Health care professional," as defined in § [58-17F-1](#);
- (2) "Health care services," as defined in § [58-17F-1](#);
- (3) "Health insurer," as defined in § [58-17-100](#);
- (4) "Telehealth," the delivery of health care services through the use of HIPAA-compliant interactive audio-video. The term does not include the delivery of health care services through audio-only telephone, electronic mail message, text message, mail service, facsimile transmission, or any combination thereof.

[SDCL § 58-17-168. Coverage for health care services provided through telehealth.](#)

No health insurer may exclude a service for coverage solely because the service is provided through telehealth and not provided through in-person consultation or contact between a health care professional and a patient. Health care services delivered by telehealth must be appropriate and delivered in accordance with applicable law and generally accepted health care practices and standards prevailing at the time the health care services are provided, including rules adopted by the appropriate professional licensing board having oversight of the health care professional providing the health care services. Health insurers are not required to provide coverage for health care services that are not medically necessary.

This section does not:

- (1) Prohibit a health insurer from establishing criteria that a health care professional must meet to demonstrate the safety and efficacy of delivering a particular health care service via telehealth that the health insurer does not already reimburse other health care professionals for delivering via telehealth so long as the criteria are not unduly burdensome or unreasonable for the particular services;
- (2) Prevent a health insurer from requiring a health care professional to agree to certain documentation or billing practices designed to protect the health insurer or patients from

fraudulent claims so long as the practices are not unduly burdensome or unreasonable for the particular services; or

(3) Prevent a health insurer from including a deductible, copayment, or coinsurance requirement for a health care service provided via telehealth, if the deductible, copayment, or coinsurance is not in addition to and does not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through in-person contact.

[SDCL § 58-17-169. Discrimination between coverage for services provided in person and through telehealth prohibited.](#)

A health insurance policy, contract, or plan providing for third-party payment may not discriminate between coverage benefits for health care services that are provided in person and the same health care services that are delivered through telehealth as long as the services are appropriate to be provided through telehealth. Nothing in §§ [58-17-167](#) to [58-17-170](#), inclusive, prohibits a health insurer and a health care professional from entering into a contract for telehealth with terms subject to negotiation.

[SDCL § 58-17-170. Application of telehealth coverage requirements.](#)

The requirements of §§ [58-17-168](#) and [58-17-169](#) apply to any health insurer offering any individual or group health insurance policy, contract, certificate, or plan delivered, issued for delivery, or renewed in South Dakota on or after January 1, 2020. The requirements of §§ [58-17-168](#) and [58-17-169](#) do not apply to any plan, policy, or contract providing coverage only for:

- (1) Specified disease;
- (2) Hospital indemnity;
- (3) Fixed indemnity;
- (4) Accident-only;
- (5) Credit accident and health insurance;
- (6) Vision;
- (7) Prescription drug;
- (8) Medicare supplement;
- (9) Long-term care;
- (10) Disability income insurance;
- (11) Coverage issued as a supplement to liability insurance;
- (12) Workers' compensation or similar insurance;
- (13) Automobile medical payment insurance; or
- (14) Individual health benefit plans of six-months or less duration that are not renewable.

The requirements of §§ [58-17-168](#) and [58-17-169](#) do not apply to services offered that are not part of the policy, contract, certificate, or plan offered and for which there is no premium charged.

# Tennessee

## Requirements and Permissible Practices

Tenn. Code Ann. § 63-1-155 as amended by [HB 552](#), [SB 929](#) and [SB 1265](#)

(a) For the purposes of this section:

(1) "Healthcare provider" means:

(A) An individual acting within the scope of a valid license issued pursuant to this title;

(B) A state-contracted crisis service provider that is employed by a facility licensed under title 33;

(C) An alcohol and drug abuse counselor licensed under title 68, chapter 24, part 6; or

(D) A graduate who has completed, or a student actively enrolled in, a professional training program the educational standards of which meet the training requirements for a license under this title or title 68, chapter 24, part 6, as long as the graduate or student:

(i) Is providing telehealth services for the purpose of obtaining hours required for licensure or of otherwise fulfilling the educational requirements to apply for licensure; and

(ii) Is, at all times, supervised by an individual who is licensed under this title or title 68, chapter 24, part 6, with an unencumbered license;

(2) "Store-and-forward telemedicine services" means the use of asynchronous computer-based communications between a healthcare provider and patient for the purpose of diagnosis, consultation, or treatment of the patient at a distant site where there may be no in-person exchange between the healthcare provider and the patient; and

(3) "Telehealth," "telemedicine," and "provider-based telemedicine" mean:

(A) The use of real time audio, video, or other electronic media and telecommunication technology that enables interaction between a healthcare provider and a patient for the purpose of diagnosis, consultation, or treatment of a patient at a distant site where there may be no in-person exchange between a healthcare provider and a patient; or

(B) Store-and-forward telemedicine services.

(b) For the purposes of this section, a healthcare provider-patient relationship with respect to telemedicine or telehealth is created by mutual consent and mutual communication, except in an emergency, between the patient and the provider. The consent by the patient may be expressed or implied consent; however, the provider-patient relationship is not created simply by the receipt of patient health information by a provider unless a prior provider-patient relationship exists. The duties and obligations created by the relationship do not arise until the healthcare provider:

(1) Affirmatively undertakes to diagnose or treat the patient; or

(2) Affirmatively participates in the diagnosis or treatment.

(c)

(1)

(A) A healthcare provider who delivers services through the use of telehealth is held to the same standard of professional practice as a similar licensee of the same practice area or specialty that is providing the same healthcare services through in-person encounters, and nothing in this section is intended to create any new standards of care.

(B) Notwithstanding subdivision (c)(1)(A), telehealth services must be provided in compliance with the guidelines created pursuant to part 4 of this chapter.

(2) The board or licensing entity governing any healthcare provider covered by this section shall not establish a more restrictive standard of professional practice for the practice of

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telehealth than that specifically authorized by the provider's practice act or other specifically applicable statute, including this chapter or title 53, chapter 10 or 11.

(3) This section does not apply to pain management clinics, as defined in § 63-1-301, chronic nonmalignant pain treatment, or those individuals licensed pursuant to chapter 12 of this title.

(d) Sections 63-6-231 and 63-6-214(b)(21) do not apply to the practice of telemedicine under this section.

(e) This section does not apply to or restrict the requirements of § 63-6-241.

(f) Section 63-6-204(a) also applies to telemedicine.

(g)

(1) Except as provided in subdivision (g)(2) and (3), to practice under this section a healthcare provider must be licensed to practice in this state or be a graduate or student meeting the requirements of subdivision (a)(1)(D).

(2) A physician must be licensed to practice under chapter 6 or 9 of this title in order to practice telemedicine pursuant to § 63-6-209(b), except as otherwise authorized by law or rule.

(3) An individual licensed in another state who would, if licensed in this state, qualify as a healthcare provider under subsection (a) may practice telehealth under this section while providing healthcare services on a volunteer basis through a free clinic pursuant to title 63, chapter 6, part 7.

(h)

(1) Notwithstanding subsection (a), for the purposes of this section "healthcare provider" means:

(A) Any provider licensed under this title;

(B) Any state-contracted crisis service provider that is employed by a facility licensed under title 33; or

(C) Any alcohol and drug abuse counselor licensed under title 68, chapter 24, part 6.

(2) This subsection (h) is repealed on April 1, 2022.

#### Tenn. Code Ann. § 63-5-108

(a) Dentistry is defined as the evaluation, diagnosis, prevention and/or treatment, by nonsurgical, surgical or related procedures, of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body, provided by a dentist within the scope of such dentist's education, training, and experience, in accordance with the ethics of the profession and applicable law.

(b) Any person is deemed to be practicing dentistry who, either gratuitously or for a salary, fee, money or other remuneration, paid or to be paid, directly to the operator or to any person or agency:

...

(16) Authorizes the practice of "teledentistry" which, as used in this section, means the delivery of dental health care and patient consultation through the use of telehealth systems and technologies, including live, two-way interactions between a patient and a dentist licensed in this state using audiovisual telecommunications technology, or the secure transmission of electronic health records and medical data to a dentist licensed in this state to facilitate evaluation and treatment of the patient outside of a real-time or in-person interaction. Dentists who are licensed in this state and who deliver services using teledentistry shall establish protocols for the practice that should include proper methods of keeping the patient fully informed; proper safeguards ensuring that all state and federal laws and regulations relative to the privacy of health information are followed; proper

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documentation of all services or treatment rendered via teledentistry; proper procedures to ensure the referral of those patients requiring treatment beyond what can be provided via teledentistry to a dentist licensed in this state; and any such requirements as prescribed by the board of dentistry. Any and all services provided via teledentistry shall be consistent with the in-person provision of those services. Any and all services provided via teledentistry shall comply with this chapter and shall be provided in accordance with the rules of the board of dentistry.

...

### **Tenn. Code Ann. § 63-5-115. Dental hygienists; authorized practice**

(a) A duly licensed and registered dentist may employ licensed and registered dental hygienists, registered dental assistants and practical dental assistants. Such licensed and registered dental hygienists may practice as authorized in this section or § 63-5-108 only in the office of and under the direct and/or general supervision of a licensed and registered dentist, in authorized public health programs or at other locations otherwise authorized by this chapter. Such registered and/or practical dental assistants may practice as authorized in this section or § 63-5-108 only in the office of and under the direct supervision of a licensed and registered dentist except in authorized public health programs. No provisions in this chapter shall be construed as authorizing any licensed and registered dental hygienists, registered dental assistants or practical dental assistants to practice as such except as provided in this section.

(b) Definitions.

(1) DIRECT SUPERVISION. As used in this chapter regarding supervision of licensed and registered dental hygienists or registered dental assistants, "direct supervision" means the continuous presence of a supervising dentist within the physical confines of the dental office when licensed and registered dental hygienists or registered dental assistants perform lawfully assigned duties and functions;

(2) GENERAL SUPERVISION. As used in this chapter, "general supervision" is defined as those instances when the dentist is not present in the dental office or treatment facility while procedures are being performed by the dental hygienist, but the dentist has personally diagnosed the condition to be treated, has personally authorized the procedures being performed and will evaluate the performance of the dental hygienist.

(c) Licensed and registered dental hygienists and registered dental assistants are specifically permitted to participate unsupervised in educational functions involving organized groups or health care institutions regarding preventive oral health care. Dental hygienists are permitted to participate in health screenings and similar activities; provided, that no remuneration is given by the organized group to any hygienist or the hygienist's employer for participating in these activities.

(d)(1) Settings in which licensed and registered hygienists may engage in the provision of preventive dental care under the general supervision of a dentist through written protocol include nursing homes, skilled care facilities, nonprofit clinics and public health programs. Dental hygienists licensed and registered pursuant to this chapter are specifically permitted to render such preventive services as authorized in § 63-5-108 or by regulation of the board, as prescribed by the supervising dentist under a written protocol. Dental hygienists rendering such services shall be under the general supervision of a licensed dentist as specified in a written protocol between the supervising dentist and the hygienist which must be submitted in advance to the board. No dentist may enter into a written protocol with more than three (3) dental hygienists at any one time nor may any hygienist be engaged in a written protocol with more than three (3) dentists at any one time. The supervising dentist must process all patient billings. Each written protocol will be valid for a period of two (2) years at which time it must be

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renewed through resubmission to the board. Should a dentist cease to be the employer/supervisor of a dental hygienist where a written protocol is in force and on file with the board, the dentist must notify the board within ten (10) working days by certified mail, return receipt requested or electronic mail that the written protocol is no longer in force.

(2) Licensed and registered dental hygienists working under written protocol, in addition to those requirements enumerated under the general supervision as authorized by § 63-5-108(c)(5), must have actively practiced as a licensed dental hygienist for at least five (5) years and have practiced two thousand (2,000) hours in the preceding five (5) years or taught dental hygiene courses for two (2) of the preceding three (3) years in a dental hygiene program accredited by the American Dental Association's Commission on Dental Accreditation and completed six (6) hours of public health continuing education within the past two (2) years; provided, that, after satisfying the requirement of this subsection (d), in subsequent years the hygienist may work on a part-time basis.

(3) Each written protocol, required for off-site practice under general supervision, shall be submitted to the board by certified mail, return receipt requested and shall include at a minimum:

(A) The name, address, telephone number and license number of the employer (supervising) dentist;

(B) The name, address, telephone number and license number of the dental hygienist;

(C) The name, address, telephone number and other pertinent identification from all locations where the dental hygiene services are to be performed; and

(D) A statement signed by the dentist that the dentist and the dental hygienist that meets all minimum standards for general supervision as well as those required for practice under a written protocol as stipulated in this section and § 63-5-108.

(4) The board will receive each written protocol submitted and keep those on file which meet the minimum requirements enumerated in subdivision (d)(3). Those received by the board and determined not to be complete shall be returned to the submitting dentist within thirty (30) days of receipt with a request for the additional information required. The dentist may then resubmit an amended written protocol to the board.

(e) Teledentistry shall not alter or amend the supervision requirements or procedures authorized for licensed and registered dental hygienists or registered dental assistants. Any licensed and registered dental hygienist who, under the supervision of a dentist, assists the dentist in providing dental health services or care using teledentistry is only authorized to perform those services that the dental hygienist is authorized to perform during an in-person patient encounter under general supervision. Services provided by registered dental hygienists through teledentistry should be provided under written protocol in accordance with subsection (d).

### [TN ADC 0460-1-.19 TELEDENTISTRY.](#)

No person shall engage in the practice of dentistry, either in person or remotely using information transmitted electronically or through other means, on a patient within the state of Tennessee unless duly licensed by the Board in accordance with the provisions of the current statutes and rules. Teledentistry shall not alter or amend the supervision requirements or procedures that are authorized for licensed dental hygienists or registered dental assistants as stated by T.C.A § 63-5-115, 0460-03-.09 and 0460-04-.08.

(1) Treatment and the Practice of Teledentistry

(a) A teledentistry encounter entails the rendering of a documented dental opinion concerning evaluation, diagnosis, and/or treatment of a patient whether the dentist is

physically present in the same room or in a remote location within the state or across state lines.

(b) Teledentistry as practiced under T.C.A § 63-5-108(b)(16) is not an audio only telephone conversation, email/instant messaging conversation or fax. At a minimum it shall include the application of secure video conferencing or store-and-forward technology to provide or support dental care delivery by replicating the interaction of a traditional encounter between a provider and a patient.

(c) If the information transmitted through electronic or other means as part of a patient's encounter is not of sufficient quality or does not contain adequate information for the dentist to form an opinion, the dentist must declare they cannot form an opinion to make an adequate diagnosis and must request direct referral for inspection and actual physical examination, request additional data or recommend the patient be evaluated by the patient's primary dentist or other local oral health care provider.

(d) No patient seeking care via teledentistry who is under the age of eighteen (18) years of age can be treated unless there is a parent or guardian present, except as otherwise authorized by law.

(2) Dental Records and Informed Consent when Practicing Teledentistry

(a) For patient encounters conducted by teledentistry, the dentist shall have appropriate patient records or be able to obtain the patient's prior treatment information during the teledentistry encounter.

(b) Secure electronic records of the patient are to be kept at all locations where the patient is seen physically and at the location where the dentist is if the dentist is not present at the time of the visit. Dental records established for the purposes of teledentistry must contain the same information as required by Rule 0460-02-.12.

(c) Store-and-forward technology as used in (1)(b) above is the use of asynchronous electronic communications between a patient and dentist at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients, including the transferring of dental data from one site to another through the use of a device that records or stores images that are sent or forwarded via electronic communication to another site for consultation.

(d) The dentist engaging in teledentistry is responsible for ensuring that the dental record contains all pertinent data and information gleaned from the encounter. Any dentist conducting a patient encounter via teledentistry must so document by an informed consent form which shall be added in the patient record and must state the technology used.

(e) Informed consent forms shall be signed by the patient or parent/guardian describing the information to be transmitted and/or shared with a dentist who is at a different geographical location.

(f) A dentist who provides information regarding healthcare services on an internet website that is directly controlled or administered by the dentist or the dentist's agent, shall prominently display on the internet website the dentist full name and type of license.

(3) Supervision

(a) Patient encounter with hygienist - Any licensed dental hygienist who assists the dentist in providing dental health services or care using teledentistry is only authorized to perform those services that the dental hygienist is authorized to perform during an in-person patient encounter under general supervision as defined by T.C.A § 63-5-108 (c)(5).

## Medicaid and Private Payer Reimbursement

### Tenn. Code Ann. § 56-7-109

...

(4) "Health insurance entity" means an entity subject to the insurance laws of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide health insurance coverage, including, but not limited to, an insurance company, a health maintenance organization and a nonprofit hospital and medical service corporation;

...

### Tenn. Code Ann. § 56-61-102

...

(20) "Healthcare services" means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

...

### Tenn. Code Ann. § 56-7-1002 as amended by HB 620

(a) As used in this section:

- (1) "Health insurance entity" has the same meaning as defined in § 56-7-109 and includes managed care organizations participating in the medical assistance program under title 71, chapter 5;
- (2) "Healthcare services" has the same meaning as defined in § 56-61-102;
- (3) "Healthcare services provider" means an individual acting within the scope of a valid license issued pursuant to title 63 or any state-contracted crisis service provider employed by a facility licensed under title 33;
- (4) "Originating site" means the location where a patient is located pursuant to subdivision (a)(7)(A) and that originates a telehealth service to another qualified site;
- (5) "Qualified site":
  - (A) Means the office of a healthcare services provider, a hospital licensed under title 68, a facility recognized as a rural health clinic under federal Medicare regulations, a federally qualified health center, a facility licensed under title 33, or another location deemed acceptable by the health insurance entity; and
  - (B) Includes, for the provision of behavioral health services provided via telehealth, the patient's home or a remote location chosen by the patient;
- (6) "Store-and-forward telemedicine services":
  - (A) Means the use of asynchronous computer-based communications between a patient and healthcare services provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients; and
  - (B) Includes the transferring of medical data from one (1) site to another through the use of a camera or similar device that records or stores an image that is sent or forwarded via telecommunication to another site for consultation;
- (7) "Telehealth":
  - (A) Means the use of real-time, interactive audio, video telecommunications or electronic technology, or store-and-forward telemedicine services by a healthcare services provider to deliver healthcare services to a patient within the scope of practice of the healthcare services provider when:
    - (i) Such provider is at a qualified site other than the site where the patient is located; and
    - (ii) The patient is at a qualified site, at a school clinic staffed by a healthcare services provider and equipped to engage in the telecommunications described in this section, or at a public elementary or secondary school staffed by a healthcare

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- services provider and equipped to engage in the telecommunications described in this section; and
- (B) Does not include:
- (i) An audio-only conversation;
  - (ii) An electronic mail message; or
  - (iii) A facsimile transmission; and
- (C) Notwithstanding subdivisions (a)(7)(A) and (B), for the provision of behavioral health services when the means described in subdivision (a)(7)(A) are unavailable, includes audio-only conversation;
- (8) "Telehealth provider" means a healthcare services provider engaged in the delivery of healthcare services through telehealth.
- (b) Healthcare services provided through a telehealth encounter shall comply with state licensure requirements promulgated by the appropriate licensure boards. Telehealth providers shall be held to the same standard of care as healthcare services providers providing the same healthcare service through in-person encounters.
- (c) A telehealth provider who seeks to contract with or who has contracted with a health insurance entity to participate in the health insurance entity's network shall be subject to the same requirements and contractual terms as a healthcare services provider in the health insurance entity's network.
- (d) Subject to subsection (c), a health insurance entity:
- (1) Shall provide coverage under a health insurance policy or contract for covered healthcare services delivered through telehealth;
  - (2) Shall reimburse a healthcare services provider for the diagnosis, consultation, and treatment of an insured patient for a healthcare service covered under a health insurance policy or contract that is provided through telehealth without any distinction or consideration of the geographic location or any federal, state, or local designation, or classification of the geographic area where the patient is located;
  - (3) Shall not exclude from coverage a healthcare service solely because it is provided through telehealth and is not provided through an in-person encounter between a healthcare services provider and a patient; and
  - (4) Shall reimburse healthcare services providers who are out-of-network for telehealth care services under the same reimbursement policies applicable to other out-of-network healthcare services providers.
- (e) A health insurance entity shall provide coverage for healthcare services provided during a telehealth encounter in a manner that is consistent with what the health insurance policy or contract provides for in-person encounters for the same service, and shall reimburse for healthcare services provided during a telehealth encounter without distinction or consideration of the geographic location, or any federal, state, or local designation or classification of the geographic area where the patient is located.
- (f) [Deleted by 2020 (2nd Ex. Se<sup>ss</sup>.) amendment.]
- (g) Any provisions not stipulated by this section shall be governed by the terms and conditions of the health insurance contract.
- (h) Telehealth is subject to utilization review under the Health Care Service Utilization Review Act, compiled in chapter 6, part 7 of this title.
- (i)
- (1) This section does not apply to accident-only, specified disease, hospital indemnity, plans described in § 1251 of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended and § 2301 of the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, as amended (both in 42 U.S.C. § 18011), plans governed by the Employee

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Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. § 1001 et seq.), Medicare supplement, disability income, long-term care, or other limited benefit hospital insurance policies.

(2) This section does apply to the basic health plans authorized under title 8, chapter 27, parts 1, 2, 3, and 7.

(j) A health insurance entity shall reimburse an originating site hosting a patient as part of a telehealth encounter an originating site fee in accordance with the federal centers for Medicare and Medicaid services telehealth services rule 42 C.F.R. § 410.78 and at an amount established prior to August 20, 2020, by the federal centers for Medicare and Medicaid services.

(k)

(1) This section does not require a health insurance entity to provide coverage for healthcare services that are not medically necessary, unless the terms and conditions of an applicable health insurance policy provide that coverage.

(2) As used in subdivision (k)(1):

(A) For a healthcare service for which coverage or reimbursement is provided under the Medical Assistance Act of 1968, compiled in title 71, chapter 5, part 1, or provided under title 71, chapter 3, part 11, "medically necessary" means a healthcare service that is determined by the bureau of TennCare to satisfy the medical necessity standard set forth in 71-5-144; and

(B) For all other healthcare services, "medically necessary" means healthcare services that a healthcare services provider, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing, or treating an illness, injury, or disease or the symptoms of an illness, injury, or disease, and that are:

(i) In accordance with generally accepted standards of medical practice;

(ii) Clinically appropriate, in terms of type, frequency, extent, site and duration; and considered effective for the patient's illness, injury or disease; and

(iii) Not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient's illness, injury, or disease excluding any costs paid pursuant to subsection (j).

(3) This section does not require a health insurance entity to provide coverage for healthcare services delivered by means of telehealth if the applicable health insurance policy would not provide coverage for the same healthcare services if delivered by in-person means.

(4) This section does not require a health insurance entity to reimburse a healthcare services provider for healthcare services delivered by means of telehealth if the applicable health insurance policy would not reimburse that healthcare services provider if the same healthcare services had been delivered by in-person means.

## Private Payer Reimbursement

### Tenn. Code Ann. § 56-7-1003

(a) As used in this section:

(1) "Health insurance entity" has the same meaning as defined in § 56-7-109 and includes managed care organizations participating in the medical assistance program under title 71, chapter 5;

(2) "Healthcare services" has the same meaning as defined in § 56-61-102;

(3) "Healthcare services provider" means an individual acting within the scope of a valid license issued pursuant to title 63 or title 68, chapter 24, part 6, or any state-contracted crisis service provider employed by a facility licensed under title 33;

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(4) "Healthcare system" means two (2) or more healthcare organizations as defined in § 63-1-150, that are affiliated through shared ownership or pursuant to a contractual relationship that controls payment terms and service delivery;

(5) "Practice group" means two (2) or more healthcare services providers that share a common employer for the purposes of the healthcare services providers' clinical practice;

(6) "Provider-based telemedicine":

(A) Means the use of Health Insurance Portability and Accessibility Act (HIPAA) (42 U.S.C. § 1320d et seq.) compliant real-time, interactive audio, video telecommunications, or electronic technology, or store-and-forward telemedicine services, used over the course of an interactive visit by a healthcare services provider to deliver healthcare services to a patient within the scope of practice of the healthcare services provider when:

(i) The healthcare services provider is at a qualified site other than the site where the patient is located and has access to the relevant medical record for that patient;

(ii) The patient is located at a location the patient deems appropriate to receive the healthcare service that is equipped to engage in the telecommunication described in this section; and

(iii) The healthcare services provider makes use of HIPAA compliant real-time, interactive audio, video telecommunications or electronic technology, or store-and-forward telemedicine services to deliver healthcare services to a patient within the scope of practice of the healthcare services provider as long as the healthcare services provider, the healthcare services provider's practice group, or the healthcare system has established a provider-patient relationship by submitting to a health insurance entity evidence of an in-person encounter between the healthcare service provider, the healthcare services provider's practice group, or the healthcare system and the patient within sixteen (16) months prior to the interactive visit; and

(B) Does not include:

(i) An audio-only conversation;

(ii) An electronic mail message or phone text message;

(iii) A facsimile transmission;

(iv) Remote patient monitoring; or

(v) Healthcare services provided pursuant to a contractual relationship between a health insurance entity and an entity that facilitates the delivery of provider-based telemedicine as the substantial portion of the entity's business;

(7) "Qualified site" means the primary or satellite office of a healthcare services provider, a hospital licensed under title 68, a facility recognized as a rural health clinic under federal medicare regulations, a federally qualified health center, a facility licensed under title 33, or any other location deemed acceptable by the health insurance entity; and

(8) "Store-and-forward telemedicine services":

(A) Means the use of asynchronous computer-based communications between a patient and healthcare services provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients; and

(B) Includes the transferring of medical data from one (1) site to another through the use of a camera or similar device that records or stores an image that is sent or forwarded via telecommunication to another site for consultation.

(b) Healthcare services provided through a provider-based telemedicine encounter must comply with state licensure requirements promulgated by the appropriate licensure boards. Provider-based telemedicine providers are held to the same standard of care as healthcare services providers providing the same healthcare services through in-person encounters.

(c) A provider-based telemedicine provider who seeks to contract with or who has contracted with a health insurance entity to participate in the health insurance entity's network is subject to the same requirements and contractual terms as any other healthcare services provider in the health insurance entity's network.

(d) A health insurance entity:

(1) Shall provide coverage under a health insurance policy or contract for covered healthcare services delivered through provider-based telemedicine;

(2) Shall reimburse a healthcare services provider for a healthcare service covered under an insured patient's health insurance policy or contract that is provided through provider-based telemedicine without any distinction or consideration of the geographic location or any federal, state, or local designation, or classification of the geographic area where the patient is located;

(3) Shall not exclude from coverage a healthcare service solely because it is provided through provider-based telemedicine and is not provided through an in-person encounter between a healthcare services provider and a patient; and

(4) Shall reimburse healthcare services providers who are out-of-network for provider-based telemedicine care services under the same reimbursement policies applicable to other out-of-network healthcare services providers.

(e) A health insurance entity shall provide coverage for healthcare services provided during a provider-based telemedicine encounter in a manner that is consistent with what the health insurance policy or contract provides for in-person encounters for the same service, and shall reimburse for healthcare services provided during a provider-based telemedicine encounter without distinction or consideration of the geographic location, or any federal, state, or local designation or classification of the geographic area where the patient is located.

(f) This section does not require a health insurance entity to pay total reimbursement for a provider-based telemedicine encounter in an amount that exceeds the amount that would be paid for the same service provided by a healthcare services provider for an in-person encounter.

(g)

(1) This section does not require a health insurance entity to provide coverage for healthcare services that are not medically necessary, unless the terms and conditions of an applicable health insurance policy provide that coverage.

(2) As used in subdivision (g)(1):

(A) For a healthcare service for which coverage or reimbursement is provided under the Medical Assistance Act of 1968, compiled in title 71, chapter 5, part 1, or provided under title 71, chapter 3, part 11, "medically necessary" means a healthcare service that is determined by the bureau of TennCare to satisfy the medical necessity standard set forth in 71-5-144; and

(B) For all other healthcare services, "medically necessary" means healthcare services that a healthcare services provider, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing, or treating an illness, injury, or disease or the symptoms of an illness, injury, or disease, and that are:

(i) In accordance with generally accepted standards of medical practice;

(ii) Clinically appropriate, in terms of type, frequency, extent, site and duration; and considered effective for the patient's illness, injury or disease; and

(iii) Not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient's illness, injury, or disease.

(3) This section does not require a health insurance entity to provide coverage for healthcare services delivered by means of provider-based telemedicine if the applicable health

insurance policy would not provide coverage for the same healthcare services if delivered by in-person means.

(4) This section does not require a health insurance entity to reimburse a healthcare services provider for healthcare services delivered by means of provider-based telemedicine if the applicable health insurance policy would not reimburse that healthcare services provider if the same healthcare services had been delivered by in-person means.

(h) Any provisions not required by this section are governed by the terms and conditions of the health insurance policy or contract.

(i) Provider-based telemedicine is subject to utilization review under the Health Care Service Utilization Review Act, compiled in chapter 6, part 7 of this title.

(j)

(1) This section does not apply to accident-only, specified disease, hospital indemnity, plans described in § 1251 of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended and § 2301 of the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, as amended (both in 42 U.S.C. § 18011), plans governed by the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. § 1001 et seq.), Medicare supplement, disability income, long-term care, or other limited benefit hospital insurance policies.

(2) This section does apply to the basic health plans authorized under title 8, chapter 27, parts 1, 2, 3, and 7.

#### **Tenn. Code Ann. § 56-7-1011**

(a) As used in this section, “remote patient monitoring services” means using digital technologies to collect medical and other forms of health data from a patient and then electronically transmitting that information securely to healthcare providers in a different location for interpretation and recommendation.

(b) A health insurance entity may consider any remote patient monitoring service a covered medical service if the same service is covered by medicare. The appropriate parties may negotiate the rate for these services in the manner in which is deemed appropriate by the parties.

(c) Reimbursement of expenses for covered remote patient monitoring services must be established through negotiations conducted by the health insurance entity with the healthcare services provider, healthcare system, or practice group in the same manner as the health insurance entity establishes reimbursement of expenses for covered healthcare services that are delivered by in-person means.

(d) Remote patient monitoring services are subject to utilization review under the Health Care Service Utilization Review Act, compiled in chapter 6, part 7 of this title.

(e) This section does not apply to a health incentive program operated by a health insurance entity that utilized an electronic device for physiological monitoring.

# Texas

## Requirements and Permissible Practices

[2021 HB 2056](#) updated state telehealth laws to include teledentistry. This bill was signed into law in 2021.

SECTION 1. The heading to Chapter 111, Occupations Code, is amended to read as follows:  
CHAPTER 111. TELEMEDICINE, TELEDENTISTRY, AND TELEHEALTH

SECTION 2. Section 111.001, Occupations Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (2-a) to read as follows:

(1) "Dentist," "health [Health] professional," and "physician" have the meanings assigned by Section 1455.001, Insurance Code.

(2-a) "Teledentistry dental service" means a health care service delivered by a dentist, or a health professional acting under the delegation and supervision of a dentist, acting within the scope of the dentist's or health professional's license or certification to a patient at a different physical location than the dentist or health professional using telecommunications or information technology.

(3) "Telehealth service" means a health service, other than a telemedicine medical service or a teledentistry dental service, delivered by a health professional licensed, certified, or otherwise entitled to practice in this state and acting within the scope of the health professional's license, certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology.

SECTION 3. Section 111.002, Occupations Code, is amended to read as follows:

Sec. 111.002. INFORMED CONSENT. (a) A treating physician, dentist, or health professional who provides or facilitates the use of telemedicine medical services, teledentistry dental services, or telehealth services shall ensure that the informed consent of the patient, or another appropriate individual authorized to make health care treatment decisions for the patient, is obtained before telemedicine medical services, teledentistry dental services, or telehealth services are provided.

(b) A dentist who delegates a teledentistry dental service shall ensure that the informed consent of the patient includes disclosure to the patient that the dentist has delegated the service.

SECTION 4. Section 111.003, Occupations Code, is amended to read as follows:

Sec. 111.003. CONFIDENTIALITY. A treating physician, dentist, or health professional who provides or facilitates the use of telemedicine medical services, teledentistry dental services, or telehealth services shall ensure that the confidentiality of the patient's clinical [medical] information is maintained as required by Chapter 159, by Subchapter C, Chapter 258, or by other applicable law.

SECTION 5. Section 111.004, Occupations Code, is amended to read as follows:

Sec. 111.004. RULES.

....

(b) The State Board of Dental Examiners, in consultation with the commissioner of insurance, as appropriate, may adopt rules necessary to:

(1) ensure that patients using teledentistry dental services receive appropriate, quality care;

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- (2) prevent abuse and fraud in the use of teledentistry dental services, including rules relating to the filing of claims and records required to be maintained in connection with teledentistry dental services;
- (3) ensure adequate supervision of health professionals who are not dentists and who provide teledentistry dental services under the delegation and supervision of a dentist; and
- (4) authorize a dentist to simultaneously delegate to and supervise through a teledentistry dental service not more than five health professionals who are not dentists.

SECTION 6. The heading to Section 111.005, Occupations Code, is amended to read as follows:

Sec. 111.005. PRACTITIONER-PATIENT RELATIONSHIP FOR TELEMEDICINE MEDICAL SERVICES OR TELEDENTISTRY DENTAL SERVICES.

SECTION 7. Section 111.005(a), Occupations Code, is amended to read as follows:

(a) For purposes of Section 562.056, a valid practitioner-patient relationship is present between a practitioner providing a telemedicine medical service or a teledentistry dental service and a patient receiving the [telemedicine medical] service as long as the practitioner complies with the standard of care described in Section 111.007 and the practitioner:

- (1) has a preexisting practitioner-patient relationship with the patient established in accordance with rules adopted under Section 111.006;
- (2) communicates, regardless of the method of communication, with the patient pursuant to a call coverage agreement established in accordance with:
  - (A) Texas Medical Board rules with a physician requesting coverage of medical care for the patient; or
  - (B) State Board of Dental Examiners rules with a dentist requesting coverage of dental care for the patient; or
- (3) provides the telemedicine medical services or teledentistry dental services through the use of one of the following methods, as long as the practitioner complies with the follow-up requirements in Subsection (b), and the method allows the practitioner to have access to, and the practitioner uses, the relevant clinical information that would be required in accordance with the standard of care described in Section 111.007:
  - (A) synchronous audiovisual interaction between the practitioner and the patient in another location;
  - (B) asynchronous store and forward technology, including asynchronous store and forward technology in conjunction with synchronous audio interaction between the practitioner and the patient in another location, as long as the practitioner uses clinical information from:
    - (i) clinically relevant photographic or video images, including diagnostic images; or
    - (ii) the patient's relevant clinical [medical] records, such as the relevant medical or dental history, laboratory and pathology results, and prescriptive histories; or
  - (C) another form of audiovisual telecommunication technology that allows the practitioner to comply with the standard of care described in Section 111.007.

SECTION 8. Section 111.006, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The State Board of Dental Examiners and the Texas State Board of Pharmacy shall jointly adopt rules that establish the determination of a valid prescription in accordance with Section 111.005. Rules adopted under this subsection must allow for the establishment of a practitioner-patient relationship by a teledentistry dental service provided by a dentist to a

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patient in a manner that complies with Section 111.005(a)(3) and must be substantially similar to the rules adopted under Subsection (a) of this section. The State Board of Dental Examiners and the Texas State Board of Pharmacy shall jointly develop and publish on each respective board's Internet website responses to frequently asked questions relating to the determination of a valid prescription issued in the course of the provision of teledentistry dental services.

SECTION 9. Section 111.007, Occupations Code, is amended to read as follows:

Sec. 111.007. STANDARD OF CARE FOR TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES. (a) A health professional providing a health care service or procedure as a telemedicine medical service, a teledentistry dental service, or a telehealth service is subject to the standard of care that would apply to the provision of the same health care service or procedure in an in-person setting. (b) An agency with regulatory authority over a health professional may not adopt rules pertaining to telemedicine medical services, teledentistry dental services, or telehealth services that would impose a higher standard of care than the standard described in Subsection (a).

SECTION 10. Chapter 111, Occupations Code, is amended by adding Section 111.0075 to read as follows:

Sec. 111.0075. LICENSING FOR TELEDENTISTRY DENTAL SERVICES. A health professional providing a health care service or procedure as a teledentistry dental service is subject to the licensing requirements that would apply to the provision of the same health care service or procedure in an in-person setting.

SECTION 11. Chapter 111, Occupations Code, is amended by adding Section 111.009 to read as follows:

Sec. 111.009. LIMITATION ON CERTAIN PRESCRIPTIONS. (a) In this section:

(1) "Controlled substance," "opiate," and "prescribe" have the meanings assigned by Section 481.002, Health and Safety Code.

(2) "National holiday" means a day described by Section 662.003(a), Government Code.

(b) The State Board of Dental Examiners by rule shall establish limits on the quantity of a controlled substance, including an opiate, that a dentist may prescribe to a patient as a teledentistry dental service. Except as provided by Subsection (c), the rules may not authorize a dentist to prescribe more than is necessary to supply a patient for:

(1) if the prescription is for an opiate, a two-day period; or

(2) if the prescription is for a controlled substance other than an opiate, a five-day period.

(c) For each day in a period described by Subsection (b)(1) or (2) that is a Saturday, Sunday, or national holiday, the period is extended to include the next day that is not a Saturday, Sunday, or national holiday.

(d) Rules adopted under this section must comply with applicable federal laws and rules.

SECTION 12. Section 251.003, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) For purposes of this subtitle, a person located in another state practices dentistry in this state and is required to hold a license to practice dentistry in this state if the person through the use of any medium, including an electronic medium, performs an act that constitutes the practice of dentistry on a patient in this state.

SECTION 13. Chapter 254, Occupations Code, is amended by adding Section 254.0035 to read as follows:

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Sec. 254.0035. RULES REGARDING CALL COVERAGE AGREEMENTS. The board shall adopt rules governing a call coverage agreement between dentists.

SECTION 14. Section 258.001, Occupations Code, is amended to read as follows:

Sec. 258.001. IMPERMISSIBLE DELEGATIONS. A dentist may not delegate:

...

- (4) the authority to an individual to administer a local anesthetic agent, inhalation sedative agent, parenteral sedative agent, or general anesthetic agent, including as a teledentistry dental service as that term is defined by Section 111.001, if the individual is not licensed as:
  - (A) a dentist with a permit issued by the board for the procedure being performed, if a permit is required;
  - (B) a certified registered nurse anesthetist licensed by the Texas Board of Nursing, only if the delegating dentist holds a permit issued by the board for the procedure being performed, if a permit is required; or
  - (C) a physician anesthesiologist licensed by the Texas Medical Board.

SECTION 15. Section 262.152, Occupations Code, is amended to read as follows:

Sec. 262.152. PERFORMANCE OF DELEGATED DUTIES. (a) Except as provided by Section 262.1515, a dental hygienist shall practice dental hygiene:

- (1) in the dental office of a supervising dentist licensed by the board; or
- (2) in an alternate setting, including a nursing home, the patient's home, a school, a hospital, a state institution, a public health clinic, or another institution, under the supervision of a supervising dentist.

(b) For purposes of this section, a dental hygienist who practices dental hygiene as a teledentistry dental service, as defined by Section 111.001, is practicing in an alternate setting in compliance with Subsection (a)(2).

SECTION 16. Section 562.056(c), Occupations Code, is amended to read as follows:

(c) For purposes of this section and Section 562.112, a valid practitioner-patient relationship is present between a practitioner providing telemedicine medical services or teledentistry dental services and the patient receiving the [telemedicine medical] services if the practitioner has complied with the requirements for establishing such a relationship in accordance with Section 111.005.

SECTION 17. Section 531.001, Government Code, is amended by amending Subdivision (4-d) and adding Subdivision (6-a) to read as follows:

(4-d) "Platform" means the technology, system, software, application, modality, or other method through which a health professional remotely interfaces with a patient when providing a health care service or procedure as a telemedicine medical service, teledentistry dental service, or telehealth service.

(6-a) "Teledentistry dental service" has the meaning assigned by Section 111.001, Occupations Code.

## Medicaid Reimbursement

### 2021 HB 2056

SECTION 18. Section 531.0216, Government Code, is amended to read as follows:

Sec. 531.0216. PARTICIPATION AND REIMBURSEMENT OF TELEMEDICINE MEDICAL SERVICE PROVIDERS, TELEDENTISTRY DENTAL SERVICE PROVIDERS, AND TELEHEALTH SERVICE PROVIDERS UNDER MEDICAID. (a) The executive commissioner by rule shall develop and implement a system to reimburse providers of services under Medicaid for services

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performed using telemedicine medical services, teledentistry dental services, or telehealth services.

(c) The commission shall encourage health care providers and health care facilities to provide telemedicine medical services, teledentistry dental services, and telehealth services in the health care delivery system. The commission may not require that a service be provided to a patient through telemedicine medical services, teledentistry dental services, or telehealth services.

(c-1) The commission shall explore opportunities to increase STAR Health program providers' use of telemedicine medical services in medically underserved areas of this state.

(d) Subject to Sections 111.004 and [Section] 153.004, Occupations Code, the executive commissioner may adopt rules as necessary to implement this section. In the rules adopted under this section, the executive commissioner shall:

- (1) refer to the site where the patient is physically located as the patient site; and
- (2) refer to the site where the physician, dentist, or health professional providing the telemedicine medical service, teledentistry dental service, or telehealth service is physically located as the distant site.

(f) Not later than December 1 of each even-numbered year, the commission shall report to the speaker of the house of representatives and the lieutenant governor on the effects of telemedicine medical services, teledentistry dental services, telehealth services, and home telemonitoring services on Medicaid in the state, including the number of physicians, dentists, health professionals, and licensed health care facilities using telemedicine medical services, teledentistry dental services, telehealth services, or home telemonitoring services, the geographic and demographic disposition of the physicians, dentists, and health professionals, the number of patients receiving telemedicine medical services, teledentistry dental services, telehealth services, and home telemonitoring services, the types of services being provided, the cost of utilization, and the cost savings of telemedicine medical services, teledentistry dental services, telehealth services, and home telemonitoring services to Medicaid.

(g) The commission shall ensure that a Medicaid managed care organization:

- (1) does not deny reimbursement for a covered health care service or procedure delivered by a health care provider with whom the managed care organization contracts to a Medicaid recipient as a telemedicine medical service, a teledentistry dental service, or a telehealth service solely because the covered service or procedure is not provided through an in-person consultation;
- (2) does not limit, deny, or reduce reimbursement for a covered health care service or procedure delivered by a health care provider with whom the managed care organization contracts to a Medicaid recipient as a telemedicine medical service, a teledentistry dental service, or a telehealth service based on the health care provider's choice of platform for providing the health care service or procedure; and
- (3) ensures that the use of telemedicine medical services, teledentistry dental services, or telehealth services promotes and supports patient-centered medical homes by allowing a Medicaid recipient to receive a telemedicine medical service, teledentistry dental service, or telehealth service from a provider other than the recipient's primary care physician or provider, except as provided by Section 531.0217(c-4), only if:
  - (A) the telemedicine medical service, teledentistry dental service, or telehealth service is provided in accordance with the law and contract requirements applicable to the provision of the same health care service in an in-person setting, including requirements regarding care coordination; and
  - (B) the provider of the telemedicine medical service, teledentistry dental service, or telehealth service gives notice to the Medicaid recipient's primary care physician or

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provider regarding the [telemedicine medical service or telehealth] service, including a summary of the service, exam findings, a list of prescribed or administered medications, and patient instructions, for the purpose of sharing medical information, provided that the recipient has a primary care physician or provider and the recipient or, if appropriate, the recipient's parent or legal guardian, consents to the notice.

(h) The commission shall develop, document, and implement a monitoring process to ensure that a Medicaid managed care organization ensures that the use of telemedicine medical services, teledentistry dental services, or telehealth services promotes and supports patient-centered medical homes and care coordination in accordance with Subsection (g)(3). The process must include monitoring of the rate at which a telemedicine medical service, teledentistry dental service, or telehealth service provider gives notice in accordance with Subsection (g)(3)(B).

(i) The executive commissioner by rule shall ensure that a federally-qualified [federally qualified] health center as defined by 42 U.S.C. Section 1396d(l)(2)(B) may be reimbursed for the originating site facility fee or the distant site practitioner fee or both, as appropriate, for a covered telemedicine medical service, teledentistry dental service, or telehealth service delivered by a health care provider to a Medicaid recipient. The commission is required to implement this subsection only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement this subsection using other money available to the commission for that purpose.

(j) In complying with state and federal requirements to provide access to medically necessary services under the Medicaid managed care program, a Medicaid managed care organization determining whether reimbursement for a telemedicine medical service, teledentistry dental service, or telehealth service is appropriate shall continue to consider other factors, including whether reimbursement is cost-effective and whether the provision of the service is clinically effective.

SECTION 19. The heading to Section 531.02162, Government Code, is amended to read as follows:

Sec. 531.02162. MEDICAID SERVICES PROVIDED THROUGH TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES TO CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

SECTION 20. Sections 531.02162(b) and (c), Government Code, are amended to read as follows:

(b) The executive commissioner by rule shall establish policies that permit reimbursement under Medicaid and the child health plan program for services provided through telemedicine medical services, teledentistry dental services, and telehealth services to children with special health care needs.

(c) The policies required under this section must:

(1) be designed to:

(A) prevent unnecessary travel and encourage efficient use of telemedicine medical services, teledentistry dental services, and telehealth services for children with special health care needs in all suitable circumstances; and

(B) ensure in a cost-effective manner the availability to a child with special health care needs of services appropriately performed using telemedicine medical services, teledentistry dental services, and telehealth services that are comparable to the same

- types of services available to that child without the use of telemedicine medical services, teledentistry dental services, and telehealth services; and
- (2) provide for reimbursement of multiple providers of different services who participate in a single session of telemedicine medical services, teledentistry dental services, [and] telehealth services, or any combination of those services, [session] for a child with special health care needs, if the commission determines that reimbursing each provider for the session is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services, teledentistry dental services, and telehealth services, including the costs of transportation and lodging and other direct costs.

SECTION 21. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02172 to read as follows:

Sec. 531.02172. REIMBURSEMENT FOR TELEDENTISTRY DENTAL SERVICES. (a) The commission by rule shall require each health and human services agency that administers a part of the Medicaid program to provide Medicaid reimbursement for teledentistry dental services provided by a dentist licensed to practice dentistry in this state.

(b) The commission shall require reimbursement for a teledentistry dental service at the same rate as the Medicaid program reimburses for the same in-person dental service. A request for reimbursement may not be denied solely because an in-person dental service between a dentist and a patient did not occur. The commission may not limit a dentist's choice of platform for providing a teledentistry dental service by requiring that the dentist use a particular platform to receive reimbursement for the service.

(c) The State Board of Dental Examiners, in consultation with the commission and the commission's office of inspector general, as appropriate, may adopt rules as necessary to:

- (1) ensure that appropriate care, including quality of care, is provided to patients who receive teledentistry dental services; and
- (2) prevent abuse and fraud through the use of teledentistry dental services, including rules relating to filing claims and the records required to be maintained in connection with teledentistry dental services.

SECTION 22. The heading to Section 62.157, Health and Safety Code, is amended to read as follows:

Sec. 62.157. TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

SECTION 23. Sections 62.157(a) and (b), Health and Safety Code, are amended to read as follows:

(a) In providing covered benefits to a child with special health care needs, a health plan provider must permit benefits to be provided through telemedicine medical services, teledentistry dental services, and telehealth services in accordance with policies developed by the commission.

(b) The policies must provide for:

- (1) the availability of covered benefits appropriately provided through telemedicine medical services, teledentistry dental services, and telehealth services that are comparable to the same types of covered benefits provided without the use of telemedicine medical services, teledentistry dental services, and telehealth services; and
- (2) the availability of covered benefits for different services performed by multiple health care providers during a single [telemedicine medical services and telehealth services]

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session of telemedicine medical services, teledentistry dental services, telehealth services, or any combination of those services, if the executive commissioner determines that delivery of the covered benefits in that manner is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services, teledentistry dental services, and telehealth services, including the costs of transportation and lodging and other direct costs.

SECTION 24. Section 62.1571, Health and Safety Code, is amended to read as follows:

Sec. 62.1571. TELEMEDICINE MEDICAL SERVICES AND TELEDENTISTRY DENTAL SERVICES.

(a) In providing covered benefits to a child, a health plan provider must permit benefits to be provided through telemedicine medical services and teledentistry dental services in accordance with policies developed by the commission.

(b) The policies must provide for:

(1) the availability of covered benefits appropriately provided through telemedicine medical services and teledentistry dental services that are comparable to the same types of covered benefits provided without the use of telemedicine medical services and teledentistry dental services; and

(2) the availability of covered benefits for different services performed by multiple health care providers during a single session of telemedicine medical services, teledentistry dental services, or both services, if the executive commissioner determines that delivery of the covered benefits in that manner is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services or teledentistry dental services, including the costs of transportation and lodging and other direct costs.

(c) [(d)] In this section, "teledentistry dental service" and "telemedicine medical service" have [has] the meanings [meaning] assigned by Section 531.001, Government Code.

## Private Payer Reimbursement

### 2021 HB 2056

SECTION 25. The heading to Chapter 1455, Insurance Code, is amended to read as follows:

CHAPTER 1455. TELEMEDICINE, TELEDENTISTRY, AND TELEHEALTH

SECTION 26. Section 1455.001, Insurance Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (1-a) to read as follows:

(1) "Dentist" means a person licensed to practice dentistry in this state under Subtitle D, Title 3, Occupations Code.

(1-a) "Health professional" means:

(A) a physician;

(B) an individual who is:

(i) licensed or certified in this state to perform health care services; and

(ii) authorized to assist:

(a) a physician in providing telemedicine medical services that are delegated and supervised by the physician; or

(b) a dentist in providing teledentistry dental services that are delegated and supervised by the dentist;

(c) a licensed or certified health professional acting within the scope of the license or certification who does not perform a telemedicine medical service or a teledentistry dental service; or

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(d) a dentist.

(3) "Teledentistry dental service," "telehealth ["Telehealth] service," and "telemedicine medical service" have the meanings assigned by Section 111.001, Occupations Code.

SECTION 27. Section 1455.004, Insurance Code, is amended to read as follows:

Sec. 1455.004. COVERAGE FOR TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES. (a) A health benefit plan:

(1) must provide coverage for a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service, teledentistry dental service, or telehealth service on the same basis and to the same extent that the plan provides coverage for the service or procedure in an in-person setting; and

(2) may not:

(A) exclude from coverage a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service, a teledentistry dental service, or a telehealth service solely because the covered health care service or procedure is not provided through an in-person consultation; and

(B) subject to Subsection (c), limit, deny, or reduce coverage for a covered health care service or procedure delivered as a telemedicine medical service, teledentistry dental service, or telehealth service based on the health professional's choice of platform for delivering the service or procedure.

(b) A health benefit plan may require a deductible, a copayment, or coinsurance for a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service, a teledentistry dental service, or a telehealth service. The amount of the deductible, copayment, or coinsurance may not exceed the amount of the deductible, copayment, or coinsurance required for the covered health care service or procedure provided through an in-person consultation.

(b-1) Subsection (b) does not authorize a health benefit plan to charge a separate deductible that applies only to a covered health care service or procedure delivered as a telemedicine medical service, teledentistry dental service, or telehealth service.

(c) Notwithstanding Subsection (a), a health benefit plan is not required to provide coverage for a telemedicine medical service, a teledentistry dental service, or a telehealth service provided by only synchronous or asynchronous audio interaction, including:

(1) an audio-only telephone consultation;

(2) a text-only e-mail message; or

(3) a facsimile transmission.

(d) A health benefit plan may not impose an annual or lifetime maximum on coverage for covered health care services or procedures delivered as telemedicine medical services, teledentistry dental services, or telehealth services other than the annual or lifetime maximum, if any, that applies in the aggregate to all items and services and procedures covered under the plan.

SECTION 28. Section 1455.006, Insurance Code, is amended to read as follows:

Sec. 1455.006. TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES STATEMENT. (a) Each issuer of a health benefit plan shall adopt and display in a conspicuous manner on the health benefit plan issuer's Internet website the issuer's policies and payment practices for telemedicine medical services, teledentistry dental services, and telehealth services.

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(b) This section does not require an issuer of a health benefit plan to display negotiated contract payment rates for health professionals who contract with the issuer to provide telemedicine medical services, teledentistry dental services, or telehealth services.

SECTION 29. Not later than March 1, 2022:

(1) the State Board of Dental Examiners and the Texas State Board of Pharmacy shall jointly adopt rules as required by Section 111.006(c), Occupations Code, as added by this Act;

(2) the State Board of Dental Examiners shall adopt:

(A) rules necessary to implement Chapter 111, Occupations Code, as amended by this Act; and

(B) rules as required by Section 254.0035, Occupations Code, as added by this Act; and

(3) the Health and Human Services Commission shall adopt rules as required by Section 531.02172, Government Code, as added by this Act.

SECTION 30. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 31. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2021.

(b) Sections 1455.004 and 1455.006, Insurance Code, as amended by this Act, take effect January 1, 2022.

# Utah

## Requirements and Permissible Practices

### Utah Code

#### [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 licensed dental professional to transmit a patient's health information to a dentist for viewing at a later time.
- ...
- (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:
    - (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.
- (11) "Synchronous technology" means two-way audiovisual technology that allows a 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.

...

### Utah Code

#### [58-69-301. License required -- License classifications -- Anesthesia and analgesia permits.](#)

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Utah, continued

- (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](#).

Utah Code

[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:
  - (a) permitted by law; and
  - (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 collaborate with a dental hygienist 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.

Utah Code

[58-69-807. Use of teledentistry -- Informed consent -- Rulemaking.](#)

- (1) A dentist may provide dental services using teledentistry, including the following:
  - (a) collaborating with 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
    - (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.

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- (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.
- (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.
- (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.

### **Chapter 60 Telehealth Act** **[26-60-102. Definitions.](#)**

As used in this chapter:

- (1) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site.
- (2) "Distant site" means the physical location of a provider delivering telemedicine services.
- (3) "Originating site" means the physical location of a patient receiving telemedicine services.
- (4) "Patient" means an individual seeking telemedicine services.
- (5) (a) "Patient-generated medical history" means medical data about a patient that the patient creates, records, or gathers.  
(b) "Patient-generated medical history" does not include a patient's medical record that a healthcare professional creates and the patient personally delivers to a different healthcare professional.
- (6) "Provider" means an individual who is:
  - (a) licensed under [Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act](#);
  - (b) licensed under [Title 58, Occupations and Professions](#), to provide health care; or
  - (c) licensed under [Title 62A, Chapter 2, Licensure of Programs and Facilities](#).
- (7) "Synchronous interaction" means real-time communication through interactive technology that enables a provider at a distant site and a patient at an originating site to interact simultaneously through two-way audio and video transmission.

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- (8) "Telehealth services" means the transmission of health-related services or information through the use of electronic communication or information technology.
- (9) "Telemedicine services" means telehealth services:
- (a) including:
    - (i) clinical care;
    - (ii) health education;
    - (iii) health administration;
    - (iv) home health;
    - (v) facilitation of self-managed care and caregiver support; or
    - (vi) remote patient monitoring occurring incidentally to general supervision; and
  - (b) provided by a provider to a patient through a method of communication that:
    - (i) (A) uses asynchronous store and forward transfer; or  
(B) uses synchronous interaction; and
    - (ii) meets industry security and privacy standards, including compliance with:
      - (A) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended; and
      - (B) the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

**26-60-103. Scope of telehealth practice.**

- (1) A provider offering telehealth services shall:
- (a) at all times:
    - (i) act within the scope of the provider's license under [Title 58, Occupations and Professions](#), in accordance with the provisions of this chapter and all other applicable laws and rules; and
    - (ii) be held to the same standards of practice as those applicable in traditional health care settings;
  - (b) if the provider does not already have a provider-patient relationship with the patient, establish a provider-patient relationship during the patient encounter in a manner consistent with the standards of practice, determined by the Division of Professional Licensing in rule made in accordance with [Title 63G, Chapter 3, Utah Administrative Rulemaking Act](#), including providing the provider's licensure and credentials to the patient;
  - (c) before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:
    - (i) obtaining from the patient or another provider the patient's relevant clinical history; and
    - (ii) documenting the patient's relevant clinical history and current symptoms;

- (d) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;
- (e) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated;
- (f) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records; and
- (g) if the patient has a designated health care provider who is not the telemedicine provider:
  - (i) consult with the patient regarding whether to provide the patient's designated health care provider a medical record or other report containing an explanation of the treatment provided to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the patient's condition;
  - (ii) collect from the patient the contact information of the patient's designated health care provider; and
  - (iii) within two weeks after the day on which the telemedicine provider provides services to the patient, and to the extent allowed under HIPAA as that term is defined in Section [26-18-17](#), provide the medical record or report to the patient's designated health care provider, unless the patient indicates that the patient does not want the telemedicine provider to send the medical record or report to the patient's designated health care provider.

...

- (3) Except as specifically provided in [Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act](#), and unless a provider has established a provider-patient relationship with a patient, a provider offering telemedicine services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following:
  - (a) an online questionnaire;
  - (b) an email message; or
  - (c) a patient-generated medical history.
- (4) A provider may not offer telehealth services if:
  - (a) the provider is not in compliance with applicable laws, rules, and regulations regarding the provider's licensed practice; or
  - (b) the provider's license under [Title 58, Occupations and Professions](#), is not active and in good standing.

#### [26-60-104. Enforcement.](#)

- (1) The Division of Occupational and Professional Licensing created in Section [58-1-103](#) is authorized to enforce the provisions of Section [26-60-103](#) as it relates to providers licensed under [Title 58, Occupations and Professions](#).

...

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## Medicaid Reimbursement

### 26-18-13. Telemedicine -- Reimbursement -- Rulemaking.

- (1) (a) As used in this section, communication by telemedicine is considered face-to-face contact between a health care provider and a patient under the state's medical assistance program if:
  - (i) the communication by telemedicine meets the requirements of administrative rules adopted in accordance with Subsection [\(3\)](#); and
  - (ii) the health care services are eligible for reimbursement under the state's medical assistance program.
- (b) This Subsection [\(1\)](#) applies to any managed care organization that contracts with the state's medical assistance program.
- (2) The reimbursement rate for telemedicine services approved under this section:
  - (a) shall be subject to reimbursement policies set by the state plan; and
  - (b) may be based on:
    - (i) a monthly reimbursement rate;
    - (ii) a daily reimbursement rate; or
    - (iii) an encounter rate.
- (3) The department shall adopt administrative rules in accordance with [Title 63G, Chapter 3, Utah Administrative Rulemaking Act](#), which establish:
  - (a) the particular telemedicine services that are considered face-to-face encounters for reimbursement purposes under the state's medical assistance program; and
  - (b) the reimbursement methodology for the telemedicine services designated under Subsection [\(3\)\(a\)](#).

### 26-18-13.5. Telehealth services -- Reimbursement -- Reporting -- Telepsychiatric consultations.

- (1) As used in this section:
  - (a) "Telehealth services" means the same as that term is defined in Section [26-60-102](#).
  - (b) "Telemedicine services" means the same as that term is defined in Section [26-60-102](#).

...
- (2) This section applies to:
  - (a) a managed care organization that contracts with the Medicaid program; and
  - (b) a provider who is reimbursed for health care services under the Medicaid program.
- (3) The Medicaid program shall reimburse for telemedicine services at the same rate that the Medicaid program reimburses for other health care services.

...

#### **U.A.C. R414-42-2**

#### **Formerly cited as UT ADC R414-42**

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[R414-42-2. Definitions.](#)

...

(2) "Teledentistry" means the use of information technology and telecommunications for dental care, consultation, and education.

...

U.A.C. R414-42-3

Formerly cited as UT ADC R414-42

[R414-42-3. Covered Services.](#)

A licensed provider may deliver services via synchronous telehealth, as clinically appropriate. Services include consultation services, evaluation and management services, teledentistry services, mental health services, substance use disorder services, and telepsychiatric consultations.

### Private Payer Reimbursement

[31A-22-649.5. Insurance parity for telemedicine services -- Method of technology used.](#)

(1) As used in this section:

...

(b) "Telemedicine services" means the same as that term is defined in Section [26-60-102](#).

(2) Notwithstanding the provisions of Section [31A-22-618.5](#), a health benefit plan offered in the individual market, the small group market, or the large group market shall:

(a) provide coverage for:

(i) telemedicine services that are covered by Medicare; and

...

(b) reimburse a network provider that provides the telemedicine services described in Subsection [\(2\)\(a\)](#) at a negotiated commercially reasonable rate.

(3) (a) Notwithstanding Section [31A-45-303](#), a health benefit plan providing coverage under Subsection [\(2\)\(a\)](#) may not impose originating site restrictions, geographic restrictions, or distance-based restrictions.

(b) A network provider that provides the telemedicine services described in Subsection [\(2\)\(a\)](#) may utilize any synchronous audiovisual technology for the telemedicine services that is compliant with the federal Health Insurance Portability and Accountability Act of 1996.

## Vermont

### Requirements and Permissible Practices

#### 18 V.S.A. § 9361

##### **§ 9361. Health care providers delivering health care services through telemedicine or by store-and-forward means**

(a) As used in this section, "distant site," "health care provider," "originating site," "store and forward," and "telemedicine" shall have the same meanings as in 8 V.S.A. § 4100k.

(b) Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this State may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient in person, through telemedicine, or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider-patient settings.

(c)(1) A health care provider delivering health care services or dental services through telemedicine shall obtain and document a patient's oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.

(A) The informed consent for telemedicine services shall be provided in accordance with Vermont and national policies and guidelines on the appropriate use of telemedicine within the provider's profession and shall include, in language that patients can easily understand:

(i) an explanation of the opportunities and limitations of delivering health care services or dental services through telemedicine;

(ii) informing the patient of the presence of any other individual who will be participating in or observing the patient's consultation with the provider at the distant site and obtaining the patient's permission for the participation or observation; and

(iii) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

(B) For services delivered through telemedicine on an ongoing basis, the health care provider shall be required to obtain consent only at the first episode of care.

(2) The provider shall include the patient's written consent in the patient's medical record or document the patient's oral consent in the patient's medical record.

(3) A health care provider delivering telemedicine services through a contract with a third-party vendor shall comply with the provisions of this subsection (c) to the extent permissible under the terms of the contract. If the contract requires the health care provider to use the vendor's own informed consent provisions instead of those set forth in this subsection, the health care provider shall be deemed to be in compliance with the requirements of this subsection if he or she adheres to the terms of the vendor's informed consent policies.

(4) Notwithstanding any provision of this subsection to the contrary, a health care provider shall not be required to obtain a patient's informed consent for the use of telemedicine in the following circumstances:

(A) in the case of a medical emergency;

- (B) for the second certification of an emergency examination determining whether an individual is a person in need of treatment pursuant to section 7508 of this title; or
  - (C) for a psychiatrist's examination to determine whether an individual is in need of inpatient hospitalization pursuant to 13 V.S.A. § 4815(g)(3).
- (d) Neither a health care provider nor a patient shall create or cause to be created a recording of a provider's telemedicine consultation with a patient.
- (e)(1) A patient receiving health care services or dental services by store-and-forward means shall be informed of the patient's right to refuse to receive services in this manner and to request services in an alternative format, such as through real-time telemedicine services or an in-person visit.
- (2) Receipt of services by store-and-forward means shall not preclude a patient from receiving real-time telemedicine services or an in-person visit with the distant site health care provider at a future date.
  - (3) Originating site health care providers involved in the store-and-forward process shall obtain informed consent from the patient as described in subsection (c) of this section.

### Medicaid and Third-Party Payer

#### 8 V.S.A. § 4100k

**§ 4100k. Coverage of health care services delivered through telemedicine and by store-and-forward means**

(a)(1) All health insurance plans in this State shall provide coverage for health care services and dental services delivered through telemedicine by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation.

...

(2)(A) A health insurance plan shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telemedicine.

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply to services provided pursuant to the health insurance plan's contract with a third-party telemedicine vendor to provide health care or dental services.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service or dental service provided through telemedicine as long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network. A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary and are clinically appropriate for delivery through telemedicine, subject to the terms and conditions of the covered person's policy.

(e)(1) A health insurance plan shall reimburse for health care services and dental services delivered by store-and-forward means.

(2) A health insurance plan shall not impose more than one cost-sharing requirement on a patient for receipt of health care services or dental services delivered by store-and-forward means. If the services would require cost-sharing under the terms of the patient's health



- insurance plan, the plan may impose the cost-sharing requirement on the services of the originating site health care provider or of the distant site health care provider, but not both.
- (f) A health insurer shall not construe a patient's receipt of services delivered through telemedicine or by store-and-forward means as limiting in any way the patient's ability to receive additional covered in-person services from the same or a different health care provider for diagnosis or treatment of the same condition.
- (g) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.
- (h) In order to facilitate the use of telemedicine in treating substance use disorder, when the originating site is a health care facility, health insurers and the Department of Vermont Health Access shall ensure that the health care provider at the distant site and the health care facility at the originating site are both reimbursed for the services rendered, unless the health care providers at both the distant and originating sites are employed by the same entity.
- (i) As used in this subchapter:
- (1) "Distant site" means the location of the health care provider delivering services through telemedicine at the time the services are provided.
  - (2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402; a stand-alone dental plan or policy or other dental insurance plan offered by a dental insurer; and Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.
  - (3) "Health care facility" shall have the same meaning as in 18 V.S.A. § 9402.
  - (4) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care services, including dental services, in this State to an individual during that individual's medical care, treatment, or confinement.
  - (5) "Originating site" means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including a health care provider's office, a hospital, or a health care facility, or the patient's home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient's workplace.
  - (6) "Store and forward" means an asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, or laboratory results, sent over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty. In store and forward, the health care provider at the distant site reviews the medical information without the patient present in real time and communicates a care plan or treatment recommendation back to the patient or referring provider, or both.
  - (7) "Telemedicine" means the delivery of health care services, including dental services, such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

**18 V.S.A. chapter 219 as created by [S. 117](#)**

**§ 9362. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE SERVICES BY AUDIO-ONLY TELEPHONE**

(a) As used in this section, “health insurance plan” and “health care provider” have the same meaning as in 8 V.S.A. § 4100l and “telemedicine” has the same meaning as in 8 V.S.A. § 4100k.

(b)(1) Subject to the limitations of the license under which the individual is practicing and, for Medicaid patients, to the extent permitted by the Centers for Medicare and Medicaid Services, a health care provider may deliver health care services to a patient using audio-only telephone if the patient elects to receive the services in this manner and it is clinically appropriate to do so. A health care provider shall comply with any training requirements imposed by the provider’s licensing board on the appropriate use of audio-only telephone in health care delivery.

(2) A health care provider delivering health care services using audio only telephone shall include or document in the patient’s medical record:

(A) the patient’s informed consent for receiving services using audio only telephone in accordance with subsection (c) of this section; and

(B) the reason or reasons that the provider determined that it was clinically appropriate to deliver health care services to the patient by audio only telephone.

(3)(A) A health care provider shall not require a patient to receive health care services by audio-only telephone if the patient does not wish to receive services in this manner.

(B) A health care provider shall deliver care that is timely and complies with contractual requirements and shall not delay care unnecessarily if a patient elects to receive services through an in-person visit or telemedicine instead of by audio-only telephone.

(c) A health care provider delivering health care services by audio-only telephone shall obtain and document a patient’s oral or written informed consent for the use of audio-only telephone prior to the appointment or at the start of the appointment but prior to delivering any billable service.

(1) The informed consent for audio-only telephone services shall be provided in accordance with Vermont and national policies and guidelines on the appropriate use of telephone services within the provider’s profession and shall include, in language that patients can easily understand:

(A) that the patient is entitled to choose to receive services by audio only telephone, in person, or through telemedicine, to the extent clinically appropriate;

(B) that receiving services by audio-only telephone does not preclude the patient from receiving services in person or through telemedicine at a later date;

(C) an explanation of the opportunities and limitations of delivering and receiving health care services using audio-only telephone;

(D) informing the patient of the presence of any other individual who will be participating in or listening to the patient’s consultation with the provider and obtaining the patient’s permission for the participation or observation;

(E) whether the services will be billed to the patient’s health insurance plan if delivered by audio-only telephone and what this may mean for the patient’s financial responsibility for co-payments, coinsurance, and deductibles; and

(F) informing the patient that not all audio-only health care services are covered by all health plans.

(2) For services delivered by audio-only telephone on an ongoing basis, the health care provider shall be required to obtain consent only at the first episode of care.

(3) If the patient provides oral informed consent, the provider shall offer to provide the patient with a written copy of the informed consent.

(4) Notwithstanding any provision of this subsection to the contrary, a health care provider shall not be required to obtain a patient's informed consent for the use of audio-only telephone services in the case of a medical emergency.

(5) A health care provider may use a single informed consent form to address all telehealth modalities, including telemedicine, store and forward, and audio-only telephone, as long as the form complies with the provisions of section 9361 of this chapter and this section.

(d) Neither a health care provider nor a patient shall create or cause to be created a recording of a provider's telephone consultation with a patient.

(e) Audio-only telephone services shall not be used in the following circumstances:

(1) for the second certification of an emergency examination determining whether an individual is a person in need of treatment pursuant to section 7508 of this title; or

(2) for a psychiatrist's examination to determine whether an individual is in need of inpatient hospitalization pursuant to 13 V.S.A. § 4815(g)(3).

#### Sec. 6. AUDIO-ONLY TELEPHONE; MEDICAL BILLING; DATA COLLECTION; REPORT

(a)(1) On or before July 1, 2021, the Department of Financial Regulation, in consultation with the Department of Vermont Health Access, the Green Mountain Care Board, representatives of health care providers, health insurers, and other interested stakeholders, shall determine the appropriate codes or modifiers, or both, to be used by providers and insurers, including Vermont Medicaid to the extent permitted by the Centers for Medicare and Medicaid Services, in the billing of and payment for health care services delivered using audio-only telephone in order to allow for consistent data collection, identify appropriate codes for services that do not have in-person equivalents, and minimize the administrative burden on providers. To the extent possible, the use of codes or modifiers, or both, shall be done in a manner that allows data on the use of audio-only telephone services to be identified using the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES).

(2) Not later than January 1, 2022, all Vermont-licensed health care providers and health insurers offering major medical health insurance plans in Vermont shall use the codes and modifiers determined by the Department of Financial Regulation pursuant to subdivision (1) of this subsection when delivering services by audio-only telephone. Vermont Medicaid shall participate to the extent permitted by the Centers for Medicare and Medicaid Services.

(b) On or before December 1, 2023, the Department of Financial Regulation, the Vermont Program for Quality in Health Care, and, to the extent VHCURES data are available, the Green Mountain Care Board shall present information to the House Committee on Health Care and the Senate Committee on Health and Welfare regarding the use of audio-only telephone services in Vermont during calendar year 2022. The Department shall consult with interested stakeholders in order to include in its presentation information on utilization of audio-only telephone services, quality of care, patient satisfaction with receiving health care services by audio-only telephone, the impacts of coverage of audio-only telephone services on health care costs and on access to health care services, and how best to incorporate audio-only telephone services into value-based payments.

#### Sec. 7. AUDIO-ONLY TELEPHONE REIMBURSEMENT AMOUNTS FOR PLAN YEARS 2022, 2023, AND 2024

The Department of Financial Regulation, in consultation with the Department of Vermont Health Access, the Green Mountain Care Board, representatives of health care providers, health insurers, and other interested stakeholders, shall determine the amounts that health insurance plans shall reimburse health care providers for delivering health care services by audio only telephone during plan years 2022, 2023, and 2024. In determining the reimbursement amounts, the Department shall seek to find a reasonable balance between the

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costs to patients and the health care system and reimbursement amounts that do not discourage health care providers from delivering medically necessary, clinically appropriate health care services by audio-only telephone. The Department may determine different reimbursement amounts for different types of services and may modify the rates that will apply in different plan years as appropriate but shall finalize its determinations not later than April 1 for plan years after 2022.

# Virginia

## Requirements and Permissible Practices

### § 54.1-2700. Definitions.

As used in this chapter, unless the context requires a different meaning:

“Appliance” means a permanent or removable device used in a plan of dental care, including crowns, fillings, bridges, braces, dentures, orthodontic aligners, and sleep apnea devices.

“Board” means the Board of Dentistry.

“Dental hygiene” means duties related to patient assessment and the rendering of educational, preventive, and therapeutic dental services specified in regulations of the Board and not otherwise restricted to the practice of dentistry.

“Dental hygienist” means a person who is licensed by the Board to practice dental hygiene.

“Dentist” means a person who has been awarded a degree in and is licensed by the Board to practice dentistry.

“Dentistry” means the evaluation, diagnosis, prevention, and treatment, through surgical, nonsurgical, or related procedures, of diseases, disorders, and conditions of the oral cavity and the maxillofacial, adjacent, and associated structures and their impact on the human body.

“Digital scan” means digital technology that creates a computer-generated replica of the hard and soft tissues of the oral cavity using enhanced digital photography.

“Digital scan technician” means a person who has completed a training program approved by the Board to take digital scans of intraoral and extraoral hard and soft tissues for use in teledentistry.

“Digital work order” means the digital equivalent of a written dental laboratory work order used in the construction or repair of an appliance.

“License” means the document issued to an applicant upon completion of requirements for admission to practice dentistry or dental hygiene in the Commonwealth or upon registration for renewal of license to continue the practice of dentistry or dental hygiene in the Commonwealth.

“License to practice dentistry” means any license to practice dentistry issued by the Board.

...

“Store-and-forward technologies” means the technologies that allow for the electronic transmission of dental and health information, including images, photographs, documents, and health histories, through a secure communication system.

“Teledentistry” means the delivery of dentistry between a patient and a dentist who holds a license to practice dentistry issued by the Board through the use of telehealth systems and electronic technologies or media, including interactive, two-way audio or video.

### § 54.1-2708.5. Digital scans for use in the practice of dentistry; practice of digital scan technicians.

A. No person other than a dentist, dental hygienist, dental assistant I, dental assistant II, digital scan technician, or other person under the direction of a dentist shall obtain dental scans for use in the practice of dentistry.

B. A digital scan technician who obtains dental scans for use in the practice of teledentistry shall work under the direction of a dentist who is (i) licensed by the Board to practice dentistry in the Commonwealth, (ii) accessible and available for communication and consultation with the digital scan technician at all times during the patient interaction, and (iii) responsible for ensuring that the digital scan technician has a program of training approved by the Board for such purpose. All protocols and procedures for the performance of digital scans by digital scan

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technicians and evidence that a digital scan technician has complied with the training requirements of the Board shall be made available to the Board upon request.

[§ 54.1-2708.6. Practice of teledentistry; report.](#)

The Board shall review all applications for renewal of a license to identify those applicants who are engaged in the practice of teledentistry and shall report such information annually, by October 1, to the Chairmen of the House Committee on Health, Welfare and Institutions, the Senate Committee on Education and Health, and the Joint Commission on Health Care.

[§ 54.1-2711. Practice of dentistry.](#)

A. Any person shall be deemed to be practicing dentistry who (i) uses the words dentist, or dental surgeon, the letters D.D.S., D.M.D., or any letters or title in connection with his name, which in any way represents him as engaged in the practice of dentistry; (ii) holds himself out, advertises, or permits to be advertised that he can or will perform dental operations of any kind; (iii) diagnoses, treats, or professes to diagnose or treat any of the diseases or lesions of the oral cavity, its contents, or contiguous structures; or (iv) extracts teeth, corrects malpositions of the teeth or jaws, takes or causes to be taken digital scans or impressions for the fabrication of appliances or dental prosthesis, supplies or repairs artificial teeth as substitutes for natural teeth, or places in the mouth and adjusts such substitutes. Taking impressions for mouth guards that may be self-fabricated or obtained over-the-counter does not constitute the practice of dentistry.

B. No person shall practice dentistry unless a bona fide dentist-patient relationship is established in person or through teledentistry. A bona fide dentist-patient relationship shall exist if the dentist has (i) obtained or caused to be obtained a health and dental history of the patient; (ii) performed or caused to be performed an appropriate examination of the patient, either physically, through use of instrumentation and diagnostic equipment through which digital scans, photographs, images, and dental records are able to be transmitted electronically, or through use of face-to-face interactive two-way real-time communications services or store-and-forward technologies; (iii) provided information to the patient about the services to be performed; and (iv) initiated additional diagnostic tests or referrals as needed. In cases in which a dentist is providing teledentistry, the examination required by clause (ii) shall not be required if the patient has been examined in person by a dentist licensed by the Board within the six months prior to the initiation of teledentistry and the patient's dental records of such examination have been reviewed by the dentist providing teledentistry.

C. No person shall deliver dental services through teledentistry unless he holds a license to practice dentistry in the Commonwealth issued by the Board and has established written or electronic protocols for the practice of teledentistry that include (i) methods to ensure that patients are fully informed about services provided through the use of teledentistry, including obtaining informed consent; (ii) safeguards to ensure compliance with all state and federal laws and regulations related to the privacy of health information; (iii) documentation of all dental services provided to a patient through teledentistry, including the full name, address, telephone number, and Virginia license number of the dentist providing such dental services; (iv) procedures for providing in-person services or for the referral of patients requiring dental services that cannot be provided by teledentistry to another dentist licensed to practice dentistry in the Commonwealth who actually practices dentistry in an area of the Commonwealth the patient can readily access; (v) provisions for the use of appropriate encryption when transmitting patient health information via teledentistry; and (vi) any other provisions required by the Board. A dentist who delivers dental services using teledentistry shall, upon request of the patient, provide health records to the patient or a dentist of record in

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a timely manner in accordance with § [32.1-127.1:03](#) and any other applicable federal or state laws or regulations. All patients receiving dental services through teledentistry shall have the right to speak or communicate with the dentist providing such services upon request.

D. Dental services delivered through use of teledentistry shall (i) be consistent with the standard of care as set forth in § [8.01-581.20](#), including when the standard of care requires the use of diagnostic testing or performance of a physical examination, and (ii) comply with the requirements of this chapter and the regulations of the Board.

E. In cases in which teledentistry is provided to a patient who has a dentist of record but has not had a dental wellness examination in the six months prior to the initiation of teledentistry, the dentist providing teledentistry shall recommend that the patient schedule a dental wellness examination. If a patient to whom teledentistry is provided does not have a dentist of record, the dentist shall provide or cause to be provided to the patient options for referrals for obtaining a dental wellness examination.

F. No dentist shall be supervised within the scope of the practice of dentistry by any person who is not a licensed dentist.

#### [§ 54.1-2719. Persons engaged in construction and repair of appliances.](#)

A. Licensed dentists may employ or engage the services of any person, firm, or corporation to construct or repair an appliance, extraorally, in accordance with a written or digital work order. Any appliance constructed or repaired by a person, firm, or corporation pursuant to this section shall be evaluated and reviewed by the licensed dentist who submitted the written or digital work order, or a licensed dentist in the same dental practice. A person, firm, or corporation so employed or engaged shall not be considered to be practicing dentistry. No such person, firm, or corporation shall perform any direct dental service for a patient, but they may assist a dentist in the selection of shades for the matching of prosthetic devices when the dentist sends the patient to them with a written or digital work order.

B. Any licensed dentist who employs the services of any person, firm, or corporation not working in a dental office under the dentist's direct supervision to construct or repair an appliance extraorally shall furnish such person, firm, or corporation with a written or digital work order on forms prescribed by the Board, which shall, at minimum, contain (i) the name and address of the person, firm, or corporation; (ii) the patient's name or initials or an identification number; (iii) the date the work order was written; (iv) a description of the work to be done, including diagrams, if necessary; (v) specification of the type and quality of materials to be used; and (vi) the signature and address of the dentist.

The person, firm, or corporation shall retain the original written work order or an electronic copy of a digital work order, and the dentist shall retain a duplicate of the written work order or an electronic copy of a digital work order, for three years.

C. If the person, firm, or corporation receives a written or digital work order from a licensed dentist, a written disclosure and subwork order shall be furnished to the dentist on forms prescribed by the Board, which shall, at minimum, contain (i) the name and address of the person, firm, or corporation and subcontractor; (ii) a number identifying the subwork order with the original work order; (iii) the date any subwork order was written; (iv) a description of the work to be done and the work to be done by the subcontractor, including diagrams or digital files, if necessary; (v) a specification of the type and quality of materials to be used; and (vi) the signature of the person issuing the disclosure and subwork order.

The subcontractor shall retain the subwork order, and the issuer shall retain a duplicate of the subwork order, which shall be attached to the work order received from the licensed dentist, for three years.

D. No person, firm, or corporation engaged in the construction or repair of appliances shall refuse to allow the Board or its agents to inspect the files of work orders or subwork orders during ordinary business hours.

## Medicaid Reimbursement

### 12VAC30-121-70. Covered services.

...

7. Participating plans shall be permitted to use and reimburse telehealth for Medicare and Medicaid services as an innovative, cost effective means to decrease hospital admissions, reduce emergency department visits, address disparities in care, increase access, and increase timely interventions. Participating plans shall also encourage the use of telehealth to promote community living and improve access to behavioral health services. Participating plans shall be permitted to use telehealth in rural and urban settings and reimburse for store-and-forward applications. Participating plans shall also have the ability to cover remote patient monitoring. All telehealth and remote patient monitoring activities shall be compliant with Health Insurance Portability and Accountability Act requirements and as further set out in the three-way contract. For the purposes of this section:

- a. "Store-and-forward" means when prerecorded images, such as x-rays, video clips, and photographs, are captured and then forwarded to and retrieved, viewed, and assessed by a provider at a later time. Some common applications include (i) teledermatology, where digital pictures of a skin problem are transmitted and assessed by a dermatologist; (ii) teleradiology, where x-ray images are sent to and read by a radiologist; and (iii) teleretinal imaging, where images are sent to and evaluated by an ophthalmologist to assess for diabetic retinopathy; and
- b. "Telehealth" means the real time or near real time two-way transfer of data and information using an interactive audio and video connection for the purposes of medical diagnosis and treatment.

...

## Private Payer

### § 38.2-3418.16. Coverage for telemedicine services.

A. Notwithstanding the provisions of § [38.2-3419](#), each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine services, as provided in this section.

B. As used in this section:

"Originating site" means the location where the patient is located at the time services are provided by a health care provider through telemedicine services.

"Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

"Telemedicine services" as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient, providing remote patient monitoring services, or consulting

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with other health care providers regarding a patient's diagnosis or treatment, regardless of the originating site and whether the patient is accompanied by a health care provider at the time such services are provided. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire. Nothing in this section shall preclude coverage for a service that is not a telemedicine service, including services delivered through real-time audio-only telephone.

C. An insurer, corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through face-to-face consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.

D. An insurer, corporation, or health maintenance organization shall not be required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services; however, such insurer, corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis that the insurer, corporation, or health maintenance organization is responsible for coverage for the provision of the same service through face-to-face consultation or contact. No insurer, corporation, or health maintenance organization shall require a provider to use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

E. Nothing shall preclude the insurer, corporation, or health maintenance organization from undertaking utilization review to determine the appropriateness of telemedicine services, provided that such appropriateness is made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan. Any such utilization review shall not require pre-authorization of emergent telemedicine services.

F. An insurer, corporation, or health maintenance organization may offer a health plan containing a deductible, copayment, or coinsurance requirement for a health care service provided through telemedicine services, provided that the deductible, copayment, or coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through face-to-face diagnosis, consultation, or treatment.

G. No insurer, corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

H. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2021, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

I. This section shall not apply to short-term travel, accident-only, or limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under federal governmental plans.

J. The coverage required by this section shall include the use of telemedicine technologies as it pertains to medically necessary remote patient monitoring services to the full extent that these services are available.

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*Virginia, continued*

K. Prescribing of controlled substances via telemedicine shall comply with the requirements of § [54.1-3303](#) and all applicable federal law.

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# Washington

## Requirements and Permissible Practices

### RCW [43.70.495](#)

#### Telemedicine training for health care professionals.

(1) The legislature finds that a large segment of Washington residents do not have access to critical health care services. Telemedicine is a way to increase access to health care services to those who would otherwise not have reasonable access. The legislature therefore intends to ensure that health care professionals who provide services through telemedicine, as defined in RCW [70.41.020](#), in cities and rural areas alike, have current information available, making it possible for them to provide telemedicine services to the entire state of Washington.

(2) Except as permitted under subsection (3) of this section, beginning January 1, 2021, a health care professional who provides clinical services through telemedicine, other than a physician licensed under chapter [18.71](#) RCW or an osteopathic physician licensed under chapter [18.57](#) RCW, shall complete a telemedicine training. By January 1, 2020, the telemedicine collaborative shall make a telemedicine training available on its web site for use by health care professionals who use telemedicine technology. If a health care professional completes the training, the health care professional shall sign and retain an attestation. The training:

(a) Must include information on current state and federal law, liability, informed consent, and other criteria established by the collaborative for the advancement of telemedicine, in collaboration with the department and the Washington state medical quality assurance commission;

(b) Must include a question and answer methodology to demonstrate accrual of knowledge; and

(c) May be made available in electronic format and completed over the internet.

(3) A health care professional is deemed to have met the requirements of subsection (2) of this section if the health care professional:

(a) Completes an alternative telemedicine training; and

(b) Signs and retains an attestation that he or she completed the alternative telemedicine training.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alternative telemedicine training" means training that includes components that are substantively similar to the telemedicine training developed by the telemedicine collaborative under subsection (2) of this section. "Alternative telemedicine training" may include, but is not limited to:

(i) Training offered by hospitals and other health care facilities to employees of the facility;

(ii) Continuing education courses; and

(iii) Trainings developed by a health care professional board or commission.

(b) "Health care professional" means a person licensed, registered, or certified to provide health services.

## Medicaid Reimbursement

### RCW [48.43.005](#)

#### Definitions.

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

...

(26) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter [70.127](#) RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(27) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

...

Amended by [HB 1196](#)

#### Reimbursement of a health care service provided through telemedicine or store and forward technology—Report to the legislature.

Sec. 5. RCW [74.09.325](#) and 2020 c 92 s 3 are each amended to read as follows:

(1)(a) Upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The medicaid managed care plan in which the covered person is enrolled provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015;

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(b)(i) Except as provided in (b)(ii) of this subsection, upon initiation or renewal of a contract with the Washington state health care authority to administer a Medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the managed health care system would pay the provider if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of compensation for telemedicine services that differs from the amount of compensation for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

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- (iv) A rural health clinic shall be reimbursed for audio-only telemedicine at the rural health clinic encounter rate.
- (2) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the managed health care system and health care provider.
- (3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:
- (a) Hospital;
  - (b) Rural health clinic;
  - (c) Federally qualified health center;
  - (d) Physician's or other health care provider's office;
  - (e) Licensed or certified behavioral health agency;
  - (f) Skilled nursing facility;
  - (g) Home or any location determined by the individual receiving the service; or
  - (h) Renal dialysis center, except an independent renal dialysis center.
- (4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the managed health care system. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.
- (5) A managed health care system may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.
- (6) A managed health care system may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.
- (7) This section does not require a managed health care system to reimburse:
- (a) An originating site for professional fees;
  - (b) A provider for a health care service that is not a covered benefit under the plan; or
  - (c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.
- (8)(a) If a provider intends to bill a patient or a managed health care system for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered. The authority may submit information on any potential violations of this subsection to the appropriate disciplining authority, as defined in RCW [18.130.020](#).
- (b) If the health care authority has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the health care authority may submit information to the appropriate disciplining authority for action. Prior to submitting information to the appropriate disciplining authority, the health care authority may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).
- (c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the health care authority or initiated directly by an enrollee, the disciplining authority shall notify the health care authority of the results

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of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(ii) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(b) "Disciplining authority" has the same meaning as in RCW 18.130.020;

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(d) "Established relationship" means the covered person has had at least one in-person appointment within the past year with the provider providing audio-only telemedicine or with a provider employed at the same clinic as the provider providing audio-only telemedicine or the covered person was referred to the provider providing audio-only telemedicine by another provider who has had at least one in-person appointment with the covered person within the past year and has provided relevant medical information to the provider providing audio-only telemedicine.

(e) "Health care service" has the same meaning as in RCW [48.43.005](#);

(f) "Hospital" means a facility licensed under chapter [70.41](#), 71.12, or [72.23](#) RCW;

(g) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(h) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(i) "Provider" has the same meaning as in RCW [48.43.005](#);

(j) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(k) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" includes audio-only telemedicine, but does not include facsimile or email.

(9) To measure the impact on access to care for underserved communities and costs to the state and the medicaid managed health care system for reimbursement of telemedicine services, the Washington state health care authority, using existing data and resources, shall provide a report to the appropriate policy and fiscal committees of the legislature no later than December 31, 2018.)

**NEW SECTION. Sec. 6.** A new section is added to chapter [74.09](#) RCW to read as follows:

- (1) The authority shall adopt rules regarding medicaid fee-for-service reimbursement for services delivered through audio-only telemedicine. Except as provided in subsection (2) of this section, the rules must establish a manner of reimbursement for audio-only telemedicine that is consistent with RCW [74.09.325](#).
- (2) The rules shall require rural health clinics to be reimbursed for audio-only telemedicine at the rural health clinic encounter rate.
- (3)(a) For purposes of this section, “audio-only telemedicine” means the delivery of health care services through the use of audio-only technology, permitting real-time communication between a patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.
  - (b) For purposes of this section only, “audio-only telemedicine” does not include:
    - (i) The use of facsimile or email; or
    - (ii) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

**NEW SECTION. Sec. 8.** (1) The insurance commissioner, in collaboration with the Washington state telehealth collaborative and the health care authority, shall study and make recommendations regarding:

- (a) Preliminary utilization trends for audio-only telemedicine;
  - (b) Qualitative data from health carriers, including Medicaid managed care organizations, on the burden of compliance and enforcement requirements for audio-only telemedicine;
  - (c) Preliminary information regarding whether requiring reimbursement for audio-only telemedicine has affected the incidence of fraud;
  - (d) Proposed methods to measure the impact of audio-only telemedicine on access to health care services for historically underserved communities and geographic areas;
  - (e) An evaluation of the relative costs to providers and facilities of providing audio-only telemedicine services as compared to audio-video telemedicine services and in-person services; and
  - (f) Any other issues the insurance commissioner deems appropriate.
- (2) The insurance commissioner must report his or her findings and recommendations to the appropriate committees of the legislature by November 15, 2023.
- (3) This section expires January 1, 2024.

## Washington Administrative Code

### [WAC 182-531-0100](#)

Scope of coverage for physician-related and health care professional services—General and administrative.

- (1) The Medicaid agency covers health care services, equipment, and supplies listed in this chapter, according to agency rules and subject to the limitations and requirements in this chapter, when they are:
  - (a) Within the scope of an eligible client’s Washington apple health program. Refer to WAC [182-501-0060](#) and [182-501-0065](#); and
  - (b) Medically necessary as defined in WAC [182-500-0070](#).
- (2) The agency evaluates a request for a service that is in a covered category under the provisions of WAC [182-501-0165](#).

(3) The agency evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC [182-501-0169](#).

(4) The agency covers the following physician-related services and health care professional services, subject to the conditions in subsections (1), (2), and (3) of this section:

...  
(y) Telemedicine (refer to WAC [182-531-1730](#));

...  
[WAC 182-531-1730](#)

**Telemedicine.**

(1) Telemedicine is when a health care practitioner uses HIPAA-compliant, interactive, real-time audio and video telecommunications (including web-based applications) or store and forward technology to deliver covered services that are within his or her scope of practice to a client at a site other than the site where the provider is located. If the service is provided through store and forward technology, there must be an associated office visit between the client and the referring health care provider.

(2) The Medicaid agency does not cover the following services as telemedicine:

- (a) Email, audio only telephone, and facsimile transmissions;
- (b) Installation or maintenance of any telecommunication devices or systems; and
- (c) Purchase, rental, or repair of telemedicine equipment.

(3) **Originating site.** An originating site is the physical location of the client at the time the health care service is provided. Approved originating sites are:

- (a) Clinics;
- (b) Community mental health/chemical dependency settings;
- (c) Dental offices;
- (d) Federally qualified health centers;
- (e) Home or any location determined appropriate by the individual receiving the service;
- (f) Hospitals - Inpatient and outpatient;
- (g) Neurodevelopmental centers;
- (h) Physician or other health professional's office;
- (i) Renal dialysis centers, except an independent renal dialysis center;
- (j) Rural health clinics;
- (k) Schools; and
- (l) Skilled nursing facilities.

(4) **Distant site.** A distant site is the physical location of the health care professional providing the health care service.

(5) The agency pays an additional facility fee per completed transmission to either the originating site or the distant site, as specified in the agency's program-specific billing instructions.

(6) If a health care professional performs a separately identifiable service for the client on the same day as the telemedicine service, documentation for both services must be clearly and separately identified in the client's medical record.

(7) Billing procedures for telemedicine can be found in the agency's program-specific billing instructions.

**WAC 182-535-1050**

**182-535-1050. Definitions.**

...

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**“Distant site (location of dental provider)”** means the physical location of the dentist or authorized dental provider providing the dental service to a client through teledentistry.

...

**“Originating site (location of client)”** means the physical location of the medicaid client as it relates to teledentistry.

...

**“Teledentistry”** means the variety of technologies and tactics used to deliver HIPAA-compliant, interactive, real-time audio and video telecommunications (including web-based applications) or store-and-forward technology to deliver covered services within the dental care provider’s scope of practice to a client at a site other than the site where the provider is located.

...

#### **WAC 182-535-1098**

#### **182-535-1098. Covered--Adjunctive general services.**

Clients described in WAC 182-535-1060 are eligible to receive the adjunctive general services listed in this section, subject to coverage limitations, restrictions, and client-age requirements identified for a specific service.

...

#### **(5) Nonclinical procedures.**

(a) The agency covers teledentistry according to the department of health, health systems quality assurance office of health professions, current guidelines, appropriate use of teledentistry, and as follows (see WAC 182-531-1730 for coverage limitations not listed in this section):

- (i) Synchronous teledentistry at the distant site for clients of all ages; and
- (ii) Asynchronous teledentistry at the distant site for clients of all ages.

(b) The client’s record must include the following supporting documentation regarding teledentistry:

- (i) Service provided via teledentistry;
- (ii) Location of the client;
- (iii) Location of the provider; and
- (iv) Names and credentials of all persons involved in the teledentistry visit and their role in providing the service at both the originating and distant sites.

### **Private Payer Reimbursement**

#### **Revised Code of Washington**

**Reimbursement of health care services provided through telemedicine or store and forward technology.**

#### **RCW [41.05.700](#)**

**Sec. 1.** RCW [41.05.700](#) and 2020 c 92 s 2 are each amended to read as follows:

(1)(a) A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2017, shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

- (i) The plan provides coverage of the health care service when provided in person by the provider;
- (ii) The health care service is medically necessary;

- (iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015;
  - (iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and
  - (v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.
- (b)(i) Except as provided in (b)(ii) of this subsection, a health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2021, shall reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider.
- (ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of compensation for telemedicine services that differs from the amount of compensation for in-person services.
  - (iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.
- (2) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health plan and health care provider.
- (3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:
- (a) Hospital;
  - (b) Rural health clinic;
  - (c) Federally qualified health center;
  - (d) Physician's or other health care provider's office;
  - (e) Licensed or certified behavioral health agency;
  - (f) Skilled nursing facility;
  - (g) Home or any location determined by the individual receiving the service; or
  - (h) Renal dialysis center, except an independent renal dialysis center.
- (4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health plan. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.
- (5) The plan may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.
- (6) The plan may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.
- (7) This section does not require the plan to reimburse:
- (a) An originating site for professional fees;

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- (b) A provider for a health care service that is not a covered benefit under the plan; or
- (c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8)(a) If a provider intends to bill a patient or the patient's health plan for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered. The authority may submit information on any potential violations of this subsection to the appropriate disciplining authority, as defined in RCW [18.130.020](#).

(b) If the health care authority has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the health care authority may submit information to the appropriate disciplining authority for action. Prior to submitting information to the appropriate disciplining authority, the health care authority may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).

(c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the health care authority or initiated directly by an enrollee, the disciplining authority shall notify the health care authority of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(ii) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(b) "Disciplining authority" has the same meaning as in RCW [18.130.020](#);

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(d) "Established relationship" means the covered person has had at least one in-person appointment within the past year with the provider providing audio-only telemedicine or with a provider employed at the same clinic as the provider providing audio-only telemedicine or the covered person was referred to the provider providing audio-only telemedicine by another provider who has had at least one in-person appointment with the covered person within the past year and has provided relevant medical information to the provider providing audio-only telemedicine.

(e) "Health care service" has the same meaning as in RCW [48.43.005](#);

(f) "Hospital" means a facility licensed under chapter [70.41](#), 71.12, or [72.23](#) RCW;

(g) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(h) "Provider" has the same meaning as in RCW [48.43.005](#);

(i) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant

site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(j) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" includes audio-only telemedicine, but does not include facsimile or email.

### RCW [48.43.735](#)

#### Reimbursement of health care services provided through telemedicine or store and forward technology.

**Sec. 2.** RCW [48.43.735](#) and 2020 c 92 s 1 are each amended to read as follows:

(1)(a) For health plans issued or renewed on or after January 1, 2017, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The plan provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015;

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(b)(i) Except as provided in (b)(ii) of this subsection, for health plans issued or renewed on or after January 1, 2021, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of compensation for telemedicine services that differs from the amount of compensation for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

(2) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health carrier and the health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Licensed or certified behavioral health agency;

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- (f) Skilled nursing facility;
  - (g) Home or any location determined by the individual receiving the service; or
  - (h) Renal dialysis center, except an independent renal dialysis center.
- (4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health carrier. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.
- (5) A health carrier may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.
- (6) A health carrier may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.
- (7) This section does not require a health carrier to reimburse:
- (a) An originating site for professional fees;
  - (b) A provider for a health care service that is not a covered benefit under the plan; or
  - (c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.
- (8)(a) If a provider intends to bill a patient or the patient's health plan for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered. The insurance commissioner may submit information on any potential violations of this subsection to the appropriate disciplining authority, as defined in [RCW 18.130.020](#).
- (b) If the commissioner has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the commissioner may submit information to the appropriate disciplining authority for action. Prior to submitting information to the appropriate disciplining authority, the commissioner may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).
  - (c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the commissioner or initiated directly by an enrollee, the disciplining authority shall notify the commissioner of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.
- (9) For purposes of this section:
- (a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.
  - (ii) For purposes of this section only, "audio-only telemedicine" does not include:
    - (A) The use of facsimile or email; or
    - (B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

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- (b) "Disciplining authority" has the same meaning as in RCW [18.130.020](#);
  - (c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;
  - (d) "Established relationship" means the covered person has had at least one in-person appointment within the past year with the provider providing audio-only telemedicine or with a provider employed at the same clinic as the provider providing audio-only telemedicine or the covered person was referred to the provider providing audio-only telemedicine by another provider who has had at least one in-person appointment with the covered person within the past year and has provided relevant medical information to the provider providing audio-only telemedicine.
  - (e) "Health care service" has the same meaning as in RCW [48.43.005](#);
  - (f) "Hospital" means a facility licensed under chapter [70.41](#), 71.12, or [72.23](#) RCW;
  - (g) "Originating site" means the physical location of a patient receiving health care services through telemedicine;
  - (h) "Provider" has the same meaning as in RCW [48.43.005](#);
  - (i) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and
  - (j) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" includes audio-only telemedicine, but does not include facsimile or email.
- (9) The commissioner may adopt any rules necessary to implement this section

# West Virginia

## Requirements and Permissible Practices

**Editorial Note:** The West Virginia Dental Practice Act is §30-4-1 *et seq.* Oral health professionals are authorized to practice under this act, and are included in the definition of “health care provider” in WV ST §30-1-26 listed below.

### WV ST §30-1-26. Telehealth practice.

(a) For the purposes of this section:

‘Established patient’ means a patient who has received professional services, face-to-face, from the physician, qualified health care professional, or another physician or qualified health care professional of the exact same specialty and subspecialty who belongs to the same group practice, within the past three years.

“Health care practitioner” means a person authorized to practice under §30-3-1 *et seq.*, §30-3E-1 *et seq.*, §30-4-1 *et seq.*, §30-5-1 *et seq.*, §30-7-1 *et seq.*, §30-7A-1 *et seq.*, §30-8-1 *et seq.*, §30-10-1 *et seq.*, §30-14-1 *et seq.*, §30-16-1 *et seq.*, §30-20-1 *et seq.*, §30-20A-1 *et seq.*, §30-21-1 *et seq.*, §30-23-1 *et seq.*, §30-26-1 *et seq.*, §30-28-1 *et seq.*, §30-30-1 *et seq.*, §30-31-1 *et seq.*, §30-32-1 *et seq.*, §30-34-1 *et seq.*, §30-35-1 *et seq.*, §30-36-1 *et seq.*, §30-37-1 *et seq.* and any other person licensed under this chapter that provides health care services.

“Interstate telehealth services” means the provision of telehealth services to a patient located in West Virginia by a health care practitioner located in any other state or commonwealth of the United States.

“Registration” means an authorization to practice a health profession regulated by §30-1-1 *et seq.* of this code for the limited purpose of providing interstate telehealth services within the registrant’s scope of practice.

“Telehealth services” means the use of synchronous or asynchronous telecommunications technology or audio only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include internet questionnaires, e-mail messages, or facsimile transmissions.

(b) Unless provided for by statute or legislative rule, a health care board, referred to in §30-1-1 *et seq.* of this code, shall propose an emergency rule for legislative approval in accordance with the provisions of §29A-3-15 *et seq.* of this code to regulate telehealth practice by a telehealth practitioner. The proposed rule shall consist of the following:

- (1) The practice of the health care service occurs where the patient is located at the time the telehealth services are provided;
- (2) The health care practitioner who practices telehealth shall be:
  - (A) Licensed in good standing in all states in which he or she is licensed and not currently under investigation or subject to an administrative complaint; and
  - (B) Registered as an interstate telehealth practitioner with the appropriate board in West Virginia;
- (3) When the health care practitioner-patient relationship is established.
- (4) The standard of care for the provision of telehealth services. The standard of care shall require that with respect to the established patient, the patient shall visit an in-person health care practitioner within 12 months of using the initial telemedicine service or the telemedicine service shall no longer be available to the patient until an in-person visit is obtained. This requirement may be suspended, in the discretion of the health care

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practitioner, on a case-by-case basis, and it does not to the following services: acute inpatient care, post-operative follow-up checks, behavioral medicine, addiction medicine, or palliative care.

(5) A prohibition of prescribing any controlled substance listed in Schedule II of the Uniform Controlled Substance Act, unless authorized by another section: *Provided*, That the prescribing limitations contained in this section do not apply to a physician or a member of the same group practice with an established patient.

(6) Establish the conduct of a registrant for which discipline may be imposed by the board of registration.

(7) Establish a fee, not to exceed the amount to be paid by a licensee, to be paid by the interstate telehealth practitioner registered in the state.

(8) A reference to the Board's discipline process.

(c) A registration issued pursuant to the provisions of or the requirements of this section does not authorize a health care professional to practice from a physical location within this state without first obtaining appropriate licensure.

(d) By registering to provide interstate telehealth services to patients in this state, a health care practitioner is subject to:

(1) The laws regarding the profession in this state, including the state judicial system and all professional conduct rules and standards incorporated into the health care practitioner's practice act and the legislative rules of registering board; and

(2) The jurisdiction of the board with which he or she registers to provide interstate telehealth services, including such board's complaint, investigation, and hearing process.

(e) A health care professional who registers to provide interstate telehealth services pursuant to the provisions of or the requirements of this section shall immediately notify the board where he or she is registered in West Virginia and of any restrictions placed on the individual's license to practice in any state or jurisdiction.

(f) A person currently licensed in this state is not subject to registration but shall practice telehealth in accordance with the provisions of this section and the rules promulgated thereunder.

## Medicaid Reimbursement

### WV ST § 9-5-28. Requirement for telehealth rates.

The Medicaid plan, which issues, renews, amends, or adjusts a plan, policy, contract, or agreement on or after July 1, 2021, shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company for virtual telehealth encounters.

The Medicaid plan, which issues, renews, amends, or adjusts a plan, policy, contract, or agreement on or after July 1, 2021, shall provide reimbursement for a telehealth service for an established patient, or care rendered on a consulting basis to a patient located in an acute care facility whether inpatient or outpatient on the same basis and at the same rate under a contract, plan, agreement, or policy as if the service is provided through an in-person encounter rather than provided via telehealth.

## Private Payer Reimbursement

### WV ST § 5-16-7b. Coverage for telehealth services.

(a) The following terms are defined:

(1) "Distant site" means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient's health care practitioner.

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(2) "Established patient" means a patient who has received professional services, face-to-face, from the physician, qualified health care professional, or another physician or qualified health care professional of the exact same specialty and subspecialty who belongs to the same group practice, within the past three years.

(3) "Health care practitioner" means a person licensed under §30-1-1 et seq. of this code who provides health care services.

(4) "Originating site" means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

(5) "Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

(6) "Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages, or facsimile transmissions.

(7) "Virtual telehealth" means a new patient or follow-up patient for acute care that does not require chronic management or scheduled medications.

(b) After July 1, 2020, the plan shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.

(c) After July 1, 2020, the plan may not exclude a service for coverage solely because the service is provided through telehealth services.

(d) The plan, which issues, renews, amends, or adjusts a plan, policy, contract, or agreement on or after July 1, 2021, shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company for virtual telehealth encounters. The plan, which issues, renews, amends, or adjusts a plan, policy, contract, or agreement on or after July 1, 2021, shall provide reimbursement for a telehealth service for an established patient, or care rendered on a consulting basis to a patient located in an acute care facility whether inpatient or outpatient on the same basis and at the same rate under a contract, plan, agreement, or policy as if the service is provided through an in-person encounter rather than provided via telehealth.

(e) The plan may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to the provisions of or the requirements of this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(f) An originating site may charge the plan a site fee.

(g) The coverage required by this section shall include the use of telehealth technologies as it pertains to medically necessary remote patient monitoring services to the full extent that those services are available.

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WV ST §33-57-1. Coverage of telehealth services.

(a) The following terms are defined:

(1) "Distant site" means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient's health care practitioner.

(2) "Established patient" means a patient who has received professional services, face-to-face, from the physician, qualified health care professional, or another physician or qualified health care professional of the exact same specialty and subspecialty who belongs to the same group practice, within the past three years.

(3) "Health care practitioner" means a person licensed under §30-1-1 et seq. of this code who provides health care services.

(4) "Originating site" means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

(5) "Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

(6) "Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

(7) "Virtual telehealth" means a new patient or follow-up patient for acute care that does not require chronic management or scheduled medications.

(b) Notwithstanding the provisions of §33-1-1 et seq. of this code, an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.

(c) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, may not exclude a service for coverage solely because the service is provided through telehealth services.

(d) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues, renews, amends, or adjusts a plan, policy, contract, or agreement on or after July 1, 2021, shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company for the virtual telehealth encounter. An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues, renews, amends, or adjusts a plan, policy, contract, or agreement on or after July 1, 2021, shall provide reimbursement for a telehealth service for an established patient, or care rendered on a consulting basis to a patient located in an acute care facility whether inpatient or outpatient on the same basis and at the same rate under a contract, plan, agreement, or policy as if the service is provided through an in-person encounter rather than provided via telehealth.

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(e) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to the provisions of or the requirements of this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(f) An originating site may charge an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code a site fee.

(g) The coverage required by this section shall include the use of telehealth technologies as it pertains to medically necessary remote patient monitoring services to the full extent that those services are available.

# Wisconsin

## Requirements and Permissible Practices

### W.S.A. 440.094

#### **440.094. Practice by health care providers from other states.**

(a) Notwithstanding ss. [441.06 \(4\)](#), [441.15 \(2\)](#), [441.16](#), [446.02 \(1\)](#), [447.03 \(1\)](#) and [\(2\)](#), [448.03 \(1\) \(a\)](#), [\(b\)](#), and [\(c\)](#) and [\(1m\)](#), [448.51 \(1\)](#), [448.61](#), [448.76](#), [448.961 \(1\)](#) and [\(2\)](#), [449.02 \(1\)](#), [450.03 \(1\)](#), [451.04 \(1\)](#), [455.02 \(1m\)](#), [457.04 \(4\)](#), [\(5\)](#), [\(6\)](#), and [\(7\)](#), [459.02 \(1\)](#), [459.24 \(1\)](#), and [460.02](#), a health care provider may provide services within the scope of the credential that the health care provider holds and the department shall grant the health care provider a temporary credential to practice under this section if all of the following apply:

1. The health care provider applies to the department for a temporary credential under this section within 30 days of beginning to provide health care services for a health care employer. The health care provider shall include in the application an attestation of all of the following:

- a. The date on which the health care provider first provided health care services in this state under this section.
- b. That the health care provider holds a valid, unexpired credential granted in another state.
- c. The health care provider is not currently under investigation and no restrictions or limitations are currently placed on the health care provider's credential by the credentialing state or any other jurisdiction.
- d. The health care provider has applied for a permanent credential granted by the department or an examining board, as applicable, under chs. 440 to 480. This subd. 1. D. does not apply to a health care provider who provides health care services only during the period covered by a national emergency declared by the U.S. president under 50 USC 1621 in response to the 2019 novel coronavirus or during the 30 days immediately after the national emergency ends.

2. If the health care provider provides services other than services provided through telehealth as described in sub. (3), the health care employer of the health care provider attests all of the following to the department within 10 days of the date on which the health care provider begins providing health care services in this state under this section:

- a. The health care employer has confirmed that the health care provider holds a valid, unexpired credential granted by another state.
- b. To the best of the health care employer's knowledge and with a reasonable degree of certainty, the health care provider is not currently under investigation and no restrictions or limitations are currently placed on the health care provider's credential by the credentialing state or any other jurisdiction.

(b) A health care provider who practices within the scope of a temporary credential granted under this section has all rights and is subject to all responsibilities, malpractice insurance requirements, limitations on scope of practice, and other provisions that apply under chs. 440 to 480 to the practice of the health care provider.

(c) 1. A temporary credential granted under this section becomes effective on the date identified in the attestation under par. (a)1. A. that the health care provider first provided health care services in this state under this section.

2. a. Except as provided in subd. 2. B., a temporary credential granted under this section expires on the date that the department, or an examining board in the department, as

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applicable, grants or denies the application under par. (a)1. D. for a permanent credential submitted by the health care provider.

b. If a health care provider provides health care services only during the period covered by a national emergency declared by the U.S. president under 50 USC 1621 in response to the 2019 novel coronavirus or during the 30 days immediately after the national emergency ends, a temporary credential granted under this section to the health care provider expires 30 days after the national emergency ends.

(3) Telehealth. A health care provider who practices within the scope of a temporary credential granted under this section may provide services through telehealth to a patient located in this state.

## Medicaid Reimbursement

### W.S.A. 49.45

#### 49.45. Medical assistance; administration

...

(61) SERVICES PROVIDED THROUGH TELEHEALTH AND COMMUNICATIONS TECHNOLOGY.

(a) In this subsection:

1. "Asynchronous telehealth service" is telehealth that is used to transmit medical data about a patient to a provider when the transmission is not a 2-way, real-time, interactive communication.
2. "Interactive telehealth" means telehealth delivered using multimedia communication technology that permits 2-way, real-time, interactive communications between a certified provider of Medical Assistance at a distant site and the Medical Assistance recipient or the recipient's provider.
3. "Remote patient monitoring" is telehealth in which a patient's medical data is transmitted to a provider for monitoring and response if necessary.
4. "Telehealth" means a practice of health care delivery, diagnosis, consultation, treatment, or transfer of medically relevant data by means of audio, video, or data communications that are used either during a patient visit or a consultation or are used to transfer medically relevant data about a patient. "Telehealth" does not include communications delivered solely by audio-only telephone, facsimile machine, or electronic mail unless the department specifies otherwise by rule.

(b) Subject to par. (e), the department shall provide reimbursement under the Medical Assistance program for any benefit that is a covered benefit under s. 49.46 (2) and that is delivered by a certified provider for Medical Assistance through interactive telehealth.

(c) Subject to par. (e), the department shall provide reimbursement under the Medical Assistance program for all of the following:

1. Except as provided by the department by rule, a consultation pertaining to a Medical Assistance recipient conducted through interactive telehealth between a certified provider of Medical Assistance and the Medical Assistance recipient's treating provider that is certified under Medical Assistance.
2. Except as provided by the department by rule, remote patient monitoring of a Medical Assistance recipient and asynchronous telehealth service in which the medical data pertains to a Medical Assistance recipient.
3. Except as provided by the department by rule and subject to par. (e) 4., services that are covered under the Medicare program under 42 USC 1395 et seq. for which the federal department of health and human services provides Medical Assistance federal financial participation and that are any of the following:

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- a. Telehealth services, as defined under [42 USC 1395m](#) (m) (4) (F).
  - b. Remote physiologic monitoring.
  - c. Remote evaluation of prerecorded patient information.
  - d. Brief communication technology-based services.
  - e. Care management services delivered through telehealth.
  - f. Any other telehealth or communication technology-based services.
4. Any service that is not specified in subds. [1.](#) to [3.](#) or par. [\(b\)](#) that is provided through telehealth and that the department specifies by rule under par. [\(d\)](#) is a covered and reimbursable service under the Medical Assistance program.
- (d) The department shall promulgate rules specifying any services under par. [\(c\) 4.](#) that are reimbursable under Medical Assistance. The department may promulgate rules excluding services under par. [\(c\) 1.](#) to [3.](#) from reimbursement under Medical Assistance. The department may promulgate rules specifying any telehealth service under par. [\(b\)](#) or [\(c\) 1.](#) or [2.](#) that is provided solely by audio-only telephone, facsimile machine, or electronic mail as reimbursable under Medical Assistance.
- (e)
2. The department may not require a certified provider of Medical Assistance that provides a reimbursable service under par. [\(b\)](#) or [\(c\)](#) to obtain an additional certification or meet additional requirements solely because the service was delivered through telehealth, except that the department may require, by rule, that the transmission of information through telehealth be of sufficient quality to be functionally equivalent to face-to-face contact. The department may apply any requirement that is applicable to a covered service that is not provided through telehealth to any service provided under par. [\(b\)](#) or [\(c\)](#).
  3. The department may not limit coverage or reimbursement of a service provided under par. [\(b\)](#) or [\(c\)](#) based on the location of the Medical Assistance recipient when the service is provided.
  4. The department may not cover or provide reimbursement under Medical Assistance for a service described under par. [\(c\) 3.](#) that is first covered under the Medicare program under [42 USC 1395](#) et seq. after July 1, 2019, until the date that is one year after the date the service is covered under the Medicare program or the date the secretary explicitly approves the service as a Medical Assistance covered service, whichever is earlier.

#### [W.S.A. 49.46](#)

#### **49.46. Medical assistance; recipients of social security aids**

...

#### (2) Benefits.

...

- (b) Except as provided in pars. [\(be\)](#) and [\(dc\)](#), the department shall audit and pay allowable charges to certified providers for medical assistance on behalf of recipients for the following services:
1. Dentists' services, limited to basic services within each of the following categories:
    - a. Diagnostic services.
    - b. Preventive services.
    - c. Restorative services.
    - d. Endodontic services.
    - e. Periodontic services.
    - f. Oral and maxillofacial surgery services.
    - g. Emergency treatment of dental pain.
  - hm. Removable prosthodontic services.

Research data are current as of September 2021. This document is intended for educational purposes only and should not be considered legal advice. Please contact Phil Mauller at [maullerp@adea.org](mailto:maullerp@adea.org) with any updates or information that may be relevant to this document.

im. Fixed prosthodontic services.

...

(1) Definitions. In this section:

(a) "Credential" means a license, permit, certificate, or registration.

(b) "Health care employer" means a system, care clinic, care provider, long-term care facility, or any entity whose employed, contracted, or affiliated staff provide health care service to individuals in this state.

(c) "Health care provider" means an individual who holds a valid, unexpired credential granted by another state or territory that authorizes or qualifies the individual to perform acts that are substantially the same as the acts that any of the following are licensed or certified to perform:

1. A registered nurse, licensed practical nurse, or nurse midwife licensed under ch. 441, or advanced practice nurse prescriber certified under ch. 441.
2. A chiropractor licensed under ch. 446.
3. A dentist licensed under ch. 447.
4. A physician, physician assistant, perfusionist, or respiratory care practitioner licensed or certified under subch. II of ch. 448.
5. A physical therapist or physical therapist assistant licensed under subch. III of ch. 448 or who holds a compact privilege under subch. IX of ch. 448.
6. A podiatrist licensed under subch. IV of ch. 448.
7. A dietitian certified under subch. V of ch. 448.
8. An athletic trainer licensed under subch. VI of ch. 448.
9. An occupational therapist or occupational therapy assistant licensed under subch. VII of ch. 448.
10. An optometrist licensed under ch. 449.
11. A pharmacist licensed under ch. 450.
12. An acupuncturist certified under ch. 451.
13. A psychologist licensed under ch. 455.
14. A social worker, marriage and family therapist, or professional counselor certified or licensed under ch. 457 or a clinical substance abuse counselor certified under s. 440.88.
15. A speech-language pathologist or audiologist licensed under subch. II of ch. 459.
16. A massage therapist or bodywork therapist licensed under ch. 460.

# Wyoming

## Requirements and Permissible Practices

### WV ST 33-1-303. Powers of licensure boards.

(a) Except as otherwise specifically provided by statute, a board authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under W.S. 11-25-201, 21-2-802 or 23-2-414 may:

...

(iv) Adopt rules and regulations allowing the practice of telemedicine/telehealth and the use of telemedicine/telehealth technologies within an applicable profession or occupation consistent with the profession's or occupation's duties and obligations. For purposes of this paragraph, telemedicine/telehealth shall be defined within each promulgated rule in a manner applicable to the individual profession or occupation and in a manner which facilitates the development and promotion of uniform, system wide standards for the practice of telemedicine/telehealth and the use of telemedicine/telehealth technologies. Any board promulgating rules under this paragraph shall first confer with the office of rural health for the purpose of promoting the goals established by W.S. 9-2-117(a)(vi) through (viii).





Best Practice Approaches for State, Community and Territorial Oral Health Programs



A Best Practice Approach Report describes a public health strategy, assesses the strength of evidence on the effectiveness of the strategy, and uses practice examples to illustrate successful/innovative implementation.

Date of Report: December 2021

Best Practice Approach
Teledentistry: Opportunities for Expanding the Capacity and Reach of the Oral Healthcare System

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Executive Summary

Teledentistry is a tool that has been used for several decades with the potential to transform oral healthcare delivery. It can improve oral health by helping to reduce known barriers that have kept people from accessing oral health care, such as cost, time, distance, and availability of providers. The Association of State and Territorial Dental Directors (ASTDD) encourages state/territorial oral health programs and stakeholders to identify community barriers to care and consider teledentistry as part of the solution. Oral health stakeholders should work with local and state agencies to develop policies and reimbursement mechanisms that will support the long term and sustained use of teledentistry. Stakeholders should also ensure that teledentistry training for patients and providers is available so that oral healthcare systems can effectively utilize it.

## Background and Rationale

### Introduction

As a component of the broader telehealth system, teledentistry serves an important role in reducing barriers that communities and populations face when seeking oral healthcare. Increasing interest in using teledentistry as a tool to connect patients to their oral health provider when they are not in the same location has growing support from a variety of organizations, including organized dentistry and payors.\* This Best Practices Approach Report (BPAR) will serve as a framework for states and territories to identify opportunities and strategies for how to incorporate teledentistry into their overall oral health delivery systems. <sup>1-5</sup>

### Why Teledentistry?

Historically, the dental office has been the center of oral healthcare. However, over the years, numerous oral health initiatives have expanded the reach of the dental office in ways that have improved the oral health of communities and populations across the United States (US). Community water fluoridation, school-based sealant programs, integrated medical-dental programs, portable dental programs, and expansion of the oral health workforce have positively impacted oral health and will continue to do so into the future. <sup>6-10</sup>

Over the last few decades, the percentage of people receiving care in dental offices has increased across age and ethnic groups. <sup>11</sup> Even with these improvements, the majority of the US population still does not receive regular dental care. Many populations continue to face significant barriers to receiving care in the dental office, particularly those from medically underserved urban or rural areas often populated by people of color and ethnic minorities, as well as seniors and individuals with disabilities who are not able to travel to a dental office. Among the barriers to accessing dental care in office settings, many working-age adults and non-working seniors avoid dental care because of its high cost, the dentist is too far away, they do not have time to go to a dentist, or they cannot find a dentist that accepts their insurance. <sup>12,13</sup>

To address the health inequities that have resulted from irregular or no care, many people can use teledentistry-enabled oral health systems. Teledentistry is a crucial modification that brings oral health services to those facing significant barriers to receiving care in dental offices. Due in part to advances in technology (including the internet, electronic health records, and digital imaging), teledentistry increases access, allowing oral health professionals to reach patients in their local communities.

“Teledentistry has the potential to be part of a paradigm shift in healthcare delivery that can play a key role in mitigating barriers and improving health for populations with traditionally poor access to dental care and oral health services.”  
[ASTDD White Paper, Teledentistry: How Technology Can Facilitate Access to Care](#)

### What is Teledentistry?

Teledentistry can be categorized in primarily two ways. One way is based on the use of technology. The American Dental Association (ADA) has adopted health industry standard

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\*[American Dental Association](#), [American Student Dental Association](#), [American Dental Education Association](#), [National Network for Oral Health Access](#), [American Academy of Pediatric Dentistry](#), [CareQuest Institute of Oral Health](#), [Delta Dental](#) and [DentaQuest](#)

definitions based on the technology (asynchronous, synchronous, remote patient monitoring, and mobile health), so it is not necessary to repeat those definitions here.<sup>1</sup> The second way to categorize teledentistry is by the situation in which it is used. This can include patient-to-provider transfer of images, provider-to-provider consultation, pre- and post-visit interactions, limited community interventions, and full-service community systems where the objective is to keep people healthy in the community site and use a dental office only for procedures that cannot be completed in the community.

Employing technology to connect patients to an oral health provider is the foundation of teledentistry, whether the patient faces barriers to accessing care in a dental office or when it is not necessary for a patient to be physically present.<sup>12,13</sup> While the use of teledentistry lags behind that of telemedicine, there have been several demonstrations of its power as a tool to connect patients with providers at a distance. It allows providers to work more efficiently. Here are a few examples from a broad range of uses:

- In the mid-1990s, the first demonstration of teledentistry within the Department of Defense indicated that increasing access to specialists resulted in improved decision making and better communication between providers and patients.<sup>14</sup>
- The Virtual Dental Home model developed by Dr. Paul Glassman demonstrated how two-thirds of school aged children could be managed successfully by a dental hygienist in a community location collaborating with a remote dentist in a dental office.<sup>15</sup>
- In Brazil, the need for general dentists to send patients for specialist evaluation dropped by 36% after a teledentistry consultation with oral medicine specialists.<sup>16</sup>
- Video consultations, for the purposes of postoperative evaluations, oral hygiene instruction, tobacco or nutritional counseling, or emergency triaging, eliminate the need to use personal protective equipment and are appreciated by patients, who sometimes prefer this method as compared to traditional, in-person visits, particularly during the COVID-19 pandemic.<sup>17-19</sup>

These examples illustrate how teledentistry can be used and provide insight into the tremendous diversity it offers, as well as demonstrate how it supports the goals of the Triple Aim.<sup>20</sup> Improved patient care coordination, getting patients into the oral healthcare system, greater access to dental specialists, decreased costs for the dental clinic, and increased patient satisfaction are just a few benefits that teledentistry provides to the oral healthcare system, and more importantly to the patient.<sup>21</sup>

## **A Pathway to Widespread Teledentistry**

As more states and territories develop policies and regulations around teledentistry, it is important to keep key issues in mind. To foster improvements in oral health, consider adopting policies that support the full range of technologies that can facilitate remote communications. For example, states such as California allow for both synchronous and asynchronous<sup>†</sup> forms of teledentistry; but other states, such as Ohio, define it as synchronous only, prohibiting the use of asynchronous teledentistry.<sup>22,23</sup> These limiting policies impede individuals developing teledentistry models to address disparities in health care. Given that almost 15 million people do not have access to broadband internet and more than 120 million do not use internet at broadband speeds (meaning they have access to it, but are not using it) this creates a serious concern when these types of blanket policies are developed.<sup>24</sup> Along with developing widely encompassing state policies, federal policies, such as the Federal Communications

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<sup>†</sup> Synchronous teledentistry is a real-time interaction between a dental provider and a patient an asynchronous teledentistry is when patient data is submitted to the dental provider who will review that data later.

Commission’s emergency broadband benefit program and the Infrastructure Investment and Jobs Act of 2021, are essential in helping communities continue to overcome barriers to broadband access.<sup>25,26</sup>

Reimbursement is an important policy consideration as teledentistry policies and regulations are developed. Currently Medicaid reimbursement for services provided through teledentistry and frequency of services varies. For example, in California, providers can be reimbursed for a myriad of services; whereas in Arizona, providers are reimbursed for only a limited number of services.<sup>23,27</sup> The ideal policy environment considers teledentistry as a tool that can be used at the discretion of the provider and pays for any procedure that is paid for in-person, regardless of the tools used to complete the procedure. Considering teledentistry as a communication tool often allows us to accomplish the same goals as through traditional in-person healthcare delivery. When states limit reimbursement for services provided with teledentistry, it is the patients who will be negatively affected.<sup>27,28</sup>

Finally, provider, patient, and community readiness are critical to a successful widespread pathway to teledentistry. All stakeholders will need some level of preparation so that visits conducted with teledentistry will be successful. Given how recently teledentistry has been available, significant training and technical assistance are essential for widespread adoption. Reaching an appropriate level of knowledge will require a clear and supportive policy environment, buy-in from dental and allied dental education

Key issues for a pathway to widespread teledentistry:

- Increase awareness
- Support policies that allow teledentistry to be used to its fullest potential
- Develop reimbursement policies for services provided with teledentistry that are on par with in-person payment policies
- Ensure that training and technical support is available to those who want to use teledentistry

programs, changes to accreditation standards, and patient-friendly educational materials that empower patients to use teledentistry and understand its limitations. Community stakeholders should be engaged to identify where teledentistry can be effectively used and ensure that communities are prepared to engage with their providers using teledentistry.

## Guidelines and Recommendations

With an increasing focus on teledentistry over the past decade, and especially during the COVID-19 pandemic, several organizations have developed resources that will help guide clinicians, clinic directors, state/territorial agencies, and others who are looking to implement teledentistry in healthcare delivery systems. This BPAR identifies key areas, guidelines, and recommendations that should be considered when utilizing teledentistry at the state/territorial or local practice level.

### **Policy**

As the teledentistry landscape continues to evolve, the policy environment will be a critical factor in determining whether it will be successful in addressing barriers to care. A first step is to view teledentistry as a mechanism for reframing how care can be delivered. Organizations, such as the [CareQuest Institute for Oral Health](#) (CareQuest Institute), have provided [numerous resources](#) that describe how to reframe the care delivery system using teledentistry. For

example, in one of their first policy documents related to teledentistry, the CareQuest Institute presents the need to shift from dentistry as a field that is primarily surgical, to one that focuses on prevention and chronic disease management.<sup>29</sup> Teledentistry can support new models of care but will require a supportive policy environment to do so.

State, territorial, and national policies should allow practices and programs to use teledentistry to establish an initial relationship with a provider (i.e., not requiring the first visit to be in-person). Policies should allow the entire dental team to work at the top of their scope-of-practice.<sup>‡</sup> This means that policies regarding supervision for dental hygienists, dental therapists, and other non-dentist healthcare professionals, such as primary care providers, social workers, and community health workers, should allow them to work at the top of their scope of practice in community settings where dentists may not be physically present. These policy considerations should allow non-dentists to collect clinical records without requiring a dentist to be physically present to first assess the patient. Records include digital images and clinical findings that are used by the dentist to fully evaluate the patient, diagnose the condition, and develop a treatment plan.

In medically underserved rural and urban communities, lack of dental specialists can have a major impact on those requiring specialty care. General dentists can use teledentistry to consult with specialists. When policies are developed, these disparities need to be considered so limitations, such as requiring the dentist to physically meet with the patient before conducting a teledentistry visit, do not hinder efforts to increase access to care.

As policies are developed, they need to focus on allowing dental teams to have greater access to communities, and vice versa. Telemedicine has been in use for some time and has developed protocols and guidance that teledentistry may be able to replicate as it moves forward. Where these policies may exist, the [Centers for Medicare & Medicaid Services](#) (CMS) has developed a checklist that can be used to identify potential gaps in existing policy. These policies should include considerations for malpractice carriers that ensure standard policies cover services provided by teledentistry; otherwise, additional waivers may be needed and providers may not realize these actions need to occur, leaving them exposed to lawsuits.

For those looking to develop new or improve existing teledentistry policy, CMS has created a [toolkit](#) to help facilitate adoption of telehealth policies that could be used for broader use of teledentistry. [Regional Telehealth Resource Centers](#), through the [Center for Connected Health Policy](#), have documents that can guide new policies or amend existing ones. The [Southwest Telehealth Resource Center](#) has several documents related to best practices for policy. While these organizations are often not focused on teledentistry, they can serve as guides to help ensure teledentistry has widespread availability. Those interested in teledentistry are encouraged to reach out to their local telehealth resource center to meet with the professionals that have paved the way for telemedicine.

## Reimbursement

Reimbursement for teledentistry-enabled oral health services continues to be a challenge for oral health professionals who want to incorporate it into their practice. While the ADA created two new [CDT codes for teledentistry](#) prior to the pandemic, these codes are primarily used to identify when a service was provided with teledentistry, but have been used by some states as billable codes with a fee attached. To date, teledentistry reimbursement policies are comprised

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<sup>‡</sup> To work at the top of one's scope-of-practice means to be able to perform all the skills or duties that is expected of a provider and allowed within their professional license.

of a broad patchwork that in some instances hinder its use; whereas other policies allow providers to use teledentistry to its full capacity.

Again, it may be necessary to review telemedicine policies (using the previously discussed resources) to identify gaps and decide what can be done to improve the reimbursement frameworks used in teledentistry policy. Key issues that should be included in any reimbursement policy are:

- 1) Payment parity – Care provided via teledentistry should be reimbursed at the same rate as an in-person visit.
- 2) Considerations for new models – As digital data can be collected in one location by a non-dentist and reviewed in a different location by a dentist, it may be useful to adopt a medical approach for these types of interactions. For example, a dental hygienist taking radiographs could bill for that procedure and a dentist reading them could bill for the interpretation. The ADA has laid some foundation for this with the introduction of [image capture codes](#).
- 3) Cohesive regulations – In some states, state law and state Medicaid policy may not align. For example, Arizona law allows teledentistry for the purposes of diagnosing and conducting any type of examination, but state Medicaid policy only reimburses for emergency exams and not periodic or comprehensive ones.<sup>27,30</sup> Such policies should not contradict each other. State Medicaid directors are encouraged to work with stakeholders to identify opportunities where reimbursement can be improved for services provided through teledentistry.
- 4) Aligning state policies – States should work together to align their teledentistry policies to avoid having different regulations and scope of benefits from one state to the next. National compacts could allow states to agree on common language and policies.
- 5) Reassurance and guidance for providers and patients – Providers may be hesitant to use teledentistry if they assume they will not get reimbursed or be perceived as billing inappropriately. Patients may be hesitant to participate if the costs are not covered by their insurance. Case-based scenarios will be helpful for providers in determining if an insurance plan will pay for a procedure conducted with teledentistry, but these scenarios should not be so prescriptive as to limit, or eliminate, provider autonomy.
- 6) Coverage for a range of services - As reimbursement policies for teledentistry continue to be developed, insurance companies and state policy makers should work with stakeholders to align policies with its comprehensive uses.

## **Provider, Patient and Community Readiness**

Only recently has teledentistry been introduced into the US oral health professional vocabulary. While oral health professional education programs, such as University of the Pacific, New York University, Western University, University of North Carolina, Northern Arizona University Dental Hygiene program, and A.T. Still University have begun teaching the concepts and clinical applications, thousands of practicing oral health professionals have never been exposed to the rationale and concept of teledentistry or how it works. To move forward, providers across the country must become familiar with the concept and its use.

Some resources have already been developed to address the challenge of implementing a teledentistry curriculum within dental schools and educating the practicing oral health workforce on its use. As compared to a new procedure or technique for operative dentistry or surgery, teledentistry is designed to reframe how oral health professionals engage with their patients. It offers a unique way to approach the healthcare delivery system. Topics to consider include (but

not limited to) regulations, community agreements/contracts, dental photography, video conference technology etiquette, pathology identification for dental hygienists and dental assistants, diagnostic screening and assessments, social determinants of health, and communication skills.

Both the CareQuest Institute and the National Network for Oral Health Access (NNOHA) have developed resources that can help providers navigate pathways to using teledentistry within their practices. The CareQuest Institute offers a [series of online educational programs](#) and NNOHA has released a [teledentistry user guide](#) that was developed by and for health center dental programs. The Arizona Department of Health Services has published a [curriculum](#) developed by the Northern Arizona University Dental Hygiene Program that provides different manuals for training future and current oral health providers on how to use teledentistry. The Institute for Healthcare Improvement (IHI) has published a [white paper](#) that emphasizes equitable and person-centered care. It provides numerous practical, clinical suggestions related to access, privacy, diagnostic accuracy, communication, psychological and emotional safety, human factors and system design. While directed towards telemedicine, the suggestions offered in this white paper also apply to teledentistry.

For a truly in-depth approach, the American Medical Association (AMA) has developed a [telehealth implementation playbook](#) that explores key steps for clinics to consider before using telehealth and key steps providers should follow for successful telehealth visits. While the focus is on medical clinics, the concepts are transferable to dentistry. Teledentistry should be considered as a tool for integrating healthcare and interprofessional collaboration. Medical and dental providers can identify and appropriately document health needs, such as with digital images, and then collaborate with others to receive necessary guidance or assist in care coordination/referrals to the appropriate provider.

As new as teledentistry is to oral health professionals, it is just as new to their patients. Individuals who are familiar with the in-person evaluation of their oral health needs may not be ready to meet with a dental provider over video conference. Or they may be expecting to meet with a dentist on the day they are scheduled to see a dental hygienist, who will forward the necessary clinical documentation to a dentist for review. As we prepare our providers to manage patient care using teledentistry, we too need to prepare our patients.

“There is a cost to families and the health care system every time a patient enters a dental operator. ... teledentistry is a much more patient-centered delivery method because patients can receive quality care with less stress, and less cost.” – [National Network for Oral Health Access Teledentistry User Guide](#)

The previously mentioned AMA telehealth implementation playbook has a section on partnering with the patient so they can be as ready as their providers for the transition. The San Francisco Department of Public Health, in partnership with the California Department of Health Services, has created [educational videos](#) on how parents/guardians can be prepared to meet with their child’s dental provider over video conference and how to take photos of their child’s teeth that can be forwarded to the dental provider.

Faculty at A.T. Still University, Arizona School of Dentistry & Oral Health have developed a [teledentistry website](#) that offers patients (along with providers and dental staff) opportunities to learn how to use video conferencing technology for the purposes of dental visits. The university also developed educational booklets for patients to take home after an in-person visit to help them prepare for a teledentistry follow-up visit. Patient education should include physical

demonstrations (either through videos or photos) that show how best to position themselves on camera so providers can accurately assess their needs.

A supportive policy environment, including reimbursement policies that are on par with in-person services in conjunction with teledentistry training for patients and providers, is crucial for oral healthcare systems to effectively use teledentistry. While the COVID-19 pandemic increased general awareness for teledentistry, it did not limit teledentistry as a tool only to be used during a pandemic. Decades worth of teledentistry case studies have indicated that communities need greater access to the oral healthcare system. Teledentistry provides that connection between the healthcare system and those who previously did not have access or encountered barriers to access.

## Best Practice Criteria

The ASTDD Best Practices Committee considers criteria to guide state and community oral health programs in developing their best practices. For these criteria, initial review standards are provided to help evaluate the outcomes of an oral health program that utilizes or is proposing to use teledentistry to improve oral health and prevent oral disease.

1. Impact/Effectiveness
  - a. Have more people received oral health services and has oral health improved (i.e., improving access to care and reducing health disparities)?
  - b. Are the direct (e.g., cost of care) and indirect costs (e.g., lost wages or travel time) to patients to physically see a provider reduced?
2. Efficiency:
  - a. Are the number of visits to a traditional dental office per person reduced? It should be noted that teledentistry can result in more people entering the healthcare system so overall number of visits for the patient population may increase but in-office visits should decrease per person.
  - b. Are waiting times for appointments reduced?
  - c. Are the number of missed appointments decreasing?
  - d. Is in-office dental chair time being used for more complex procedures?
3. Demonstrated Sustainability
  - a. Are long-term (as compared to emergency authorization) reimbursement policies in place that provide parity to traditional in-person visits?
  - b. Are reimbursement policies reviewed regularly and adjusted given ongoing technological improvements?
  - c. Are reimbursement guidelines clear on how to code/submit claims services provided with teledentistry?
  - d. Are policy environments clear so that oral health providers know what they are allowed to do (or not do) when using teledentistry?
  - e. Do providers who utilize teledentistry perceive value when engaging patients with technology and have they been trained how to use it?
  - f. Do patients accept the use of teledentistry, find it valuable, and are they offered resources for how to use it?
  - g. Do payment and incentive systems align with improving community oral health (e.g., [value-based care](#))?
4. Collaboration/Integration
  - a. Is oral health integrated into non-oral health systems of care using teledentistry?



- b. Do providers collaborate on cases using teledentistry and make referrals as needed? Examples include (but are not limited to) collaboration between a general dentist and a dental specialist or between an oral health professional and a medical professional.
  - c. Is educational programming provided using teledentistry, such as [Project ECHO](#)?
  - d. Do state policies allow various non-dentist providers (e.g., dental hygienists or nurses) to work in remote locations, at the top of their scope, and forward clinical data to a dentist for review?
  - e. Do electronic health record systems allow for shared patient management between clinics or professions?
5. Objectives/Rationale
- a. Is there an identified need within the community that can be addressed with teledentistry?
  - b. Are there clearly defined goals and objectives that are used to measure the outcomes from using teledentistry?

### Evidence Supporting Best Practice Approaches

The ASTDD Best Practices Committee reviews a wide array of evidence to support best practice approaches for building effective state and community oral health programs. Practices linked by strong causal reasoning to the desired outcome of improving oral health and total well-being of priority populations will be reported on by the Best Practices Committee. Strength of evidence from research, expert opinion and field lessons fall within a spectrum: on one end of the spectrum are promising best practice approaches, which may be supported by little research, a beginning of agreement in expert opinion, and very few field lessons evaluating effectiveness; on the other end of the spectrum are proven best practice approaches, ones that are supported by strong research, extensive expert opinion from multiple authoritative sources, and solid field lessons evaluating effectiveness.

Research provided in this BPAR may range from studies in dental public health or other disciplines reporting effectiveness. Expert opinion may range from one expert group or general professional opinion supporting the practice to multiple authoritative sources (including national organizations, agencies, or initiatives) supporting the practice. Field lessons may range from success in state practices reported without evaluation documenting effectiveness to cluster evaluation of several states (group evaluation) documenting effectiveness. To access information related to a systematic review vs. a narrative review please review the following: [Systematic vs. Narrative Reviews](#). (Accessed: 11/16/2021)

### Research Evidence

Given the relatively new appearance of teledentistry within the healthcare system, the literature is somewhat limited, and examples may be found in non-U.S. countries, but the initial studies (and subsequent systematic reviews, if available) demonstrate several benefits related to it.

There are cost benefits for both patients and providers:

- Teledentistry saves costs both directly and indirectly for both patients and providers.<sup>31</sup>
- Store-and-forward teleconsultations are less expensive as compared to in-person visits.<sup>31</sup>
- Costs related to seeing a specialist, who may be located elsewhere, decrease.<sup>32</sup>

There is an increased availability of knowledge and education for communities:

- The public has greater access to health information.<sup>31</sup>
- There can be decreased disruption to residents living in long-term care facilities, while the oral health and education of both staff and patients in these facilities can improve and increase.<sup>33</sup>

Care provided with teledentistry can improve treatment efficiency:

- Virtual examinations can occur faster than traditional in-person examinations.<sup>33</sup>
- Store-and-forward systems can increase efficiency when providing treatment to patients and decrease time lost from work by decreasing time for treatment.<sup>31</sup>

Collaboration between providers can improve using teledentistry and patients have greater access to specialty care when their dentist uses teledentistry:

- Less prevalent oral health concerns, such as temporomandibular joint disorder, can be diagnosed remotely and then managed in primary care sites.<sup>31</sup>
- Interceptive orthodontics can be managed and supervised by an off-site orthodontist when care is being provided by an on-site dentist.<sup>31</sup>
- Teledentistry can increase access to specialists for patients, particularly for those in remote areas and for those who are vulnerable. This can lead to enhanced continuity of care, increased preventive behaviors, and elimination of unnecessary referrals to specialists.<sup>31,34</sup>
- New graduates or those practicing in remote areas can receive support from specialists or senior clinicians when utilizing technology to connect with individuals who were in a different location.<sup>34</sup>

“By thinking beyond the traditional visit to the dentist’s office, and taking advantage of new technologies, we can remove barriers to dental care — and come closer to ensuring access for all Americans.” – CareQuest Institute for Oral Health

Findings from a teledentistry visit are equivalent to that of an in-person visit:

- Services provided with teledentistry are comparable to and have advantages over traditional in-person care.<sup>31</sup>
- Diagnosis of early childhood caries using teledentistry demonstrated comparable decisions to a clinical examination.<sup>31</sup>
- There is a strong agreement between in-person and teledentistry-based examinations in developing treatment plans.<sup>33</sup>
- Oral lesions can be accurately identified using teledentistry.<sup>32</sup>

Teledentistry is becoming more widely accepted among stakeholders:

- Teledentistry is highly accepted by patients, including children and parents, and providers.<sup>34,35</sup>
- A majority of dentists who used teledentistry are satisfied with the technology.<sup>36</sup>

Oral health can improve when teledentistry is utilized:

- Teledentistry improves disease prevention when apps, text messaging, and computer-aided learning are used for oral health prevention and promotion.<sup>37</sup>
- The amount of plaque, gingival disease rates, and white spot lesions decreased when teledentistry was used, and the effects increased when teledentistry was used over longer periods of time.<sup>37</sup>

## State Practice Examples

The following practice examples illustrate various elements or dimensions of the best practice approaches for teledentistry. These examples should be viewed in the context of the states and program's environment, infrastructure, and resources. End-users are encouraged to review the practice descriptions (click on a practice name to view the description) and adapt ideas to fit their state and program. Table 2 provides a list of programs and activities submitted. Each practice name is linked to a detailed description.

**Table 2. State Practice Examples Illustrating Strategies and Interventions for Teledentistry**

Practice Name	State	Practice #
<a href="#">Utilizing Telehealth in Head Start Programs in Northern Arizona</a>	AZ	04010
<a href="#">Implementation of Teledentistry in Health Centers</a>	CA	06011
<a href="#">Oral Health Access for Underserved Perinatal Women through Teledentistry</a>	CA	06012
<a href="#">Patient Centered Care through Teledentistry</a>	CA	06013
<a href="#">Apple Tree Dental: Teledentistry from 2002 to 2020</a>	MN	26013
<a href="#">Teledentistry at Schools &amp; Nursing Homes</a>	MO	28010
<a href="#">Legislative Adoption of Teledentistry in North Carolina: Lessons Learned and Opportunities Ahead</a>	NC	36014
<a href="#">Teledentistry   Oral Health Focused Telehealth (Virtual) Services</a>	OR	40008
<a href="#">The Use of Synchronous and Asynchronous Teledentistry to Provide Access to Care in Remote/Rural Areas</a>	SD	47003
<a href="#">Organizational Use of Teledentistry to Enable Health Equity and Prevention</a>	MA (CareQuest Institute)	99006

## Highlights of Practice Examples

### AZ [Utilizing Telehealth in Head Start Programs in Northern Arizona](#) (Practice #04010)

Due to a lack of access to pediatric dental care in eastern Arizona, Around the Mountain Pediatric Dentistry (ATMPD) in conjunction with Northern Arizona Council of Governments Head Start Program (NACOG HS), established a teledentistry model to provide services with a long-term plan to establish a permanent office location in the area. ATMPD was able to secure part-time co-shared office space in the area to alleviate office setup costs. Services are typically available four to five days per month, with a plan to expand as appointments increase. The utilization of teledentistry has been deemed a success by both ATMPD and NACOG HS due to reducing barriers to care such as travel time and lack of transportation for families.

### CA [Implementation of Teledentistry in Health Centers](#) (Practice #06011)

Ravenswood Family Health Network (RFHN) has led the Early Childhood Oral Health Initiative (ECOHI) in San Mateo County since 2012. RFHN was the lead agency to apply for grant funding for the Virtual Dental Home (VDH) model and partnered with Head Start for implementation. A subcontract was created with the University of the Pacific School of Dentistry to implement the model. In 2019, RFHN partnered with eleven pre-school and community programs throughout San Mateo County to provide asynchronous telehealth visits to increase access to preventive services for children. A change was made in 2019 that allowed telehealth access only for existing patients. The COVID-19 pandemic led to changes that currently allow for establishing patients via telehealth.

- CA [Oral Health Access for Underserved Perinatal Women through Teledentistry](#) (Practice #06012)  
The University of California at Irvine, Federally Qualified Health Center (FQHC) began using teledentistry in April 2020 during the COVID-19 pandemic to provide access to the underserved and vulnerable population in the community. The initial goal was to triage and preserve emergency room capacity. New patients were accepted to the practice and one subset of patients stood out as not seeking care, perinatal patients. To meet the needs of these patients a collaboration was developed with nurse practitioners in the OBGYN department at the FQHC. Teledentistry visits included discussions about medical and dental histories, risk assessments, SMART goals, anticipatory guidance, prescriptions and referral to specialists as needed.
- CA [Patient Centered Care through Teledentistry](#) (Practice #06013)  
Petaluma Health Center has been providing synchronous dental visits since early in the COVID-19 pandemic. Over time this mode of care delivery evolved to provide preventive care for patients six months to five years of age. Most patient visits take place via a smartphone and photos of the teeth are submitted in advance to assist the dentist with the exam. (Eighty-six percent of Medicaid beneficiaries own a smartphone.) For certain types of visits, such as preventive visits for patients six months to five years, a self-management kit is mailed to the caregiver for use during the visit. The kit contains: fluoridated toothpaste, fluoride varnish, toothbrush, floss, gloves, bib, gauze, disposable mouth mirror and patient education materials.
- MN [Apple Tree Dental: Teledentistry from 2002 to 2020](#) (Practice #26013)  
Apple Tree Dental has been using teledentistry since the early 2000's to help reduce patient barriers to care, improve program and dental team efficiency, and more recently to respond to the COVID-19 pandemic. Patient information is captured on-site by the dental team, dental hygienist, dental therapist or assistant, and reviewed by the remote dentist in either synchronous (real-time) or asynchronous (store and forward) modality. Minnesota statutes require specific diagnostic, radiographic and consultation services be reimbursed at the same rate whether provided at a traditional in-person visit or via teledentistry in the Medicaid program. Teledentistry has helped Apple Tree to launch a new program, overcome staffing shortages, and promote "top of license practice" by dental teams.
- MO [Teledentistry at Schools & Nursing Homes](#) (Practice #28010)  
Missouri used their HRSA Workforce Grant and their CDC Grant to contract with dental providers to either provide teledentistry services at schools, including providing sealants, or in nursing homes or both. Contracts are funded through private Missouri foundations and/or CDC. The contracts funded through a private Missouri foundation meet the match requirement for the HRSA Workforce Grant. The contracts funded by CDC are for sealant programs and do not provide for personnel services but provide for education pertaining to dental sealants. The Missouri Office of Dental Health contracted with local public health agencies that have dental programs, Federally Qualified Health Centers (FQHCs), health clinics and dental/dental hygiene schools to provide care in schools with the highest percentage of Free & Reduced Lunch Program rates. The contractors are required to bill Medicaid to show the sustainability of teledentistry services after the contract is complete.
- NC [Legislative Adoption of Teledentistry in North Carolina: Lessons Learned and Opportunities Ahead](#) (Practice #36014)  
In cooperation with the North Carolina Dental Society and other key stakeholders, the North Carolina Oral Health Collaborative (NCOHC) successfully influenced the passage of legislation codifying teledentistry in the North Carolina Dental Practice Act in 2021. Central

to the effort to pass Session Law 2021-95 was collaboration among a diverse network of traditional and non-traditional stakeholders. NCOHC cultivated relationships with community leaders, legislators, policymakers, and other decision-makers to influence the legislation while simultaneously generating momentum for change through grassroots advocacy. Private payers and North Carolina's Medicaid division also were engaged and educated. These efforts were supported by a comprehensive communications strategy, public advocacy events, and a "mini-grant" program.

OR [Teledentistry | Oral Health Focused Telehealth \(Virtual\) Services](#) (Practice #40008)

Advantage Dental Oral Health Center ("Advantage Dental") has a long history of leveraging teledentistry as part of its services in its ongoing mission to improve the oral health of all and create a healthier population through improved dental health. In 2019, Advantage provided audio-only teledentistry services to more than 1,100 individuals. These services were either emergency "hotline" calls or asynchronous encounters performed in remote locations in conjunction with dental hygienist services and x-rays. In 2020, Advantage saw an acceleration in the use of teledentistry and the sophistication of implementation. With the advent of the COVID-19 pandemic in March 2020, Advantage Dental, together with DentaQuest, established hotline phone services throughout six states (AL, KY, MA, OR, TX and WA) providing oral health teleconsult services to anyone seeking emergency care. Advantage Dental worked quickly with a cross-functional team to identify and select a teledentistry platform to further advance services. In partnership with MouthWatch, a series of pilots were planned and launched between March and Sept. 2020, focusing on improving the process and understanding of teledentistry. By Dec. 2020, Advantage completed the roll-out of a synchronous teledentistry platform to 59 OR and WA practices, while delivering more than 7,400 teledentistry encounters by the end of 2020. These expansion efforts continue with a focus on Oregon practices, due to the broad scope of services and telehealth state policies.

SD [The Use of Synchronous and Asynchronous Teledentistry to Provide Access to Care in Remote/Rural Areas](#) (Practice #47003)

Horizon Health Care is a Federally Qualified Health Center with locations throughout the state of South Dakota. Teledentistry efforts have been used in most locations due to dentist turnover or vacation time. Synchronous teledentistry visits are conducted via Webex using intraoral cameras and laptops to provide limited comprehensive and periodic exams. In-office staff including dental hygienists and/or dental assistants gather the information, and exams are completed by a dentist located off site. The first synchronous exam was completed in November 2020.

MA (CareQuest Institute) [Organizational Use of Teledentistry to Enable Health Equity and Prevention](#) (Practice #99006)

The oral healthcare system is largely inaccessible, fragmented, and inequitable, especially for historically underserved populations. Expanding the use of technology, particularly teledentistry, has shown [evidence](#) of improving access to dental care and patient satisfaction, as well as lowering the cost of care. Widespread adoption of teledentistry has struggled due to barriers such as state regulations, lack of reimbursement, and inadequate technology and connectivity. With the vision of building on existing evidence for teledentistry, overcoming common barriers, and establishing best practices, CareQuest Institute and CareQuest Innovation Partners both established teledentistry as strategic priorities for their organizations to ultimately improve access to and quality of prevention-focused, person-centered oral healthcare. To do this, the CareQuest Institute operationalizes health improvement programs and grant making, while CareQuest

Innovation Partners works on innovation advancements.

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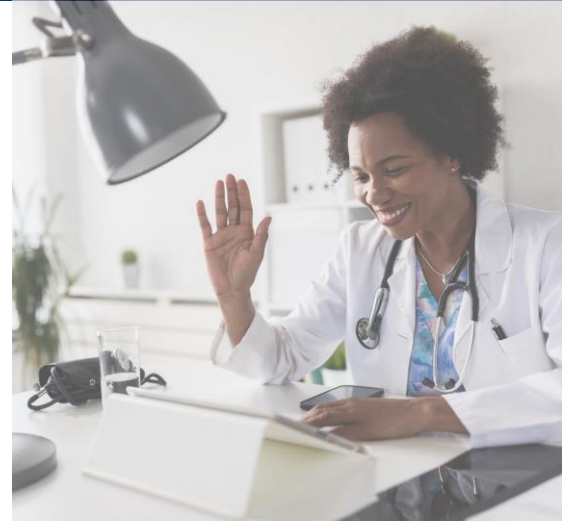
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# Teledentistry Learning Collaborative

## Teledentistry User Guide



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## Executive Summary

Teledentistry can increase access to oral health care, improve the dental care delivery system, and lower costs. It also has the potential to reduce disparities in oral health outcomes among rural and urban communities.<sup>1</sup> National Network for Oral Health Access (NNOHA) has worked with health centers since the spring of 2020 to develop and test a variety of strategies to deliver dental and oral health services via synchronous teledentistry as a consequence of the COVID-19 pandemic. The participating health centers used teledentistry for emergency triage, but also discovered several innovative applications of teledentistry including delivering preventive dental services for children, providing self-management support and oral health goal setting for patients, as well as pre-surgery consultations and post-operative follow-ups, increasing access for underserved/hard to reach populations.

The need and opportunity for innovation in dental service delivery continues to grow. Yet, in many states, dentistry has been slow to adopt innovations in telehealth due to restrictive payment policies and resistance from oral health providers to move beyond the traditional brick and mortar, in-person, delivery model. This User's Guide highlights innovative strategies used in health center dental programs in states with favorable payment and practice environments to support innovation.

In this User's Guide, we include an overview of teledentistry, how it is being used in health center dental programs and describe its rapid growth due to state and federal responses to the COVID-19 pandemic. This guide includes practical tools for implementing teledentistry, promising practices from the field and a summary of the ever-changing landscape of federal and state policy. Also included in this publication is an introduction to NNOHA's Teledentistry Learning Collaborative, comprised of eleven health center dental programs across the United States.

Designed for health center dental professionals, the aim of this User's Guide is to assist health centers in implementing teledentistry to make dental care more accessible. The User's Guide provides inspiration from early adopter health centers, shares the tools needed to build the capacity of dental clinics in how to implement teledentistry and discusses strategies on how to make teledentistry a sustainable part of dental practice.

## Background

Teledentistry is the delivery of dental care using telehealth health information technology and methodology. Common teledentistry modalities include live video consultation, store-and-forward, and remote patient monitoring. Examples of teledentistry services include but are not limited to risk assessment, oral exams using photos and videos, motivational interviewing, and

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<sup>1</sup>Reddy KV. Using Teledentistry for Providing the Specialist Access to Rural Indians. *Indian J Dent Res.* 2011; 22:189

self-management goal setting, supervising fluoride varnish application and emergency care triage.<sup>2,3</sup>

While not a new concept, teledentistry is an emerging model used by health centers to increase patient-centered access to oral health services. The origin of teledentistry can be linked to a 1994 military project known as the U.S. Army's Total Dental Access Project. The purpose of this project was to improve patient care, dental education and demonstrated that teledentistry could reduce patient care costs.<sup>4</sup> The project used teledentistry to reach U.S. soldiers who were serving overseas.<sup>5,6,7</sup> Since then, teledentistry has been implemented in several states to serve a variety of communities, primarily using a virtual dental home model, which allows dental hygienists to work at the top of their scope of practice and deploys them in community settings to provide both preventive and some restorative care via a telehealth connected dental team.

Geographic and socioeconomic status are common barriers to oral health services (i.e., long travel distance to clinics, time missed from school or work). Teledentistry offers a flexible alternative for patients while addressing these barriers that contribute to oral health inequities. Research has shown that teledentistry has the ability to reduce cost and increase access to oral health services.<sup>8</sup>

The strain on health care systems due to the COVID-19 pandemic has prompted states nationwide to expand existing telehealth policies. As a result, many states have included teledentistry in their list of expanded telehealth services. This emergency response has demonstrated an effective way for dental professionals to connect with patients virtually. According to the Center for Disease Control and Prevention (CDC), patients who are at high risk for COVID-19 are also among those with limited access to oral health care and experience health care disparities at higher rates.<sup>9</sup> The CDC suggests that the advancement of teledentistry can not only mitigate risk of COVID-19 transmission but increase oral health access to underserved and disadvantaged communities.

Since teledentistry is an emerging practice, the concept is new and/or underutilized among many dental professionals. Common barriers to using teledentistry include lack of resources necessary to implement teledentistry (i.e., broadband internet access, technology, staffing) and patients' or providers' beliefs about the effectiveness of virtual dental services.<sup>10</sup> Trust and knowledge of teledentistry continues to evolve as patients and dental providers gain more experience with this

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<sup>2</sup> [https://jcdr.net/article\\_fulltext.asp?issn=0973-709x&year=2015&volume=9&issue=8&page=ZC41&issn=0973-709x&id=6320](https://jcdr.net/article_fulltext.asp?issn=0973-709x&year=2015&volume=9&issue=8&page=ZC41&issn=0973-709x&id=6320)

<sup>3</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2232632/pdf/procamiasymp00004-0958.pdf>

<sup>4</sup> Mihailovic B, Miladinovic M, Vujicic B. Telemedicine in Dentistry (Teledentistry) In: Grasczew G, Roelofs TA, editors. *Advances in Telemedicine: Applications in Various Medical Disciplines and Geographical Areas 2011*. Rijeka (Croatia): InTech; 2011. pp. 215–30

<sup>5</sup> Friction, J., & Chen, H. (2009). Using Teledentistry to Improve Access to Dental Care for the Underserved. *Dental Clinics of North America*, 53(3), 537–548. <https://doi.org/10.1016/j.cden.2009.03.005>

<sup>6</sup> Ghai, S. (2020). Teledentistry during COVID-19 pandemic. *Diabetes and Metabolic Syndrome: Clinical Research and Reviews*, 14(5), 933–935. <https://doi.org/10.1016/j.dsx.2020.06.029>

<sup>7</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2232632/pdf/procamiasymp00004-0958.pdf>

<sup>8</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3894070/>

<sup>9</sup> Brian Z, Weintraub JA. Oral Health and COVID-19: Increasing the Need for Prevention and Access. *Prev Chronic Dis* 2020; 17:200266. DOI: <https://doi.org/10.5888/pcd17.200266>.

<sup>10</sup> <https://www.sciencedirect.com/science/article/abs/pii/S1532338214000517?via%3Dihub>

delivery model. Dental students are rarely taught about teledentistry in their educational experience and therefore lack the self-efficacy to implement this service.<sup>11</sup>

Teledentistry frameworks and strategies for delivering virtual dental services continue to emerge. Successful application of teledentistry requires dental professionals to keep an open mind about the many ways teledentistry can increase access to care for many populations.

## Teledentistry Overview

Telehealth is a rapidly expanding health care delivery model and COVID-19 has only accelerated the pace. Investments made in technology and infrastructure to support the industry are expected to reach \$64 billion by 2025.<sup>12</sup> Care providers in medical, physical therapy, occupational therapy, home health, hospice, pediatric behavioral health, even veterinary care are now providing services via telehealth. The use of telehealth for dental services, also known as teledentistry, is one part of this emerging field.

### What is teledentistry

Teledentistry is a form of telehealth used in dentistry. In teledentistry, a variety of technologies and methodologies are used to deliver oral health services virtually. These advances in technology provide the opportunity for a patient to receive services when they are in one location and their care provider is in another. According to the American Dental Association (ADA), teledentistry can be an effective way to increase access to care by reducing barriers to care due to distance or transportation.<sup>13</sup> Figure 1 shows how teledentistry is one part of a comprehensive patient-centered system for delivering oral health care to communities.

### Patient Story

*“One of our more rural clinic sites was closed. This site is 40 miles from our nearest clinic. A patient called our main clinic to be seen with a concern regarding a recent procedure. Thanks to our work with this teledental collaborative, we had our providers set up to do teledental calls. It is important to note that our provider was skeptical about this whole process. When he saw how thrilled the patient was, he was converted!”*

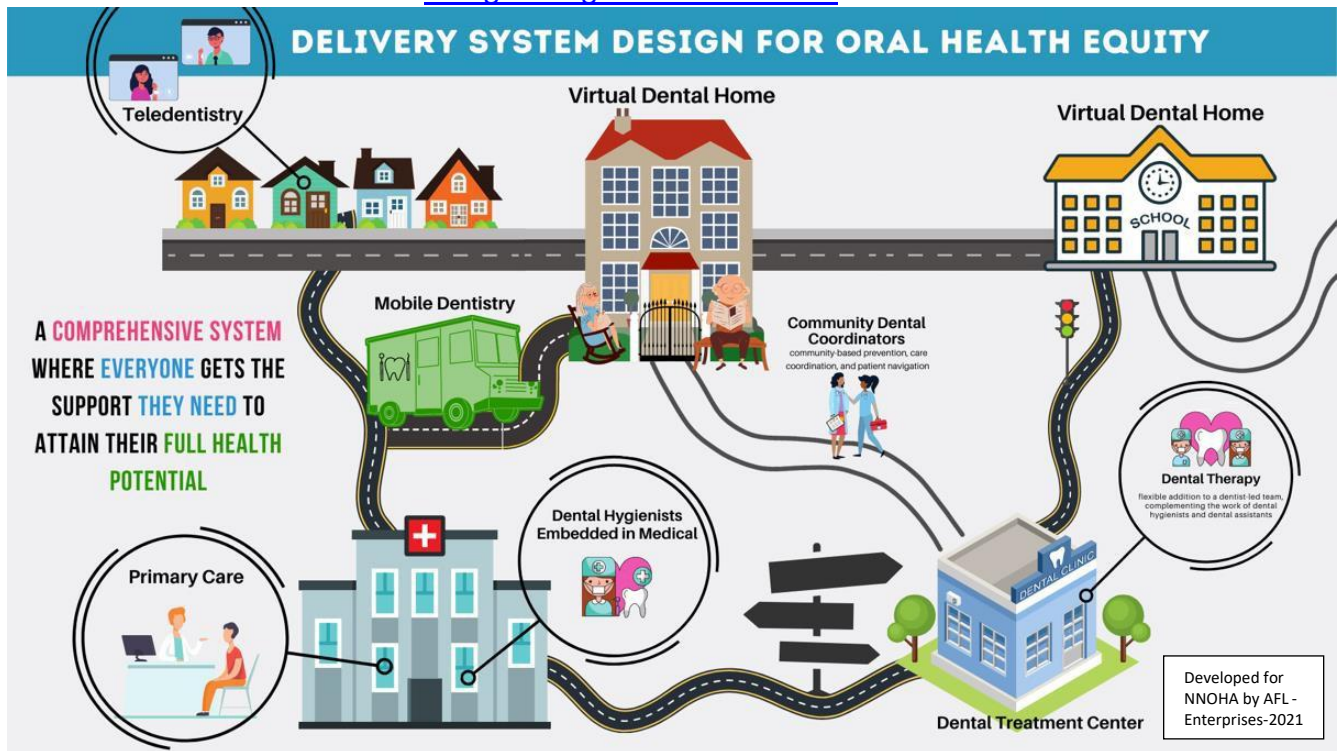
<sup>11</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7523925/>

<sup>12</sup> <https://www.ama-assn.org/practice-management/digital/telehealth-53-growing-faster-any-other-place-care>

<sup>13</sup> <https://www.ada.org/en/about-the-ada/ada-positions-policies-and-statements/statement-on-teledentistry>

Figure 1: Oral Health Care Delivery System Design for Health Equity

[A larger image is available here.](#)



## DEFINITIONS<sup>14</sup>

### *Telehealth*

The mode of delivering long distance health care services through virtual, telecommunication technologies in order to diagnose, consult, educate, and provide self-management of patient health. Technologies include videoconferencing, broadband internet, store- and-forward imaging, streaming media, and landline and wireless communications.

### *Teledentistry*

The use of telehealth technologies or methodologies to deliver oral health services. Teledentistry can include patient care and education delivery using synchronous and asynchronous modalities among others.

### *Synchronous (live video)*

A real-time, face-to-face interaction between patient and a provider located at a distant site using audiovisual telecommunications technology, such as smartphones, tablets, or computers. In some cases, another healthcare professional (such as a dental hygienist) can be physically with the patient and use peripheral equipment, while the consulting dentist conducts a remote evaluation.

<sup>14</sup>Definitions adapted from *Teledentistry Rules* by Paul Glassman (February 10, 2020)

*Asynchronous (store and forward)*

In this technique, electronic patient information is captured by the patient, or a visiting health professional, stored, and then forwarded to the treating dental provider for evaluation at a later time. This could include radiographs, photographs, video, digital impressions and photomicrographs of patients sent through a secure electronic communications system to the provider. This information is utilized to evaluate a patient’s condition or render a service outside of a real-time or live interaction.

*Remote patient monitoring (RPM)*

Personal health and medical/dental data collection from a patient in one location via electronic communication technologies, which is transmitted to a provider (sometimes via a data processing service) in a different location for use in care and related support of care.

*Mobile health (mHealth)*

Health care and public health practice and education supported by mobile communication devices such as cell phones, tablet computers, and other smart devices.

*Distant Site*

The site where the health care provider provides health services through telehealth modality.

*Originating Site*

The site where the patient is located at the time a health care service is provided via telehealth technology.

Applications of Teledentistry

The uses of teledentistry can be divided into four subcategories<sup>15</sup> summarized in Table 1:

**Table 1. Subcategories of Teledentistry**

Teleconsultation	Telediagnosis	Teletriage	Telemonitoring
<ul style="list-style-type: none"> <li>• Consultations</li> <li>• Prevention</li> <li>• Risk Assessment</li> <li>• Exams</li> <li>• Speciality referral</li> <li>• Patient-administered care</li> <li>• Self-management support</li> <li>• Patient education</li> <li>• Care coordination</li> </ul>	<ul style="list-style-type: none"> <li>• Exams</li> <li>• Risk assessment</li> <li>• Treatment planning</li> <li>• Patient education</li> <li>• Prevention</li> <li>• Patient-administered care</li> <li>• Self-management support</li> <li>• Case Management</li> <li>• Care coordination</li> </ul>	<ul style="list-style-type: none"> <li>• Screening</li> <li>• Prioritize urgent dental care/close clinical examination</li> <li>• Emergencies</li> <li>• Trauma</li> <li>• Acute Infections</li> <li>• Remote assessment of school children</li> </ul>	<ul style="list-style-type: none"> <li>• Replacement for in person visits</li> <li>• Remote monitoring</li> <li>• Frequent virtual visits to monitor progress of treatment or condition</li> </ul>

<sup>15</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7297180/>

## Advantages of Teledentistry

Teledentistry has several potential benefits for patients and providers as listed in Table 2. It has been shown to improve the dental hygiene of patients, cost less than in-office dentistry, improve access to oral health care, and provide the same quality of care compared to traditional methods.<sup>16</sup> NNOHA members who developed teledentistry services during the COVID-19 pandemic also found that patient engagement in home care and subsequent in-person (when needed) visit compliance improved for those patients who received care via virtual dental visits. Teledentistry also has the potential to reduce disparities in oral healthcare between rural and urban communities.<sup>17</sup> Teledentistry has the potential to be an affordable, easier to implement method to bridge the rural-urban health divide.

**Table 2. Benefits of Telehealth Services for Patients and Providers**

Benefits to patients	Benefits to providers
<ul style="list-style-type: none"> <li>• Lower costs<sup>18,19</sup></li> <li>• Improved access to care<sup>8,20, 21,22,23</sup></li> <li>• Improved dental hygiene</li> <li>• Patient satisfaction<sup>21, 24</sup></li> <li>• Convenience due to reduced barriers (e.g., time missed from work and school, childcare, etc.)<sup>20,25</sup></li> <li>• Slow the spread of infections<sup>23</sup></li> <li>• Builds trust, reduces anxiety<sup>26,27</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Reduced overhead expenses<sup>8,19, 28,29</sup></li> <li>• Increased access to care<sup>30</sup></li> <li>• Less exposure to illness and infections</li> <li>• Patient satisfaction<sup>21, 24</sup></li> <li>• Keeping pace with patient demand<sup>31,32,33</sup></li> <li>• Improved outcomes<sup>19</sup></li> <li>• Improved patient engagement<sup>34</sup></li> </ul>

<sup>16</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3894070/>

<sup>17</sup> Reddy KV. Using Teledentistry for Providing the Specialist Access to Rural Indians. *Indian J Dent Res.* 2011;22:189.

<sup>18</sup> Scuffham PA, Steed M. An economic evaluation of the Highlands and Islands teledentistry project. *J Telemed Telecare.* 2002;8(3):165-177.

<sup>19</sup> <https://jdh.adha.org/content/identhyg/87/6/345.full.pdf>

<sup>20</sup> <https://pubmed.ncbi.nlm.nih.gov/19482128/>

<sup>21</sup> <https://www.healthaffairs.org/doi/10.1377/hlthaff.2018.05102>

<sup>22</sup> [http://dental2.anamai.moph.go.th/download/download/2014\\_Teledentistry-A%20Key%20Component%20in%20Access%20to%20Care.pdf](http://dental2.anamai.moph.go.th/download/download/2014_Teledentistry-A%20Key%20Component%20in%20Access%20to%20Care.pdf)

<sup>23</sup> <https://www.cdc.gov/coronavirus/2019-ncov/hcp/telehealth.html>

<sup>24</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7427495/>

<sup>25</sup> [http://www.quintpub.com/journals/ohpd/fulltext.php?article\\_id=20588](http://www.quintpub.com/journals/ohpd/fulltext.php?article_id=20588)

<sup>26</sup> [http://www.quintpub.com/journals/ohpd/fulltext.php?article\\_id=20588](http://www.quintpub.com/journals/ohpd/fulltext.php?article_id=20588)

<sup>27</sup> González, A. P., Torreira, M. G., Petronacci, C. M. C., & Sayáns, M. P. (2021). Teledentistry: A New Approach in Dental Medicine. *Enhanced Telemedicine and e-Health: Advanced IoT Enabled Soft Computing Framework*, 410, 41.

<sup>28</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7605980/>

<sup>29</sup> Ignatius E, Mäkelä K, Happonen RP, Perala S. Teledentistry in dental specialist education in Finland. *J Telemed Telecare.* 2006; 12:46-49.

<sup>30</sup> <https://www.nashp.org/wp-content/uploads/2015/08/Enhancing-Oral-Health-Primer-for-Medicaid-Agencies.pdf>

<sup>31</sup> <https://onlinelibrary.wiley.com/doi/full/10.1111/jphd.12421>

<sup>32</sup> <https://www.proquest.com/openview/9ecb169ea08819358d61dfad78841326/1?pq-origsite=gscholar&cbl=536318>

<sup>33</sup> <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1063.3890&rep=rep1&type=pdf>

<sup>34</sup> <https://asmj.ro/wp-content/uploads/2021/04/asmj-2021-0001.pdf>



With teledentistry available, patients may not need to come into the dental practice as often and have easier access to their dental team. This makes care both more accessible, particularly for hard-to-reach populations, and more convenient. The time and cost savings should mutually benefit patients and providers as well. Patients don't need to worry about barriers such as transportation or childcare, while providers are able to provide care more efficiently. Furthermore, with about 20%<sup>35</sup> of Americans living in rural areas, teledentistry eliminates geographical barriers as well as challenges with staffing shortages, allowing patients increased access to care.

Using teledentistry also allows for more efficient use of in-person visits, allowing clinics to prioritize in-person visits for services that require face-to-face interaction. In emergency situations, a patient can quickly connect with a dentist remotely. Providers can assess the problem virtually and make recommendations that may save the patient a trip to a hospital or dental clinic. This alleviates the burden of costly emergency visits.

Each year in the United States, there are approximately 2 million<sup>36</sup> hospital ED visits for nontraumatic dental problems. According to a mixed methods study, most of these visits were for oral health needs that could have been addressed at a dental office, including care delivered through teledentistry.<sup>37</sup> Research has also found that patients with Medicaid and those with no insurance coverage are more likely to appear at the ED with a dental condition.<sup>38</sup> The ADA estimates that every 15 seconds someone visits a hospital emergency department for a dental condition, at a cost of \$749 per visit.<sup>39</sup> If they received any care at all, it was a prescription for antibiotics or pain relief. The use of emergency departments for non-urgent medical conditions is a growing concern in the United States. Teledentistry is an opportunity to relieve crowded emergency departments and ensure urgent and non-urgent dental needs are met.

Finally, consideration should be given to patient satisfaction and demand for virtual services. Studies on the use of telehealth services have shown that most patients are comfortable communicating with their healthcare providers via text, email, or video and will prioritize access to remote care over seeing a provider in person.<sup>40</sup> With advancements in technology and the use of modern forms of communication, patients' needs and preferences should be taken into account when offering services via teledentistry. Telehealth is projected to continue growing rapidly reaching over \$1 billion by 2027, compared to \$263.66 million in 2019.<sup>41</sup>

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<sup>35</sup> <https://mtgis-portal.geo.census.gov/arcgis/apps/MapSeries/index.html?appid=49cd4bc9c8eb444ab51218c1d5001ef6#:~:text=At%20the%20time%20of%20the,areas%20of%20the%20United%20States.>

<sup>36</sup> <https://ajph.aphapublications.org/doi/10.2105/AJPH.2014.302398>

<sup>37</sup> [https://www.ada.org/~media/ADA/Science%20and%20Research/HPI/Files/HPIBrief\\_0814\\_1.ashx](https://www.ada.org/~media/ADA/Science%20and%20Research/HPI/Files/HPIBrief_0814_1.ashx)

<sup>38</sup> Seu K, Hall KK, Moy E. Emergency department visits for dental-related conditions, 2009. HCUP Statistical Brief #143. Agency for Healthcare Research and Quality, Rockville, MD. November 2012. Available from: <http://www.hcupus.ahrq.gov/reports/statbriefs/sb143.pdf>. Accessed April 15, 2021.

<sup>39</sup> Health Policy Institute American Dental Association (2015) Emergency Department Use for Dental Conditions Continues to Increase <http://mediad.publicbroadcasting.net/p/wusf/files/201802/ADA.pdf>.

<sup>40</sup> <https://www.aha.org/system/files/research/reports/tw/15jan-tw-telehealth.pdf>

<sup>41</sup> <https://www.globenewswire.com/news-release/2021/03/04/2187500/0/en/The-North-America-Teledentistry-market-is-expected-to-reach-US-1-056-00-million-by-2027-from-US-263-66-million-in-2019.html#:~:text=sign%20in-,The%20North%20America%20Teledentistry%20market%20is%20expected%20to%20reach%20US,4%25%20from%202020%20to%202027>

## Growing Evidence Base for Teledentistry

Several studies have shown that teledentistry approaches are as reliable as real time assessments of clinical diagnoses, improve patient access and reduce costs. These findings were demonstrated across the field of oral medicine, maxillofacial surgery, endodontics, orthodontics, and pediatric and preventive dentistry.

Examples of these studies include the clinical diagnosis of impacted or semi impacted third molars,<sup>42</sup> identifying root canal orifices based on images of endodontically accessed teeth,<sup>43</sup> identifying periapical bone lesions<sup>44</sup> and examining for dental caries screening in young children.<sup>45,46</sup>

Results from one study suggest that oral health professionals have the potential to screen for caries from intraoral photographs and available x-rays with the same diagnostic accuracy and reliability as an in-person visit.<sup>47</sup> Moreover, research also indicates that a virtual examination is an effective substitute for an in-person examination and validates the use of teledentistry-enabled exams.<sup>48</sup>

Teledentistry can reduce the costs and barriers to accessing oral health care, leading to improvements in oral health.<sup>49,50</sup> Teledentistry is also more affordable. A 6-year study in California found that telehealth-connected dental teams<sup>51</sup> as part of a Virtual Dental Home (VDH) system can “deliver more prevention and intervention at less cost per patient than the current state dental Medicaid system.” Using telehealth, according to this study, offers a safe and effective alternative, bringing dental care to vulnerable and underserved people.

### Study Highlights:

#### **In-Person Versus “Virtual” Dental Examination: Congruence Between Decision-Making Modalities**

The results of this study indicate that a dentist, utilizing virtual clinical exams and records from allied health personnel, can correctly assess if a patient can be treated in the community or must be seen in a dental office.

- ❑ Patient information collected in the field included intra- and extraoral radiographs, photographs, and charting collected by an RDH.
- ❑ In this study, individual dentists were consistent in their decisions about a specific patient whether the examination was in-person or virtual. A dentist can, with a great degree of certainty, decide on the best next action for that patient.
- ❑ Validity tests underscored that the virtual exam is a strong substitute for an in-person exam.

<sup>42</sup> Duka M, Mihailovic B, Miladinovic M, Jankovic A, Vujicic B. Evaluation of Telemedicine Systems for Impacted Third Molars Diagnosis. *Vojnosanit Pregl.* 2009;66:985–91

<sup>43</sup> Brullmann D, Schmidtman I, Warzecha K, d’Hoedt B. Recognition of root canal orifices at a distance – A preliminary study of Teledentistry. *J Telemed Telecare.* 2011;17:154–7.

<sup>44</sup> Baker WP, 3rd, Loushine RJ, West LA, Kudryk LV, Zadinsky JR. Interpretation of Artificial and In Vivo Periapical Bone Lesions Comparing Conventional Viewing Versus a Video Conferencing System. *J Endod.* 2000;26:39–41

<sup>45</sup> <https://www.cureus.com/articles/7777-use-of-a-teledentistry-based-program-for-screening-of-early-childhood-caries-in-a-school-setting>

<sup>46</sup> Kopycka-Kedzierawski DT, Billings RJ. Prevalence of dental caries and dental care utilization in pre-school urban children enrolled in a comparative-effectiveness study. *Eur Arch Paediatr Dent.* 2011;12:133–8

<sup>47</sup> <https://pubmed.ncbi.nlm.nih.gov/27713449/>

<sup>48</sup> Namakian M, Subar P, Glassman P, Quade R, Harrington M. In-person versus “virtual” dental examination: congruence between decision-making modalities. *J Calif Dent Assoc.* 2012 Jul;40(7):587-95. PMID: 22916380

<sup>49</sup> <https://pubmed.ncbi.nlm.nih.gov/30633668/>

<sup>50</sup> <https://www.ada.org/en/publications/ada-news/2019-archive/january/teledentistry-can-improve-access-to-care-for-underserved-children-researchers-say>

<sup>51</sup> <https://www.ada.org/en/publications/ada-news/2016-archive/september/virtual-dental-homes-offer>

## Teledentistry and COVID-19

### IMPACTS OF COVID-19 ON TELEHEALTH USAGE

Health centers expanded the use of telehealth considerably due to the COVID-19 pandemic. According to 2019 data from the CDC, 43% of health centers were capable of providing telemedicine at the time.<sup>52</sup> With the emergence of COVID-19 during 2020, 95% of health centers reported using telehealth in a voluntary weekly Health Center COVID-19 Survey administered by HRSA. Geographically, there were differences with health centers in the South and rural areas reporting the lowest average weekly levels of telehealth visits compared to other regions, particularly, urban areas. As in-person visits dropped during the early phase of the pandemic, telemedicine visits rose rapidly. Telehealth visits declined as the number of new COVID-19 cases decreased but plateaued as the number of cases increased.<sup>53</sup>

Stay at home orders, changes in state and federal policies allowing for providers to serve patients across state lines, and the Centers for Medicare and Medicaid Services (CMS) 1135 waiver (discussed later in this publication) that provided reimbursement for Medicare services via telehealth has led to rapid innovation in telehealth implementation.

### IMPACTS OF COVID-19 ON TELEDENTISTRY USAGE

#### Teledentistry activities in the U.S.

A poll by the American Dental Association (ADA) Health Policy Institute found, for the week of April 20, 2020, 24.8% of responding U.S. dentists reported they were conducting remote problem-focused evaluations through virtual technology.

In 2021, an ADA survey found that, for the week of February 15, 2021, 61% of dentists in public health are using virtual technology.<sup>54</sup>

As part of the ongoing COVID-19 pandemic, reducing person-to-person contact has been essential to reduce the spread of the virus. In early 2020 Health center dental programs suspended in-person care in response to state emergency orders. By summer 2020 most dental programs resumed in-person operations, but at reduced capacity due to staffing, personal protective equipment shortages, and to comply with new CDC recommendations for infection control. The CDC issued revised guidelines for dental practice June 3, 2020.<sup>55</sup>

In response, HRSA-funded health centers expanded telehealth services.<sup>56</sup> Additionally, CMS<sup>57</sup> eliminated geographic restrictions\* and enhanced

<sup>52</sup> [https://www.cdc.gov/mmwr/volumes/70/wr/mm7007a3.htm#:~:text=According%20to%202019%20Health%20Center,2020%20\(4%2C5\)](https://www.cdc.gov/mmwr/volumes/70/wr/mm7007a3.htm#:~:text=According%20to%202019%20Health%20Center,2020%20(4%2C5))

<sup>53</sup> <https://www.cdc.gov/mmwr/volumes/70/wr/mm7007a3.htm>

<sup>54</sup> <https://surveys.ada.org/reports/RC/public/YWRhC3VydMVSyO2MDJjMjg3ZmRkMDg4YTAwMTE2ZmVlYjltVVJfM3BaeGhzWm12TnNMdjB4>

<sup>55</sup> [https://emergency.cdc.gov/coca/calls/2020/callinfo\\_060320.asp?fbclid=IwAR3Urt-01INicg4ed-ysTZgBP2GZriUEBO3AKL25RcQGQoO1YknPRiM\\_0Js](https://emergency.cdc.gov/coca/calls/2020/callinfo_060320.asp?fbclid=IwAR3Urt-01INicg4ed-ysTZgBP2GZriUEBO3AKL25RcQGQoO1YknPRiM_0Js)

<sup>56</sup> Telehealth consists of the use of electronic information and telecommunication technologies to support clinical health care, patient and professional health-related education, public health, and health administration. <https://www.hrsa.gov/rural-health/telehealth>

<sup>57</sup> Centers for Medicare & Medicaid Services. Telemedicine health care provider fact sheet. Baltimore, MD: US Department of Health and Human Services, Centers for Medicare & Medicaid Services; 2020. <https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>

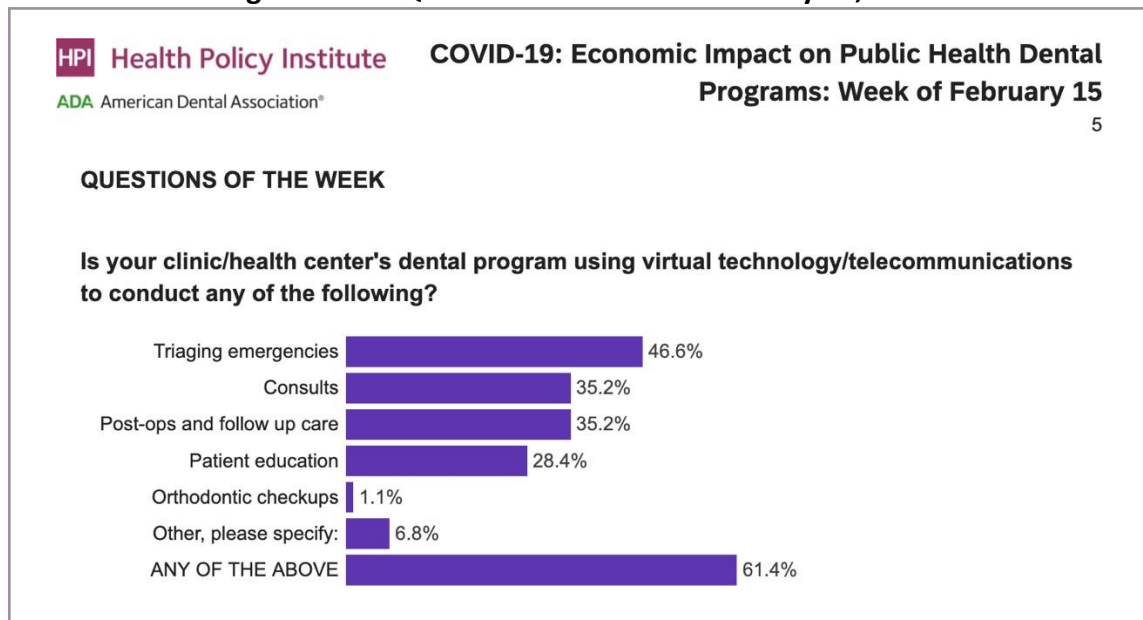
\*Note: Although CMS eliminated this geographic restriction for Medicare reimbursement, some states did not eliminate this restriction (e.g., California)

reimbursements so that telehealth-enabled health centers could continue providing care through telehealth services.

Telehealth can reduce the risk of transmission of COVID-19, conserve scarce medical supplies, including personal protective equipment, and improve continuity of care while reducing strain on health providers and facilities. Initially, remote triaging of suspected COVID-19 patients for dental treatment was employed to limit the spread of the virus.

In 2021, the ADA asked public health dental programs including health centers whether they were using virtual technology/telecommunications tools. On the week of February 15, 2021, 61% of respondents reported using some form of virtual technology. The most common use was to triage emergencies (46.6%), for consults and follow up appointments (35.2% each), and patient education (28.4%).<sup>58</sup> These results are summarized in Figure 2 below.

**Figure 2: HPI Question of the Week February 15, 2021**



## CHANGES TO BILLING DURING COVID-19

In response to the COVID-19 pandemic, the Centers for Medicare and Medicaid Services waived some requirements to give states broad flexibility to cover teledentistry through Medicaid<sup>59</sup>. Federal approval was not needed for state Medicaid programs to reimburse providers for

<sup>58</sup> <https://surveys.ada.org/reports/RC/public/YWRhc3VydmV5cy02MDJjMjg3ZmRkMDg4YTAwMTE2ZmVlYjltVVJfM3BaeGhzWm12TnNMdjB4>

<sup>59</sup> <https://www.cms.gov/files/document/cms-waivers-and-covid-19-response.pdf>

teledentistry services in the same manner or at the same rate that states pay for face-to-face services.

Some states have extensive legislation surrounding telehealth, and others have little to no laws explicitly addressing teledentistry or telehealth services. In some states, teledentistry is only reimbursed for emergency dental consultations. In other states, Medicaid reimburses for services such as oral screenings, assessments, problem-focused evaluations, or re-evaluations via teledentistry to help limit in-person visits, determine when dental procedures can be deferred, and avoid unnecessary trips to hospital emergency departments<sup>60</sup>. Many states have passed legislation to make the telehealth services available during the public health emergency permanent. For health center dental programs, it is important to review your state policies related to teledentistry reimbursement policies. Health centers can investigate their state policies through their local primary care association, American Dental Association, and local dental societies.

## The NNOHA Teledentistry Learning Collaborative

The NNOHA Teledentistry Learning Collaborative, which ran from September 2020 through April 2021 was comprised of 10 federally qualified health center dental teams across 9 states. This Learning Collaborative was designed to provide technical assistance to health centers to implement synchronous teledentistry services for preventive and emergency dental care. All participating health centers tested strategies to expand or strengthen teledentistry services and shared promising practices to make teledentistry a sustainable long-term practice.

### OBJECTIVES OF THE PROJECT

1. Increase the percentage of health center patients who receive oral health services through synchronous teledentistry services
2. Test strategies that improve health center capacity to offer services via teledentistry
3. Develop and implement an effective teledentistry service line

### PROJECT OVERVIEW

Ten health centers were selected for participation in the Learning Collaborative through a competitive national application process. For the pilot Learning Collaborative, only health centers in states with legislation that allowed for teledentistry were eligible to participate, to eliminate the potential policy barriers would limit health center implementation efforts.

The participating health centers attended four virtual convenings with the following topic areas:

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<sup>60</sup> <https://www.medicaid.gov/state-resource-center/downloads/covid-19-fags.pdf>

1. Introduction to Teledentistry & Models
2. Conducting Exams in Remote Environments & Developing Visit Workflow
3. Mock Teledentistry Visit, the Vision for Teledentistry, & Preparing the Patient for a Teledentistry Visit
4. Team Progress: Achievements & Challenges

In addition to the convenings, each participating health center had a monthly coaching call with one of the members of the Learning Collaborative faculty. Faculty included health center leaders with experience delivering teledentistry services, NNOHA staff, and a NNOHA consultant with expertise in implementing teledentistry in health center dental programs.

The names and locations of the health centers appear in **Table 3**.

**Table 3: Teledentistry Learning Collaborative Participating Health Centers**

Health Center	City/State	Health Center	City/State
University of California Irvine	Irvine, CA	Mosaic Health	Rochester, NY
Alameda Health System	Oakland, CA	Cincinnati Health Department	Cincinnati, OH
Terry Reilly Health Services	Nampa, ID	Multnomah County Health Department	Portland, OR
Choptank Community Health System	Federalsburg, MD	Valley View Health Center	Chehalis, WA
Center for Family Health	Jackson, MI	Charlotte Community Health Center	Charlotte, NC

Participants in the NNOHA Teledentistry Learning Collaborative represent nine states. Regulation and policy for teledentistry practices vary from state to state by whether the states regulate or recognize teledentistry practices and by Medicaid coverage policies. Among the nine states, none have the same combination of teledentistry practice policies. Table 4 lists the Teledentistry laws, regulations and Medicaid reimbursement for the states participating in the learning collaborative.

**Patient Story**

*“The registered dental hygienist was doing a follow up oral hygiene instructions/educational teledental visit for a high risk four-year-old patient who had not followed up from operating room treatment. They had missed several follow up appointments due to barriers at home. Teledentistry allowed the patient access to care.”*

**Table 4. Individual State Teledentistry Laws, Regulations, and Medicaid Reimbursement of Learning Collaborative Participants<sup>61</sup>**

	Teledentistry Laws and Regulations	Teledentistry Medicaid Reimbursement	Expanded Teledentistry Functions	Interim COVID-19 Teledentistry Expansions	Telehealth Payment Parity
CA	☀	*❖	▶	●	★
ID	☀	*			
MD	■	*	▶	●	★
MI	■	*	□	●	★
NC	■	*❖	⊙	●	
OH	☀	*	▶	●	★☆
OR	■	*❖	□	●	★
NY	☀	*❖	⊙	●	★
WA	☀	*❖	□	●	★

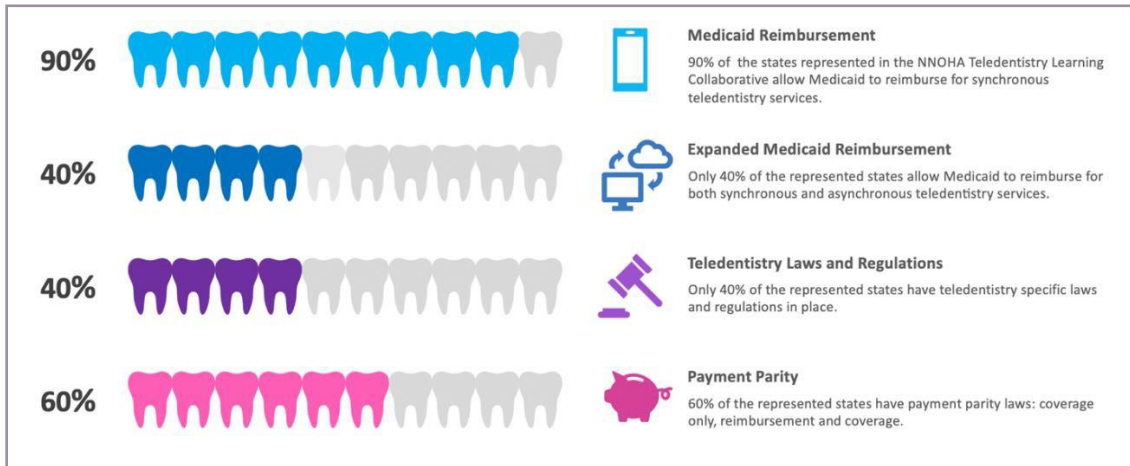
Legend				
Teledentistry Laws and Regulations	Teledentistry Medicaid Reimbursement	Expanded Functions	Interim COVID-19 Teledentistry Related Expansions	Telehealth Payment Parity (reimbursed at the same fee as in-person care) <sup>62</sup>
<ul style="list-style-type: none"> <li>◆ Extensive</li> <li>■ None</li> </ul>	<ul style="list-style-type: none"> <li>* Synchronous</li> <li>❖ Asynchronous</li> </ul>	<ul style="list-style-type: none"> <li>▶ Registered Dental Hygienists Can Perform Assessments w/ Remote Dentist Supervision</li> <li>⊙ Dental Hygienists Can Communicate/Connect with Dentists via Teledentistry</li> <li>□ Dental Therapist/Hygienist Use Teledentistry w/ Written Dentist Plan for Situation Beyond Capabilities</li> </ul>	<ul style="list-style-type: none"> <li>● Existing/In effect</li> </ul>	<ul style="list-style-type: none"> <li>★ Reimbursement</li> <li>☆ Limited Coverage</li> </ul>

As of spring 2021, among the nine states, 90% have some sort of Medicaid reimbursement policy for synchronous teledentistry services. In comparison, only 40% of the states offer Medicaid reimbursement for *both* synchronous and asynchronous teledentistry services. Only 40% of states have specific laws and regulations for teledentistry practice. In comparison, 100% of states have some sort of *telemedicine or telehealth* law in place. Finally, 60% of the states have some sort of payment parity in place (either coverage based, or reimbursement based). Figure 3 demonstrates these differences in policy and reimbursement.

<sup>61</sup> Poleman, T. (April, 2020). Nationwide Survey of Teledentistry Regulations CCHP. (2020) <https://www.cchpca.org/>

<sup>62</sup> "Understanding The Case For Telehealth Payment Parity, " Health Affairs Blog, May 10, 2021. DOI: 10.1377/hblog20210503.625394

**Figure 3: Combined State Teledentistry Laws, Regulations, and Medicaid Reimbursement of Learning Collaborative Participants**



For the health centers in participating in the learning collaborative variations in policy, regulation and payment between states act as barriers to implementing promising practices from a health center in one state by a health center in another state, due to dissimilar policies and regulations across states, different Medicaid reimbursement policies across states and differences in teledentistry scope of practice between states.

#### RESULTS OF THE COLLABORATIVE

With support from the peer learning community, health centers were able to develop teledentistry services for their patients. Flexibility and creativity were crucial because payment and practice act policies are unique in every state. Table 5 lists examples of innovative applications of teledentistry developed by the participating health centers during the Learning Collaborative that met the needs of patients and communities while adhering to individual state rules and regulations for teledentistry:

**Table 5: Examples of teledentistry services being tested in health centers**

- At home preventive visits for children, when x-rays are not indicated, including anticipatory guidance.
- Patient administered care such as at-home fluoride varnish.
- Prescribing fluoride
- Exams using photos and video.
- Motivational interviewing and self-management goal setting for patients and caregivers, for patients with diabetes, leading to a stronger partnership with the dental team, more consistent home care, and a greater likelihood of attending dental appointments.
- Conducting risk assessments and providing anticipatory guidance.
- Preventive dental services for children 0-5 where parents send images taken with their smart phone ahead of the appointment. Then during the appointment, the parent can



demonstrate their competency with brushing their child's teeth, address any questions or concerns they have, and set goals for health behaviors to support their child's oral health

- Coaching toothbrushing and helping set up home care routines
- Pre-planning care for those who may be experiencing symptoms
- Supporting pain management strategies
- Providing dental services to patients in a residential substance use treatment center, eliminating pain, and supporting patients on their addiction recovery
- Diagnose dental abnormalities, disturbances in tooth eruption, malocclusion, periodontal disease, infections, presence of soft tissue lesions, temporomandibular joint dysfunction
- Demonstrate brushing and flossing at home, increasing patient self-efficacy.
- Pre-surgery consultations and post-operative consultations, eliminating the need for an in-person visit prior to surgery, saving families costs related to time off work and transportation
- Walking a patient through adjusting his dentures, leading to greater awareness of this device, and a satisfied patient who was kept safe and healthy at home.
- Nutritional counseling and chronic disease management

### Patient Story

*“A 13-year-old was referred to us for routine care and we scheduled a tele video visit. During the tele visit we noticed that she had braces. They were placed in her country of origin and when they saw an orthodontist in the US, they were charging to remove the braces, so they did not have that taken care of. We scheduled her quickly and, in the chair, we could see that she was most likely dealing with a lot of discomfort due to extremely overgrown and inflamed tissues. The child mentioned that she had a wire poking her also. We were able to communicate with another FQHC that does orthodontics and they agreed to see the child immediately to remove the braces. Seeing this patient was very rewarding knowing that if we would not have done the teledental visit with her, she would not have been seen so quickly and could still be living in an uncomfortable situation.”*

## Implementation of Teledentistry

Several important operational aspects must be addressed to successfully implement telehealth services: technology, communication, reimbursement and coding, and processes.<sup>63</sup>

<sup>63</sup><https://www.michigandental.org/Portals/pro/ProDocuments/Membership/Coronavirus/June%202020%20MDA%20Journal%20Teledentistry%20Article.pdf>

## Technology and Teledentistry Platforms

The Health Insurance Portability and Accountability Act (HIPAA) rules for telehealth service were relaxed temporarily to address urgent needs brought on by the COVID-19 pandemic. HIPAA privacy requirements will likely resume in the not-too-distant future and technologies selected for the short term will need to be replaced. Despite the relaxed regulations, health center dental programs that conducted teledentistry visits in the learning collaborative only used HIPAA compliant platforms to protect patient privacy. Some of the available platforms that NNOHA members are using for synchronous teledentistry include Cisco Webex, Doxy.me, Doximity, EPIC MyChart, Google Duo, Zoom for Health Care and Microsoft Teams.

Some features to look for in teledentistry solutions include the ability to integrate with the electronic dental record, practice management and billing systems, laboratory integration, and patient communication tools that are accessible and easy for the patient to use. A number of software packages that make these features available are emerging.

Currently, for states that usually require them, formal patient consent forms are not required in this HIPAA relaxed environment, however the doctor must document consent in the progress notes. Therefore, the use of an electronic consent form should be included in the process. Be sure to check individual state rules and regulations regarding consent.

## Equipment

The equipment listed below is not intended as a comprehensive list as every practice environment will differ based on the needs of the patients and communities, what type of teledentistry is used, as well as state payment and practice policies.

- For patients:
  - Devices such as smart phones, tablets or computers that are connected to the internet for patients to take and submit photos and participate in video visit (see [this video](#) that explains how patients should take photos for a teledentistry visit).
- For dental providers:
  - Devices needed for synchronous and/or asynchronous care:
    - Intraoral cameras (virtual dental home/asynchronous)
    - Portable x-ray equipment, including digital sensors (asynchronous)
    - Digital camera to take extraoral photos (virtual dental home/synchronous direct to patient/asynchronous)
    - Camera Phones (both synchronous and virtual dental home/asynchronous)
- Other tools/technology the provider may need
  - iPads/Tablets
  - Laptop
  - Phone

- Encryption software for sending emails with sensitive patient information
  - Dual monitors
  - Webcam
  - Green screen
- Consent Forms/Patient Forms
  - Docu-Sign or Hello Sign software
  - Scannable (for printing, completing and scanning back PDF's)
  - Apps for creating a fillable online PDF
- Direct communication tools
  - Email, text, or other patient communication platforms (e.g., WellApp, Lighthouse, RevenueWell, ProSites, eClinicalWorks Messenger or DemandForce)

## Appointments

### ADVERTISING TELEDENTISTRY

Informing patients of the availability of teledentistry is crucially important so they can understand its purpose and how it fits in with their care. Patients could receive these updates through the patient newsletter, direct calls, emails, texts, social media or a flyer given out during other health center appointments. As soon as a communication strategy is developed, reach out to existing patients to let them know about the new teledentistry service.

The health center website may also include a link to an email address or web portal so that a patient can request a teledentistry appointment online.

If a third-party vendor or call center handles emergency calls, the option of teledentistry can be added to the scripting. Using this option, emergency cases that require in-office care can be separated from those that can be seen via teledentistry. Many health centers found that having front desk staff observe a teledentistry visit resulted in a greater likelihood of scheduling teledentistry.

### PRIOR TO THE APPOINTMENT

To prepare patients for their teledentistry session, it is good practice to send patients an email or text in advance of the visit. Include the relevant appointment information such as date and time as well as login instructions. Also include a request for any photos that need to be sent in advance and prepare them for their appointment. Patients should be in a well-lit, quiet space, with good Wi-Fi. You may need to instruct them to wash their hands before the appointment as the patient may be required to put their fingers in/around their mouth. Remind patients to silence their phones and turn off any other devices during the visit in order to avoid distractions.

## AT THE APPOINTMENT

To begin the teledentistry session, your protocol should include confirming the patient's identity and introducing other people present on the call, obtaining consent for a teledentistry appointment and getting the patient's address and contact information in case of an emergency or disconnection. Also, acknowledge the limitations of the visit due to technology. Be sure to document the length of the appointment.

## Policies and Procedures

Health center policies and procedures governing patient privacy, patient intake, record-keeping, and patient billing need to be updated and/or created to accommodate teledentistry. Minors or the disabled should not receive teledentistry visits without a parent or guardian visibly present. Service via teledentistry should never be recorded, just as an in-person visit would not routinely be recorded.

## WORKFLOWS

It is recommended to develop workflows for conducting synchronous teledentistry visits using quality improvement (QI) methodologies like PDSA testing. Using QI principles will allow the development of the most efficient workflow utilizing every dental team member working at the top of their scope of practice during the teledentistry visit.

For a sample of a Synchronous Teledentistry Workflow for Preventive Visits see [Appendix A](#).

## Billing and Reimbursement

Billing for services provided via teledentistry may include several CDT and CPT codes. Each code set provides specific guidelines for their use. Additional coding support has been provided by the ADA and the American Medical Association (AMA). You can refer to these and other resources for practice implementation tips, coverage and policy summaries, as well as example coding scenarios provided in the resources section of this publication.

In cases where you are using telecommunication technology to triage patients or offer an evaluation, you may be able to document and report the following CDT codes in the patient's record and to a third-party payer.

Table 6 below presents codes that may be used when billing for teledentistry. Regulations and policies vary from state to state.

**Table 6: Codes That May Be Used in Billing for Teledentistry**

CODES THAT MAY BE USED IN BILLING FOR TELEDENTISTRY	TELEDENTISTRY CDT CODES
<p><u>Oral Evaluations</u>  <b>D0140*</b> - limited oral evaluation  <b>D0170 re-evaluation</b> – limited, problem focused (established patient, not post-operative visit)  <b>D0171 re-evaluation</b></p> <p><u>Case Management</u>  <b>D9992 dental case management</b> – care coordination  <b>D9994 dental case management</b> – patient education to improve oral health literacy</p> <p><u>Image Capture Only</u>            CDT 2021 expanded the “Image Capture Only” category with nine new codes: <b>D0701, D0702, D0703, D0704, D0705, D0706, D0707, D0708, D0709</b> (See <a href="#">ADA’s Guide to “Image Capture Only” Procedures</a> for details)</p> <p>Additional codes to consider and report with teledentistry patient care:  <b>D1330 oral hygiene instructions</b>  <b>D9311 consultation with a medical health care professional</b></p>	<p>When you are providing services via teledentistry one or the other of the following codes would be reported in addition to those for the actual service provided.</p> <p><b>D9995 teledentistry</b> – synchronous; real-time encounter</p> <p><b>D9996 teledentistry</b> – asynchronous; information stored and forwarded to dentist for subsequent review</p>
<p><i>Remember to only code for what you do!</i></p>	

Source: [https://success.ada.org/~media/CPS/Files/COVID/ADA\\_COVID\\_Coding\\_and\\_Billing\\_Guidance.pdf](https://success.ada.org/~media/CPS/Files/COVID/ADA_COVID_Coding_and_Billing_Guidance.pdf)

\*Codes may vary depending on state.

Note: The information in this document was accurate at the time of the printing of this User’s Guide. As regulations and information regarding Health Centers are not static, NNOHA recommends readers verify any critical information with different state/federal regulations and changes that may have occurred since printing.

## SAMPLE CODING SCENARIOS<sup>64</sup>

The ADA provided sample coding scenarios as part of the interim guidance. For more information on these codes, refer to the [ADA's Guide to Understanding and Documenting Teledentistry Visits](#). Some of the sample coding scenarios are provided below. This list does not capture all possible scenarios, nor will it apply to every state.

Patient contact with dentist who provides the consultation using audio means only

- DENTIST: D0190 (screening) or D0999 Patient contact with dentist who provides the problem focused evaluation using audio and visual means
- DENTIST: D0140 or D0170 or D0171

Patient contact with triage call center who then forwards to dentist who provides the problem focused evaluation using audio and visual means

- CALL CENTER: D0190 (screening) or D0999
- DENTIST: D0140 or D0170 or D0171

Patient contact with GP dentist (or specialist) who then forwards to specialist (or different specialist) who provides the problem focused evaluation using audio and visual means

- GP Dentist: D0190 (screening) or D0999
- GENERAL PRACTITIONER OR SPECIALIST DENTIST: D0140 or D0170 or D0171

Patient contact with hygienist off-site where diagnostic imaging equipment is available. Image capture is on Monday. The dentist in the practice office receives and interprets the images the next day.

- D0709 is reported for the Full Mouth Radiographs (FMX) with the date of service
- D0391 is also reported, but the date of service is the day the images were interpreted
- D9996 teledentistry – asynchronous; information stored and forwarded to the dentist for subsequent review with the same date of services as D0391

\*Note: In all cases above the relevant teledentistry code should be included when applicable: Real-time synchronous (D9995) versus store-and-forward asynchronous (D9996).

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<sup>64</sup> [https://success.ada.org/~media/CPS/Files/COVID/ADA\\_COVID\\_Coding\\_and\\_Billing\\_Guidance.pdf](https://success.ada.org/~media/CPS/Files/COVID/ADA_COVID_Coding_and_Billing_Guidance.pdf)

## Promising Practices in Teledentistry

### Promising Practice #1: Patient Centered Care and Teledentistry

CHARLOTTE COMMUNITY HEALTH CENTER FAMILY DENTISTRY

CHARLOTTE, NC

Due to COVID-19, staff of Charlotte Community Health Center (CCHC) Family Dentistry were close to being furloughed until teledentistry services were approved allowing them to reopen in August 2020. The dental team at CCHC Family Dentistry is able to provide synchronous teledentistry services to their patients one half day per week. To establish their workflow for teledentistry, the dental team used various online resources and webinars and participated in the first NNOHA Teledentistry Learning Collaborative (2020-2021) to learn from their peers. Additionally, CCHC received grant funding to support the clinic, allowing them to purchase new cameras.

Throughout this time, the clinic had to navigate changing policies at their site and community. When children were allowed to go back to school in person, for example, they experienced an increase in no-show rates for visits because parents and their children were no longer available for their teledentistry appointments. Despite these challenges, they have implemented practices to achieve an almost 0% no-show rate among their pediatric population. To the team at CCHC Family Dentistry, teledentistry is a useful tool that allows them to spend additional time educating and building trust with their patients. This benefit is unique to teledentistry compared to in-person visits due to time constraints. The team hopes to build their teledentistry program and add on more providers to grow their school-based program and reach more people experiencing homelessness.

*Just dive in and try something new. This is the future. It's going to relieve stress for a lot of providers and patients. [Patients] don't have to stop their lives just to get to you for something. I would say remain open, because when you keep a closed mind to things, you don't grow. – Dentist, CCHC*

Because of the payment and practice restrictions, the dental team at CCHC uses teledentistry to complete a portion of dental appointments for patients with diabetes. The dental hygienist connects with the patient, completes health history, risk assessment, motivational interviewing, self-management goal setting, and oral health education. The dentist then completes an exam at the in-person visit. This allows for the dentist and public health hygienist to collaborate with medical providers to set the patient up for success. The dental team reports having seen some patient's glucose levels improve with this medical-dental integration.

The dental team reports that implementing teledentistry processes has resulted in these benefits:

- Cut the in-clinic time in half

- Has reduced “no shows” to virtually zero for in-person visits following a teledentistry appointment
- Reduces the amount of PPE the care team uses
- Creates stronger patient engagement and better supports patients in understanding and managing their care

## Promising Practice #2: Teledentistry for Patients in Substance Abuse Treatment Centers

TERRY REILLY HEALTH SERVICES

BOISE, ID

Terry Reilly Health Services (TRHS) provides dental services to patients receiving treatment at an in-patient detoxification center. Thanks to grant funding and their commitment to medical-dental integration, they are able to reach a population that often doesn’t receive dental services. Frequently, patients report experiencing dental pain, and during their time at the treatment center they can receive dental treatment.

In response to COVID-19, TRHS started using teledentistry to continue offering services at the treatment center. The community dental health coordinator, who is a licensed dental hygienist, provides in-person dental hygiene services and collects patient records such as images, x-rays, health history and their chief complaint. Then using telehealth technology, the records are sent to the dentist at the clinic who reviews the records and makes a treatment plan. Patients are triaged based on their health needs and whether or not they are experiencing dental pain. For patients who need the specialized services of a dentist, care coordination assures that patients get dental appointments as soon as possible. The dentist offers teledentistry visits every other week in the afternoons. Additionally, patients who require a prescription are administered their medications by a nurse practitioner while in the treatment program.

*[The patients] were super excited to be able to do all the things we did, from a distance. The last patient we had was so impressed. He said “I got a full dental appointment sitting here in a medical room, I never thought I could do this.*

*This is where technology is taking us now. This is amazing. – Community Dental Health Coordinator*

Using telehealth technology helps connect patients to a dental home at a time in their substance use recovery when they are highly motivated to care for their overall health. In addition, when patients are scheduled for dental treatment, they are able to receive definitive care because a treatment plan and health record has already been established. Finally, the connection to medical personnel for prescriptions assures patients are started on antibiotics to reduce swelling for dental infection so that when they arrive at the dental clinic, the patients can get the dental treatment that they need. This innovative partnership between a federally qualified health center dental program and a substance abuse recovery center is supporting community members in addressing their overall wellness and advancing a path to long-term recovery.



## Promising Practices #3: Teledentistry and Prenatal Care

UNIVERSITY OF CALIFORNIA, IRVINE FAMILY HEALTH CENTER

SANTA ANA, CA

The teledentistry program at University of California, Irvine (UCI) Family Health Center provides primarily synchronous services to patients. The purpose of the program was initially to triage patients to the appropriate services. Over time, the dentist noticed that people who were pregnant were not scheduling in-person perinatal appointments at the clinic, which meant that they were not receiving dental care either. Patients are most often referred from the high-risk obstetrics clinic as they are likely to be suffering from gestational diabetes and may have other conditions like preeclampsia and other chronic conditions. As a result, the dentist created a teledentistry plan tailored to meet the needs of patients who are pregnant.

As soon as the health center began offering telehealth appointments for other services, the dentist adapted their existing infrastructure and technology for teledentistry. The dentist also worked closely with IT to get the dental codes entered into the system. Nurse Practitioners in the OBGYN Department refer patients who are pregnant to the dentist, and the front desk staff or RDAs contact them to schedule them for a teledentistry appointment. At that time, the patient is encouraged to sign up for EPIC MyChart if they don't already have an account. During the visit, the dentist uses teledentistry to discuss medical and dental histories, give oral hygiene instructions and set goals and answer any questions the patient has. She uses the initial teledentistry visit as a tool to build trust with her patients.

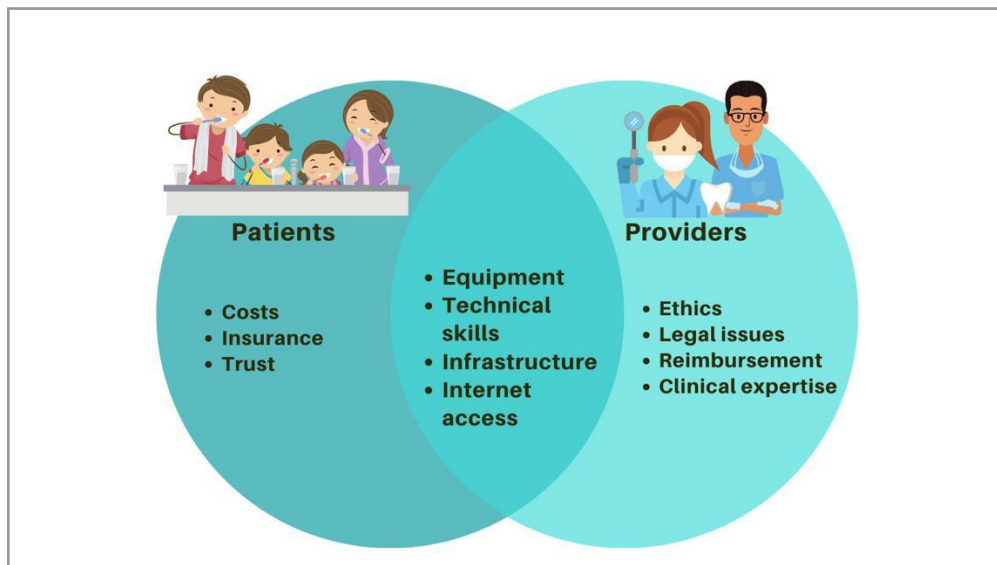
If an in-person visit is required, the patient's next appointment is scheduled at the end of the teledentistry visit. Because many of the patients haven't been to the dentist in a long time, patients often need x-rays and dental treatment. *The clinic discovered that patients are much more likely to attend their dental appointments after they have had a teledentistry visit.* With this innovative approach, the dentist at UCI plans to continue this program beyond the pandemic and has plans to expand as well. In addition to improving dental care for pregnant people, she aims to use teledentistry to reach patients with diabetes.

*“You’ll have better outcomes for patients who have a better relationship with their provider. Teledentistry is a trust building tool.” – Dentist, UCI Family Health Center*

## Challenges/Barriers to Implementing Teledentistry

Although teledentistry has many benefits, there are individual, organizational, and infrastructural factors affecting the adoption of telehealth.<sup>65</sup> Figure 4 lists some of these barriers. Patient barriers to using telehealth include costs, insurance and trust. Patients may be hesitant to use teledentistry, for example, due to not knowing what services can be provided or how it can meet their needs. For providers, the lack of direct contact with patients is a challenge, while issues with reimbursement and clinical expertise also affect adoption of telehealth.

**Figure 4: Barriers to teledentistry experienced by patients and providers**



Equipment, technical skills and internet access also pose barriers to usage. Many rural communities do not have internet access or access to smart phones or computers. For those that do have access, the technology can be complex and requires additional staffing to train patients how to use the technology. On an organizational level, there are problems with reimbursement structures.

To overcome these challenges, dental care teams and patients must be adequately trained and educated on the technology. Furthermore, issues of reimbursement and ethical and legal implications must be addressed as well. The acceptance of teledentistry will grow when these challenges are addressed.

### ETHICAL AND LEGAL ISSUES

Confidentiality of patient information is of great concern when medical histories and records are being transferred and stored electronically. It is essential that providers safeguard patient

<sup>65</sup> <https://hitconsultant.net/2020/05/04/teledentistry/#.YFodPkhKh24>

privacy — and inform their patients that the information is being sent in an electronic form. In addition, standards of clinical care for teledentistry visits should be the same as in-person visits. To avoid abuse of teledentistry if the dentist is unable to evaluate the patient to the same extent as an in-person visit, then billing the exam code may not be appropriate. An exam conducted via teledentistry will often allow the patient to avoid an in-person visit and wherever applicable and consistent with the standard of care, dental providers should minimize the number of dental visits.

However, many patients will still face barriers in getting to the clinic if their problem requires an in-person visit. Health centers are encouraged to develop systems of care coordination so that when a dentist identifies a problem via teledentistry, the patient is able to follow up as necessary in the clinic. This can be done through the help of community health workers, care coordinators, social workers, and others. As such, each patient should receive an individualized treatment plan that is safe, effective, patient centered and equitable.

#### LICENSURE JURISDICTION AND MALPRACTICE<sup>66</sup>

The ADA's policy states that *"dentists and allied dental personnel who deliver services through teledentistry modalities must be licensed or credentialed in accordance with the laws of the state in which the patient receives service."* Further, teledentistry services must comply with the state's scope of practice laws, regulations, or rules and cannot be used to broaden the scope of dental practice.

#### PRACTICING ACROSS STATE LINES

Depending on the states in which each clinician holds a license and where the patient lives, clinicians may not be licensed to practice medicine across state lines.

#### PAYMENT/REIMBURSEMENT

As teledentistry adoption increases, more payers are reimbursing for teledentistry services. ADA's policy states:<sup>67</sup>*"Dental benefit plans and all other third-party payers, in both public (e.g., Medicaid) and private programs, shall provide coverage for services using teledentistry technologies and methods (synchronous or asynchronous) delivered to a covered person to the same extent that the services would be covered if they were provided through in-person encounters. **Coverage for services delivered via teledentistry modalities will be at the same levels as those provided for services provided through in-person encounters and not be limited or restricted based on the technology used or the location of either the patient or the provider as long as the health care provider is licensed in the state where the patient receives service.**"*

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<sup>66</sup> <https://www.ada.org/en/about-the-ada/ada-positions-policies-and-statements/statement-on-teledentistry>

<sup>67</sup> <https://www.ada.org/en/about-the-ada/ada-positions-policies-and-statements/statement-on-teledentistry>

## TECHNOLOGICAL CONCERNS

Finding the right telehealth platform to use can be challenging.

ADA's policy<sup>68</sup> states: *"Dentists are encouraged to consider conformance with applicable data exchange standards to facilitate delivery of services via teledentistry modalities. These include, but are not limited to, Digital Imaging and Communications in Medicine (DICOM) standards when selecting and using imaging systems, X12/HL7 for the exchange of information and ICD-9/10-CM/SNOMED/SNODENT for documentation consistency."*

## INSURANCE COVERAGE

Not all insurers cover services provided via telehealth in general, so teledentistry is more limited. Only 26 states currently require insurers to cover or reimburse the costs of services provided via telehealth.<sup>69</sup> For remote patient monitoring (RPM), 26 states have some form of reimbursement for Medicaid patients. However, many of the states that offer RPM reimbursement have a variety of restrictions on its use. Usually, these restrictions include limiting reimbursement to home health agencies, the clinical conditions for which symptoms can be monitored or on the types of monitoring devices used or information that can be collected. Only 18 states have a policy regarding Medicaid reimbursement for store-and-forward techniques. However, payment policies are constantly changing.

## State and Federal Policy

There were already excellent reasons for states to encourage the use of telehealth technologies long before COVID-19 as reviewed earlier. States would be equipped to respond to similar crises in the future if permanent changes are made to laws and policies that impact teledentistry. Federal and state policy must accommodate needs that have surfaced or been exacerbated by the pandemic. Leveraging the Coronavirus Aid, Relief and Economic Security (CARES) Act, CMS' Waiver 1135 and state provisions explicitly aimed at promoting telehealth are a good start.

Since 2019, nearly all states have a definition for telehealth and nearly all Medicaid programs reimburse live video services. However, the advancement of teledentistry lags behind most other health disciplines, even in states where teledentistry is supported in some form. It is important for policymakers to be aware of how laws or regulations can enhance promotion of teledentistry. Some states have implemented policies that move innovations in teledentistry forward. Pennsylvania's Medicaid has been reimbursing for preventive dental codes through teledentistry, including oral hygiene instruction and tobacco cessation and is making these

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<sup>68</sup><https://www.ada.org/en/about-the-ada/ada-positions-policies-and-statements/statement-on-teledentistry>

<sup>69</sup><https://www.cchpca.org/policy-trends/>

codes permanent after realizing savings, preservation of PPE, etc.<sup>70</sup> Nevada, Virginia, Connecticut and Rhode Island have allowed reimbursement for oral health case management codes provided via teledentistry.<sup>71</sup> Nevada's board of dental examiners has been petitioned to determine if parents can apply a single dose of fluoride as part of a teledental visit.<sup>72</sup> California has adopted a number of specific patient-centered standards that dentists must meet when providing care via teledentistry. These standards are part of meeting the law's general requirement that teledentistry care be in parity with the care patients receive in brick-and-mortar dental offices.<sup>73</sup>

A use case from a health center showed that teledentistry can be used to screen, triage and treat patients, as well as provide preventive outreach to those who have forgone dental care. Petaluma Health Center (California) found that 100 dental patients were becoming overdue for care daily during the pandemic and implemented a successful model for preventive teledental services for patients 0-5.<sup>74</sup> Arizona, Idaho, Iowa, Ohio, Tennessee, Virginia, Washington and others also have extensive teledentistry laws.<sup>75</sup> Procedural manuals have been developed such as [this resource](#) from Oregon.<sup>76</sup>

## Policy opportunities

Teledentistry offers a way to address disparities in access to care. However, payment policy often lags behind practice innovation. It is important to advocate to bring about changes to payment and practice act policies to make teledentistry a permanent way to provide care.

- Align payment to support teledentistry as a sustainable and permanent service line.
  - Health center dentists and Primary Care Associations (PCA), in collaboration with other stakeholders, can advocate with their state legislatures to reimburse services provided via teledentistry.
- Scope of practice acts should support teledentistry so that dental care team members can work to the top of their licensure.
  - Coverage for periodic and comprehensive exams, motivational interviewing, risk assessment, nutritional counseling, case management, self-management.
  - Allow providers to establish new patients via tele-health.
  - Promote the use of tele-health for integration and continuity of care rather than patient- initiated visits only.

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<sup>70</sup> Mozaffarian, M DMD. (2020) Preventive TeleDentistry Pennsylvania's Medicaid Policy. The American Dental Association Poster Session of the AIDPH 2020 Virtual Mini-Colloquium <https://www.youtube.com/watch?feature=youtu.be&v=P-z7FLlqZ1M&app=desktop>

<sup>71</sup> Digangi, P, Purdy, C. (2018) Teledentistry pathway to Prosperity: Critical Decisions workbook

<sup>72</sup> <https://www.astdd.org/docs/nv-petition-form-parent-fvornish-training.pdf>

<sup>73</sup> <https://www.ada.org/en/publications/ada-news/2019-archive/october/california-passes-law-strengthening-teledentistry-requirements>

<sup>74</sup> [https://www.nnoha.org/nnoha-content/uploads/2021/02/Promising-Practice\\_Teledentistry-during-COVID\\_2.12.21.pdf](https://www.nnoha.org/nnoha-content/uploads/2021/02/Promising-Practice_Teledentistry-during-COVID_2.12.21.pdf)

<sup>75</sup> Poleman, T DDS. (2020) Nationwide Survey of Teledentistry Regulations, [https://nnoha.org/nnoha-content/uploads/2020/04/Teledentistry-Regulations-Guide\\_updated\\_430.pdf](https://nnoha.org/nnoha-content/uploads/2020/04/Teledentistry-Regulations-Guide_updated_430.pdf)

<sup>76</sup> <https://nnoha.org/nnoha-content/uploads/2020/05/Telehealth-and-Teledentistry-Guide.pdf>

- Systems of health care policy should include oral health representation and input. For example, include teledentistry in national conversations and policy decisions regarding telehealth.
- Electronic Dental Records (EDRs) should facilitate teledentistry through development of easy-to-use patient platforms, and integration of telehealth platforms with dental records.

## The Future of Teledentistry and Next Steps

For many Americans, access to dental care remains an insurmountable challenge due to cost, geography, or a myriad of other barriers such as lack of transportation, work schedules that don't allow for time off for dental appointments, fear of dental treatment, and historic and structural factors. Dental practices have started to evolve to better understand the complex interplay between system and social factors that impact the delivery of dental care. Patients are more diverse than ever in ethnicity, socioeconomic status, and medical complexity. Considering that social determinants of health play a significant role in accessing, obtaining, and receiving quality health care, an opportunity exists to consider health care delivery models, such as teledentistry, that helps patients navigate or overcome barriers to receiving care and promotes a trusting partnership with patients to support them in managing their oral health.

Prior to the COVID-19 pandemic, teledentistry was available in many states, primarily using asynchronous, store-and-forward methods, but utilization was low. The COVID-19 pandemic accelerated innovation and adoption of synchronous teledentistry to provide high quality, evidence-based services to patients in the safety and security of their homes. The NNOHA Teledentistry Learning Collaborative participants identified a growing list of applications and patient populations who are better supported with teledentistry. This innovation, and creative application of technology as a part of a comprehensive system of care continues to grow.

There is a cost to families and the health care system every time a patient enters a dental operatory. For families the costs may include time off work, transportation, finding childcare for family members, and time out of school. For some patients, teledentistry is a much more patient-centered delivery method because patients can receive quality care with less stress, and less cost. Health center dental programs have identified the value and cost-savings to patients and their families.

Teledentistry comes with an endless list of benefits that will outlast the impacts of COVID-19 on dental care delivery. With the integration of teledentistry and enhanced infection control procedures, clinics can overcome future challenges to access caused by external events and continue to serve their patients. The rapid adoption of teledentistry during the COVID-19 emergency presents learning opportunities that add to telehealth's body of knowledge. Meanwhile, additional research can provide valuable insights on how to apply teledentistry in

the most cost-effective, patient-centered way. As such, teledentistry has the potential to completely revolutionize the field of dentistry in the near future.

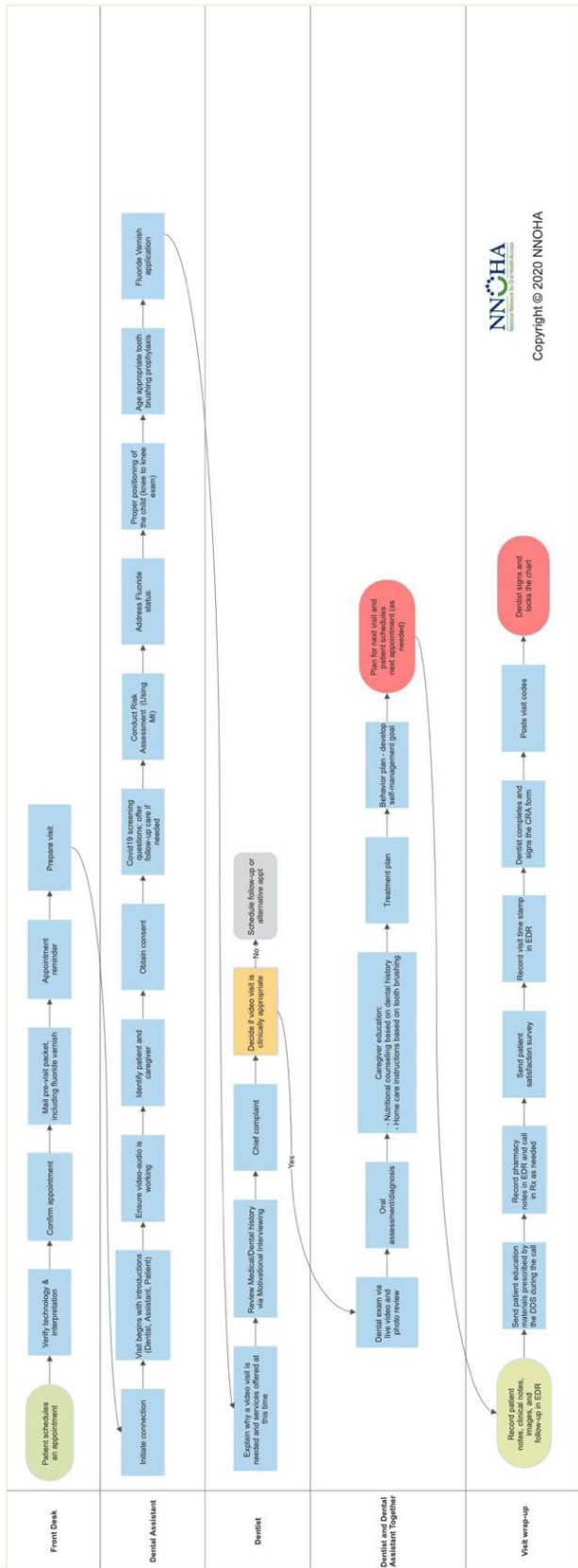
However, there are still barriers that need to be addressed for teledentistry to reach its fullest potential. There is a general lack of awareness among dental professionals, patients, and policy makers of how teledentistry can be part of a quality dental program. Patients are unaware of the telehealth and teledentistry options available to them, and many people have doubts about the quality of care that can be offered without touching the patient. For many dental providers, the paradigm shift of virtual care will require training, testing, and quality improvement methods to develop a value-added system of care. In addition, dental has largely been left out of national conversations about telehealth payment and policy solutions.

Up to one third of primary care patient visits can be completed via telehealth. With alignment of policy and reimbursement, dental care teams will continue to innovate and learn strategies to better serve patients using telehealth technology, and NNOHA envisions a future where teledentistry could have the same impact in dental care.

# APPENDIX A: Sample Synchronous Workflow

Larger Sample Synchronous Workflow available at: [https://nnoha.org/nnoha-content/uploads/2020/06/NNOHA-Generic-Teledentistry-Workflow\\_V7.pdf](https://nnoha.org/nnoha-content/uploads/2020/06/NNOHA-Generic-Teledentistry-Workflow_V7.pdf)

Sample Workflow for Teledentistry Visits



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## APPENDIX B: Additional Resources

### Additional Resources

- [ADA COVID-19 Coding and Billing Guidance](#)
- [ADA Guide to Understanding and Documenting Teledentistry Events](#)
- [ADA Guide to “Image Capture Only” Procedures and Their Reporting](#)
- [Telehealth Basics](#)
- [Emergency Department Visits for Dental Conditions: A Snapshot](#)
- [Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#)
- [Medicaid.gov – Telemedicine](#)
- [Telehealth FAQs – AAOMS](#)
- [DQ Communications Brief](#)
- [Implementing Teledentistry: The Why and the How](#)
- [AFL Blog](#)
- [NNOHA Teledentistry Resources](#)
- [NNOHA Oral Health Infrastructure Tool Kit](#)

## Acknowledgements

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## Facts About Teledentistry

Teledentistry is the use of electronic information, imaging and communication technologies, including interactive audio, video, data communications as well as store and forward technologies, to provide and support dental care delivery, diagnosis, consultation, treatment, transfer of dental information and education.

It can include virtual consultations and high-tech monitoring of patients which offer less expensive and more convenient care options for patients. Teledentistry reflects a broader, changing healthcare landscape that is moving toward innovation, integration and convenient care. These days, it's become commonplace for customers to purchase contacts, conduct banking and prepare taxes online. Teledentistry is proof that the dental industry is embracing innovation, too.

Teledentistry is proven to:

### **Improve the dental hygiene of patients.**

Visits to dental offices began to drop in 2003 and have remained on a steady decline. Using telehealth systems to connect providers with patients has become an important tool for improving the oral health of patients conveniently.

### **Be more affordable than in-office dentistry.**

Teledentistry has been shown to reduce the cost of care and increase efficiency through

reduced travel times, shared professional staffing and fewer in-person appointments.

## **tive solution for the mainstream healthcare industry.**

Menu

In 2013, 52 percent of hospitals utilized telehealth, and another 10 percent were beginning the process of implementing telehealth services.

### **Align with today's patients' needs for modern forms of communication.**

Recent studies on the use of telehealth services have shown that 70 percent of patients are comfortable communicating with their healthcare providers via text, email or video in lieu of seeing them in person, and 76 percent of patients prioritize access to care over the needs for face-to-face interactions with their healthcare providers. In fact, 30 percent of patients already use computers or mobile devices to check for medical or diagnostic information.

### **Improve access to care for patients.**

Approximately 20 percent of Americans live in rural areas where they do not have easy access to dentists and other medical services. Teledentistry eliminates the need to travel long distances and can help health care providers supplement clinician staffing in areas where they are understaffed. It also allows providers to expand their reach to patients beyond their own offices. Teledentistry has a unique capacity to increase providers' services to millions of new patients.

### **Reduce the amount of time employees spend away from the office.**

Teledentistry options reduce the time taken by employees to see dental providers in person. In fact, though appointments can take hours out of an employee's work day, only 17 percent (20 minutes) of that time is spent actually seeing the doctor.

### **Make in-office appointment times more accessible to patients who really need them.**

Teledentistry options reduce the time taken by employees to see dental providers in person. In fact, though appointments can take hours out of an employee's work day, only 17 percent (20 minutes) of that time is spent actually seeing the doctor.

### **Provide the same level of care to patients as in-office visits.**

Research indicates that the quality of care and success rates of patients were the same whether patients used telemedicine or not.

### **Keep growing.**

Utilization of telehealth services is projected to increase from 250,000 patients in 2013 to

an estimated 3.2 million patients in 2018.

Menu

[Trustee Magazine](#)

[The New York Times](#)

[American Telemedicine Association](#)

[University of the Pacific](#)



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## Teledentistry Rules September 1, 2020

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### Introduction

This document contains a list of suggested rules based on rules that have been adopted in various states to define, regulate, or explain the use of telehealth technologies in the provision of dental care. As used in this document, “rules” refer to laws, regulations, and formal and informal guidance, provider manuals, and other communications about the use of Teledentistry. It is intended as a general guide for states or regulatory agencies contemplating rulemaking about Teledentistry.

### Suggested rules

#### General Policy Statement

The [regulatory agency] recognizes that Teledentistry offers potential benefits in the provision of dental care. It can help providers of dental care expand the reach of their services to populations of people that face barriers receiving dental care in traditional office and clinic-based systems. It can save providers and patients time and transportation expenses, facilitate monitoring of chronic or pre- or post-care conditions, and lower the overall cost of providing dental care. It can also facilitate reaching certain groups of people early in the disease process, therefore enhancing prevention and early intervention strategies and lowering the cost of neglected dental diseases. It can also increase safety and efficiency in the delivery of oral health services during the time when transmission of airborne infectious diseases is a concern.

The [regulatory agency] expects and requires that services delivered using telehealth technologies adhere to all existing laws and regulations related to the provision of oral health

services including those related to supervision of allied oral health personnel, protection of patient confidentiality and privacy and infection control procedures. In addition, the [regulatory agency] expects and requires that the same standard of care applies to services delivered in person as to those delivered using telehealth technologies.

## Definitions

**Asynchronous store and forward:** The transmission of a patient's health information from an originating site to the health care provider at a distant site without the presence of the patient.

**Distant site:** A site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

**Originating site:** A site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

**Synchronous interaction:** A real-time interaction between a patient and a health care provider located at a distant site.

**Telehealth:** The mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. Telehealth includes Teledentistry.

**Teledentistry:** The use of telehealth technologies or methodologies in the delivery of oral health services.

## Specific Rules

1. Public and private entities that pay for health services must pay for covered oral health services irrespective of whether they are provided using Teledentistry methodologies or in-person encounters.
2. Public and private entities that pay for health services, must pay for covered oral health services provided using Teledentistry through whatever payment system the provider of those services participates in.
3. As used in this document, Teledentistry methodologies include both real-time, synchronous, and store-and-forward, asynchronous interactions.
4. Teledentistry can be used to establish patients as a patient of the provider as well as to deliver oral health services.
5. A provider of dental services using Teledentistry methodologies to deliver dental care must be licensed in the state.

6. Patients receiving dental care using Teledentistry methodologies must be informed of and provide verbal or written consent to Teledentistry being used in the provision of care. The patient's consent must be documented in the patient's health record.
7. Patients must be informed about their right to receive interactive communication with the dentist at the distant site upon request and receive the name and contact information for the dentist who will be participating in their care.
8. Dentists may provide comprehensive or periodic examinations using telehealth technologies. Just as it is the case with in-person examinations, the dentist may delegate the collection of records and data including radiographic and photographic images, charting of oral health findings, collection of demographic and health history information, and patient consent. However, it is the dentist's responsibility to ensure that the information needed to perform a comprehensive or periodic examination is available, determine if additional information is needed, and to evaluate that information and develop a diagnosis and treatment plan.
9. Continuity of care requirements including availability for emergency services, accessibility of records, and availability for ongoing services, must meet the same standards and requirements for services provided using telehealth technologies as for services provided using in person visits.

### Additional Considerations

1. The ability to reach groups of people who face barriers to accessing oral health services in traditional office or clinic-based practices is enhanced when allied personnel are allowed to engage patients in community sites, collect records as described above, and make those records available for a dentist to review, prior to the patient having an established relationship with the dentist.
2. If requirements exist for patients seen by allied personnel in community or public health sites to have periodic examinations by dentists, the ability to provide continuous and ongoing oral health services is enhanced when this requirement can be satisfied through a Teledentistry examination by the dentist.
3. The ability to lower the incidence and severity of dental disease for groups of people seen in community sites is enhanced when allied personnel in those sites are able to provide preventive and early intervention services in the community sites including, but not limited to, Fluoride Varnish, dental sealants, Silver Diamine Fluoride, and Interim Therapeutic Restorations.



**CHAPTER 143**  
**DENTAL PROFESSIONS**  
**SUBCHAPTER 1**  
**GENERAL PROVISIONS**

**§18301. Short title**

This chapter may be known and cited as "the Dental Practice Act." [PL 2015, c. 429, §21 (NEW).]

**SECTION HISTORY**

PL 2015, c. 429, §21 (NEW).

**§18302. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2015, c. 429, §21 (NEW).]

**1. Board.** "Board" means the Board of Dental Practice established in Title 5, section 12004-A, subsection 10.

[PL 2015, c. 429, §21 (NEW).]

**2. Charitable dentist license.**

[PL 2017, c. 388, §1 (RP).]

**3. Clinical dentist educator license.**

[PL 2017, c. 388, §1 (RP).]

**4. Commissioner.** "Commissioner" means the Commissioner of Professional and Financial Regulation.

[PL 2015, c. 429, §21 (NEW).]

**5. Dental auxiliary.** "Dental auxiliary" means a dental radiographer, expanded function dental assistant, dental hygienist, independent practice dental hygienist, public health dental hygienist, dental therapist or denturist.

[PL 2019, c. 388, §5 (AMD).]

**6. Dental hygiene.** "Dental hygiene" means the delivery of preventative, educational and clinical services supporting total health for the control of oral disease and the promotion of oral health provided by a dental hygienist in accordance with this chapter.

[PL 2015, c. 429, §21 (NEW).]

**7. Dental therapist.** "Dental therapist" means a person who holds a valid license as a dental hygienist issued by the board and is authorized to practice dental therapy under this chapter.

[PL 2019, c. 388, §5 (AMD).]

**8. Dental therapy.** "Dental therapy" means the delivery of dental hygiene services, including performance of certain dental procedures in accordance with this chapter.

[PL 2019, c. 388, §5 (AMD).]

**9. Dental hygienist.** "Dental hygienist" means a person who holds a valid license as a dental hygienist issued by the board.

[PL 2015, c. 429, §21 (NEW).]

**10. Dental radiographer.** "Dental radiographer" means a person who holds a valid license as a dental radiographer issued by the board.

[PL 2015, c. 429, §21 (NEW).]

**11. Dental radiography.** "Dental radiography" means the use of ionizing radiation on the maxilla, mandible and adjacent structures of human beings for diagnostic purposes while under the general supervision of a dentist or an independent practice dental hygienist in accordance with this chapter.

[PL 2017, c. 388, §2 (AMD).]

**12. Dentist.** "Dentist" means a person who holds a valid dentist license issued by the board.

[PL 2015, c. 429, §21 (NEW).]

**13. Dentistry.** "Dentistry" means the scope of practice for a dentist as described in section 18371.

[PL 2015, c. 429, §21 (NEW).]

**14. Denture.** "Denture" means any removable full or partial upper or lower prosthetic dental appliance to be worn in the human mouth to replace any missing natural teeth.

[PL 2015, c. 429, §21 (NEW).]

**15. Denturism.** "Denturism" means the process of obtaining denture impressions and bite registrations for the purpose of making, producing, reproducing, constructing, finishing, supplying, altering or repairing a denture to be fitted to an edentulous or partially edentulous arch or arches and the fitting of a denture to an edentulous or partially edentulous arch or arches, including the making, producing, reproducing, constructing, finishing, supplying, altering and repairing of dentures, without performing alteration to natural or reconstructed tooth structure, in accordance with this chapter.

[PL 2017, c. 388, §3 (AMD).]

**16. Denturist.** "Denturist" means a person who holds a valid denturist license issued by the board.

[PL 2015, c. 429, §21 (NEW).]

**17. Department.** "Department" means the Department of Professional and Financial Regulation.

[PL 2015, c. 429, §21 (NEW).]

**18. Direct supervision.** "Direct supervision" means the supervision required of those tasks and procedures requiring the physical presence of the supervisor in the practice setting at the time such tasks or procedures are being performed. In order to provide direct supervision of patient treatment, the supervisor must at least identify or diagnose the condition to be treated and authorize the treatment procedure prior to implementation.

[PL 2021, c. 223, §1 (AMD).]

**19. Expanded function dental assistant.** "Expanded function dental assistant" means a person who holds a valid expanded function dental assistant license issued by the board.

[PL 2015, c. 429, §21 (NEW).]

**20. Expanded function dental assisting.** "Expanded function dental assisting" means performing certain dental procedures under the supervision of a dentist in accordance with this chapter.

[PL 2015, c. 429, §21 (NEW).]

**21. Faculty.** "Faculty" means, when used in conjunction with a license issued under this chapter, the authority granted to an individual who is authorized to practice only within the school setting, including any satellite locations approved by the board, and who teaches dentistry, dental hygiene or denturism as part of a clinical and didactic program.

[PL 2015, c. 429, §21 (NEW).]

**22. General supervision.** "General supervision" means the supervision of those tasks and procedures that do not require the physical presence of the supervisor in the practice setting while procedures are being performed but do require the tasks and procedures to be performed with the prior knowledge and consent of the supervisor.

[PL 2021, c. 223, §2 (AMD).]

**23. Independent practice dental hygienist.** "Independent practice dental hygienist" means a person who holds a valid license as a dental hygienist issued by the board and who is authorized to practice independent dental hygiene.

[PL 2015, c. 429, §21 (NEW).]

**24. License.** "License" means a license or permit issued by the board granting authority to an individual authorized under this chapter to perform certain services.

[PL 2015, c. 429, §21 (NEW).]

**25. Limited dentist.** "Limited dentist" means a dentist who has retired from the regular practice of dentistry and who holds a valid license issued by the board to practice only in a nonprofit clinic without compensation for work performed at the clinic. Services provided by a limited dentist must be in accordance with this chapter.

[PL 2015, c. 429, §21 (NEW).]

**26. Local anesthesia.** "Local anesthesia" means a drug, element or other material that results in a state of insensibility of a circumscribed area or the loss of sensation in some definite, localized area without inhibition of conscious processes.

[PL 2015, c. 429, §21 (NEW).]

**27. Nitrous oxide analgesia.** "Nitrous oxide analgesia" means a gas containing nitrous oxide used to induce a controlled state of relative analgesia with the goal of controlling anxiety.

[PL 2015, c. 429, §21 (NEW).]

**28. Practice setting.** "Practice setting" means the physical location where services authorized under this chapter are provided to the public.

[PL 2015, c. 429, §21 (NEW).]

**29. Provisional dental therapist.** "Provisional dental therapist" means a person who holds a valid license as a dental hygienist issued by the board and who is authorized to practice dental therapy under the supervision of a dentist in accordance with this chapter.

[PL 2019, c. 388, §6 (AMD).]

**30. Public health dental hygiene.** "Public health dental hygiene" means the delivery of certain dental hygiene services under a written supervision agreement with a dentist for the purpose of providing services in a public health setting in accordance with this chapter.

[PL 2015, c. 429, §21 (NEW).]

**31. Public health dental hygienist.** "Public health dental hygienist" means a person who holds a valid license as a dental hygienist issued by the board and who is authorized to practice public health dental hygiene in accordance with this chapter.

[PL 2015, c. 429, §21 (NEW).]

**32. Public health setting.** "Public health setting" means a place where the practice of public health dental hygiene occurs, and includes, but is not limited to, public and private schools, medical facilities, nursing homes, residential care facilities, mobile units, nonprofit organizations and community health centers.

[PL 2015, c. 429, §21 (NEW).]

**33. Resident dentist license.** "Resident dentist license" means the authority granted to an individual who is a graduate of an approved dental school or college, who is not licensed to practice dentistry in this State and is authorized to practice under the direct or general supervision and direction of a dentist in a board-approved setting in accordance with this chapter.

[PL 2015, c. 429, §21 (NEW).]

**34. Reversible intraoral procedures.**

[PL 2017, c. 388, §4 (RP).]

**35. Supervision.** "Supervision" means either direct supervision or general supervision as determined by the tasks and procedures that are being performed in accordance with this chapter.

[PL 2021, c. 223, §3 (NEW).]

**36. Supervisor.** "Supervisor" means an individual licensed by the board and authorized to provide supervision under this chapter.

[PL 2021, c. 223, §4 (NEW).]

**37. Teledentistry.** "Teledentistry," as it pertains to the delivery of oral health care services, means the use of interactive, real-time visual, audio or other electronic media for the purposes of education, assessment, examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by individuals licensed under this chapter and includes synchronous encounters, asynchronous encounters, remote patient monitoring and mobile oral health care in accordance with practice guidelines specified in rules adopted by the board.

[PL 2021, c. 223, §5 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §§1-4 (AMD). PL 2019, c. 388, §§5, 6 (AMD). PL 2021, c. 223, §§1-5 (AMD).

#### §18303. Individual license

Only an individual may be licensed under this chapter and only a licensed individual may provide services for which a license is required under this chapter. [PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

#### §18304. License required

**1. Unlicensed practice.** Except as provided in section 18305 and section 18371, subsections 3 and 6, a person may not practice or profess to be authorized to practice the activities described in this chapter without a license or during any period when that person's license has expired or has been suspended or revoked.

[PL 2015, c. 429, §21 (NEW).]

**2. Unlawful practice.** A person may not:

A. Practice dentistry under a false or assumed name; [PL 2015, c. 429, §21 (NEW).]

B. Practice dentistry under the name of a corporation, company, association, parlor or trade name; [PL 2015, c. 429, §21 (NEW).]

C. While manager, proprietor, operator or conductor of a place for performing dental operations, employ a person who is not a lawful practitioner of dentistry in this State to perform dental practices as described in section 18371; [PL 2015, c. 429, §21 (NEW).]

D. While manager, proprietor, operator or conductor of a place for performing dental operations, permit a person to practice dentistry under a false name; [PL 2015, c. 429, §21 (NEW).]

E. Assume a title or append a prefix or letters following that person's name that falsely represent the person as having a degree from a dental college; [PL 2015, c. 429, §21 (NEW).]

F. Impersonate another at an examination held by the board; [PL 2015, c. 429, §21 (NEW).]

G. Knowingly make a false application or false representation in connection with an examination held by the board; or [PL 2015, c. 429, §21 (NEW).]

H. Employ an unlicensed person to provide services for which a license is required by this chapter. [PL 2017, c. 388, §5 (AMD).]  
[PL 2017, c. 388, §5 (AMD).]

**3. Penalties.** A person who violates this section commits a Class E crime. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [PL 2015, c. 429, §21 (NEW).]

**4. Injunction.** The Attorney General may bring an action in Superior Court pursuant to Title 10, section 8003-C, subsection 5 to enjoin a person from violating this chapter. [PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §5 (AMD).

#### §18305. Persons and practices not affected; exemptions

**1. Persons and practices not affected.** Nothing in this chapter may be construed to limit, enlarge or affect the practice of persons licensed to practice medicine, osteopathy or dentistry in this State. Nothing in this chapter may be construed to prohibit a duly qualified dental surgeon or dental hygienist from performing work or services performed by a denturist licensed under this chapter to the extent those persons are authorized to perform the same services under other state law. [PL 2015, c. 429, §21 (NEW).]

**2. Exemptions.** The requirement of a license under this chapter does not apply to:

A. A resident physician or a student enrolled in and attending a school or college of medicine or osteopathy; [PL 2015, c. 429, §21 (NEW).]

B. A licensed physician or surgeon who practices under the laws of this State, unless that person practices dentistry as a specialty; [PL 2015, c. 429, §21 (NEW).]

C. A qualified anesthetist or nurse anesthetist who provides an anesthetic for a dental operation; a certified registered nurse under the direct supervision of either a licensed dentist who holds a valid sedation or general anesthesia permit or a licensed physician who provides an anesthetic for a dental operation; a certified registered nurse under the direct supervision of a licensed dentist or physician who removes sutures, dresses wounds or applies dressings and bandages; and a certified registered nurse under the direct supervision of a licensed dentist or physician who injects drugs subcutaneously or intravenously; [PL 2015, c. 429, §21 (NEW).]

D. A person serving in the United States Armed Forces or the United States Department of Health and Human Services, Public Health Service or employed by the United States Department of Veterans Affairs or other federal agency while performing official duties, if the duties are limited to that service or employment; [PL 2015, c. 429, §21 (NEW).]

E. A graduate dentist or dental surgeon in the United States Army, Navy or Air Force; the United States Department of Health and Human Services, Public Health Service; the United States Coast Guard; or United States Department of Veterans Affairs who practices dentistry in the discharge of official duties; [PL 2015, c. 429, §21 (NEW).]

F. A person having a current license to perform radiologic technology pursuant to section 9854 and who is practicing dental radiography under the general supervision of a dentist or physician; [PL 2015, c. 429, §21 (NEW).]

G. A dentist licensed in another state or country at meetings of the Maine Dental Association or its affiliates or other like dental organizations approved by the board, while appearing as a clinician; [PL 2015, c. 429, §21 (NEW).]

H. Any person, association, corporation or other entity who fills a prescription from a dentist for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth; [PL 2015, c. 429, §21 (NEW).]

I. A dental laboratory technician constructing, altering, repairing or duplicating a denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance with a prescription as set forth in section 18371, subsection 6; [PL 2015, c. 429, §21 (NEW).]

J. A student enrolled in a dental assisting program or a board-approved dental program, dental hygiene program, dental therapy program, expanded function dental assisting program, dental radiography program or denturism program practicing under the direct or general supervision of that student's instructors; and [PL 2017, c. 388, §6 (AMD).]

K. [PL 2017, c. 388, §7 (RP).]

L. An individual licensed under this chapter who is registered and practicing under the direct supervision of a dentist as set forth in section 18348, subsection 2 or 3 for the purpose of obtaining clinical experience needed for meeting the requirements to administer sedation, local anesthesia or general anesthesia. [PL 2015, c. 429, §21 (NEW).]

[PL 2017, c. 388, §§6, 7 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §§6, 7 (AMD).

#### §18306. Fraudulent sale or alteration of diplomas or licenses

**1. Fraudulent or altered diploma or license; bribery.** A person may not:

A. Sell or offer to sell a diploma conferring a dental degree or license granted pursuant to the laws of this State; [PL 2015, c. 429, §21 (NEW).]

B. Procure a license or diploma with intent that it be used as evidence of the right to practice dentistry by a person other than the one upon whom the diploma or license was conferred; [PL 2015, c. 429, §21 (NEW).]

C. With fraudulent intent alter a diploma or license to practice dentistry; [PL 2015, c. 429, §21 (NEW).]

D. Use or attempt to use an altered diploma or license; or [PL 2015, c. 429, §21 (NEW).]

E. Attempt to bribe a member of the board by the offer or use of money or other pecuniary reward or by other undue influence. [PL 2015, c. 429, §21 (NEW).]

[PL 2015, c. 429, §21 (NEW).]

**2. Penalty.** A person who violates this section commits a Class E crime. Except as otherwise specifically provided, violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

#### §18307. Review committee immunity

A dentist who is a member of a peer review committee of a state or local association or society composed of doctors of dentistry, a staff member of such an association or society assisting a peer review committee and a witness or consultant appearing before or presenting information to the peer review committee are immune from civil liability for, without malice, undertaking or failing to undertake any act within the scope of the function of the committee. [PL 2015, c. 429, §21 (NEW).]

## SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

**§18308. Requirements regarding prescription of opioid medication**

**1. Limits on opioid medication prescribing.** Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe:

A. To a patient any combination of opioid medication in an aggregate amount in excess of 100 morphine milligram equivalents of opioid medication per day; [PL 2015, c. 488, §32 (NEW).]

B. To a patient who, on the effective date of this section, has an active prescription for opioid medication in excess of 100 morphine milligram equivalents of an opioid medication per day, an opioid medication in an amount that would cause that patient's total amount of opioid medication to exceed 300 morphine milligram equivalents of opioid medication per day; except that, on or after July 1, 2017, the aggregate amount of opioid medication prescribed may not be in excess of 100 morphine milligram equivalents of opioid medication per day; [PL 2015, c. 488, §32 (NEW).]

C. On or after January 1, 2017, within a 30-day period, more than a 30-day supply of an opioid medication to a patient under treatment for chronic pain. For purposes of this paragraph, "chronic pain" has the same meaning as in Title 22, section 7246, subsection 1-C; or [PL 2015, c. 488, §32 (NEW).]

D. On or after January 1, 2017, within a 7-day period, more than a 7-day supply of an opioid medication to a patient under treatment for acute pain unless the opioid product is labeled by the federal Food and Drug Administration to be dispensed only in a stock bottle that exceeds a 7-day supply as prescribed, in which case the amount dispensed may not exceed a 14-day supply. For purposes of this paragraph, "acute pain" has the same meaning as in Title 22, section 7246, subsection 1-A. [PL 2017, c. 213, §20 (AMD).]

[PL 2017, c. 213, §20 (AMD).]

**2. Exceptions.** An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 only:

A. When prescribing opioid medication to a patient for:

(1) Pain associated with active and aftercare cancer treatment;

(2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;

(3) End-of-life and hospice care;

(4) Medication-assisted treatment for substance use disorder; or

(5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and [PL 2015, c. 488, §32 (NEW).]

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B. [PL 2017, c. 213, §21 (AMD).]

[PL 2017, c. 213, §21 (AMD).]

**3. Electronic prescribing.** An individual licensed under this chapter whose scope of practice includes prescribing opioid medication and who has the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

[PL 2015, c. 488, §32 (NEW).]

**4. Continuing education.** By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 488, §32 (NEW).]

**5. Penalties.** An individual who violates this section commits a civil violation for which a fine of \$250 per violation, not to exceed \$5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

[PL 2015, c. 488, §32 (NEW).]

**6. Opioid medication policy.** No later than January 1, 2018, a health care entity that includes an individual licensed under this chapter whose scope of practice includes prescribing opioid medication must have in place an opioid medication prescribing policy that applies to all prescribers of opioid medications employed by the entity. The policy must include, but is not limited to, procedures and practices related to risk assessment, informed consent and counseling on the risk of opioid use. For the purposes of this subsection, "health care entity" has the same meaning as in Title 22, section 1718-B, subsection 1, paragraph B.

[PL 2017, c. 186, §5 (NEW).]

#### SECTION HISTORY

PL 2015, c. 488, §32 (NEW). PL 2017, c. 186, §5 (AMD). PL 2017, c. 213, §§20, 21 (AMD).

## SUBCHAPTER 2

### BOARD OF DENTAL PRACTICE

#### §18321. Board creation; declaration of policy; compensation

**1. Board creation; declaration of policy.** The Board of Dental Practice, as established in Title 5, section 12004-A, subsection 10, is created within this subchapter, its sole purpose being to protect the public health and welfare. The board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the professions regulated by the board by testing, licensing, regulating and disciplining practitioners of those regulated professions.

[PL 2015, c. 429, §21 (NEW).]

**2. Compensation.** Members of the board, the Subcommittee on Denturists under section 18326 and the Subcommittee on Dental Hygienists under section 18327 are entitled to compensation according to the provisions of Title 5, chapter 379.

[PL 2015, c. 429, §21 (NEW).]



## SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

**§18322. Board membership**

**1. Membership; terms; removal.** The board consists of 9 members appointed by the Governor as follows:

A. Five dentists. Each dentist member must hold a valid dental license under this chapter and must have been in the actual practice of dentistry in this State for at least 10 years immediately preceding appointment. A dentist is not eligible to serve as a member of the board while employing a dental hygienist or a denturist who is a member of the board; [PL 2015, c. 429, §21 (NEW).]

B. Two dental hygienists. Each dental hygienist member must hold a valid dental hygiene license under this chapter and must have practiced in the State for at least 6 years immediately preceding appointment. A dental hygienist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board; [PL 2015, c. 429, §21 (NEW).]

C. One denturist. The denturist member must hold a valid denturist license under this chapter and must have practiced in the State for at least 6 years immediately preceding appointment. A denturist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board; and [PL 2015, c. 429, §21 (NEW).]

D. One public member. The public member must be a person who has no financial interest in the dental profession and has never been licensed, certified or given a permit in this or any other state for the dental profession. [PL 2015, c. 429, §21 (NEW).]

The Governor may accept nominations from professional associations and from other organizations and individuals. A member of the board must be a legal resident of the State. A person who has been convicted of a violation of the provisions of this Act or any prior dental practice act, or who has been convicted of a crime punishable by more than one year's imprisonment, is not eligible for appointment to the board. Appointments of members must comply with Title 10, section 8009. [PL 2015, c. 429, §21 (NEW).]

**2. Terms.** Terms of the members of the board are for 5 years. A person who has served 10 years or more on a dental examining board in this State is not eligible for appointment to the board. A member may be removed by the Governor for cause. [PL 2015, c. 429, §21 (NEW).]

**3. Quorum; chair; vice-chair.** Notwithstanding any provision of law to the contrary, a majority of the members serving on the board constitutes a quorum. The board shall elect its chair and vice-chair annually. [PL 2015, c. 429, §21 (NEW).]

## SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

**§18323. Powers and duties of the board**

The board has the following powers and duties in addition to all other powers and duties imposed by this chapter: [PL 2015, c. 429, §21 (NEW).]

**1. Hearings and procedures.** The power to hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board and the authority to subpoena witnesses, books, records and documents in hearings before the board; [PL 2015, c. 429, §21 (NEW).]

**2. Complaints.** The duty to investigate complaints in a timely fashion on its own motion and those lodged with the board or its representatives regarding the violation of a provision of this chapter or of rules adopted by the board;  
[PL 2015, c. 429, §21 (NEW).]

**3. Fees.** The authority to adopt by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that:

A. The fee for any one purpose may not exceed \$550 unless another fee is authorized by paragraph B or C; [PL 2019, c. 92, §1 (NEW).]

B. The fee for an initial license or a license renewal under section 18342 or a permit under section 18379 may not exceed \$1,000; and [PL 2019, c. 92, §1 (NEW).]

C. The fee for an initial license or a license renewal under section 18345 may not exceed \$200;  
[PL 2019, c. 92, §1 (NEW).]  
[PL 2019, c. 92, §1 (AMD).]

**4. Budget.** The duty to submit to the commissioner its budgetary requirements in the same manner as is provided in Title 5, section 1665. The commissioner shall in turn transmit these requirements to the Department of Administrative and Financial Services, Bureau of the Budget without revision, alteration or change, unless alterations are mutually agreed upon by the department and the board or the board's designee. The budget submitted by the board to the commissioner must be sufficient to enable the board to comply with this chapter;  
[PL 2015, c. 429, §21 (NEW).]

**5. Adequacy of budget, fees and staffing.** The duty to ensure that the budget submitted by the board to the commissioner pursuant to subsection 4 is sufficient, if approved, to provide for adequate legal and investigative personnel on the board's staff and that of the Attorney General to ensure that complaints pursuant to this chapter can be resolved in a timely fashion;  
[PL 2015, c. 429, §21 (NEW).]

**6. Executive director; duties.** The power to appoint an executive director who serves at the pleasure of the board and who shall assist the board in carrying out its duties and responsibilities under this chapter. The executive director is responsible for the management of the board's affairs, including the authority to employ and prescribe the duties of personnel within the guidelines, policies and rules established by the board;  
[PL 2015, c. 429, §21 (NEW).]

**7. Authority to delegate.** The power to delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule;  
[PL 2015, c. 429, §21 (NEW).]

**8. Protocols for professional review committee.** The authority to establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee reporting information the board considers appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocols may not prohibit an impaired licensee under this chapter from seeking alternative forms of treatment; and  
[PL 2015, c. 429, §21 (NEW).]

**9. Authority to order a mental or physical examination.** The authority to direct a licensee, who by virtue of an application for and acceptance of a license to practice under this chapter is considered to have given consent, to submit to an examination whenever the board determines the licensee may be suffering from a mental illness or physical illness that may be interfering with competent practice under this chapter or from the use of intoxicants or drugs to an extent that prevents the licensee from practicing competently and with safety to patients. A licensee examined pursuant to an order of the board may

not prevent the testimony of the examining individual or prevent the acceptance into evidence of the report of an examining individual. The board may petition the District Court for immediate suspension of a license if the licensee fails to comply with an order of the board to submit to a mental or physical examination pursuant to this subsection.

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2019, c. 92, §1 (AMD).

#### §18324. Rules

The board shall adopt rules that are necessary for the implementation of this chapter. The rules may include, but need not be limited to, requirements for licensure, license renewal and license reinstatement as well as practice setting standards that apply to individuals licensed under this chapter relating to recordkeeping, infection control, supervision and administering sedation and anesthesia. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

#### §18325. Disciplinary action; judicial review

**1. Disciplinary action.** The board may suspend, revoke, refuse to issue or renew a license pursuant to Title 5, section 10004. The following are grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

A. The practice of fraud, deceit or misrepresentation in obtaining a license or authority from the board or in connection with services within the scope of the license or authority; [PL 2015, c. 429, §21 (NEW).]

B. Misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients; [PL 2015, c. 429, §21 (NEW).]

C. A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients; [PL 2015, c. 429, §21 (NEW).]

D. Incompetence in the practice for which the licensee is licensed or authorized by the board. A licensee is considered incompetent in the practice if the licensee has:

(1) Engaged in conduct that evidences a lack of ability or fitness to perform the duties owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed; [PL 2015, c. 429, §21 (NEW).]

E. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established in the practice for which the licensee is licensed or authorized by the board; [PL 2015, c. 429, §21 (NEW).]

F. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed or authorized by the board, or conviction of a crime for which incarceration for one year or more may be imposed; [PL 2015, c. 429, §21 (NEW).]

G. Engaging in false, misleading or deceptive advertising; [PL 2015, c. 429, §21 (NEW).]

H. Aiding or abetting unlicensed practice by a person who is not licensed or authorized as required under this chapter; [PL 2015, c. 429, §21 (NEW).]

I. Failure to provide supervision as required under this chapter or a rule adopted by the board; [PL 2015, c. 429, §21 (NEW).]

J. Engaging in any activity requiring a license or authority under this chapter or rule adopted by the board that is beyond the scope of acts authorized by the license or authority held; [PL 2015, c. 429, §21 (NEW).]

K. Continuing to act in a capacity requiring a license or authority under this chapter or a rule adopted by the board after expiration, suspension or revocation of that license or authority; [PL 2015, c. 429, §21 (NEW).]

L. Noncompliance with an order of or consent agreement executed by the board; [PL 2015, c. 429, §21 (NEW).]

M. Failure to produce any requested documents in the licensee's possession or under the licensee's control relevant to a pending complaint, proceeding or matter under investigation by the board; [PL 2015, c. 429, §21 (NEW).]

N. Any violation of a requirement imposed pursuant to section 18352; [PL 2015, c. 488, §33 (AMD).]

O. A violation of this chapter or a rule adopted by the board; [PL 2021, c. 134, §1 (AMD).]

P. Failure to comply with the requirements of Title 22, section 7253; and [PL 2021, c. 134, §2 (AMD).]

Q. Administering botulinum toxins or dermal fillers to a patient when that administration is not supported by a diagnosed dental condition or is not part of a patient's dental treatment plan. This paragraph does not apply to a dentist who has successfully completed postgraduate training and certification in oral and maxillofacial surgery from a program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization. [PL 2021, c. 134, §3 (NEW).]

[PL 2021, c. 134, §§1-3 (AMD).]

**1-A. Authority to file in court.** If the board concludes that suspension or revocation of a license is warranted, the board may file a complaint in the District Court in accordance with Title 4, chapter 5. [PL 2017, c. 210, Pt. J, §1 (NEW).]

**2. Judicial review.** Notwithstanding Title 10, section 8003, subsection 5, any nonconsensual revocation pursuant to Title 10, section 8003, subsection 5 of a license or authority issued by the board may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 and is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

[PL 2015, c. 429, §21 (NEW).]

## SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2015, c. 488, §§33, 34 (AMD). PL 2017, c. 210, Pt. J, §1 (AMD). PL 2021, c. 134, §§1-3 (AMD).

### §18326. Subcommittee on Denturists

The Subcommittee on Denturists, referred to in this section as "the subcommittee," is established as follows. [PL 2015, c. 429, §21 (NEW).]

**1. Membership.** The subcommittee consists of 5 members as follows:

A. The denturist who is a member of the board; [PL 2015, c. 429, §21 (NEW).]

B. Two denturists, appointed by the Governor, who are legal residents of the State and have practiced in the State for at least 6 years immediately preceding appointment; and [PL 2015, c. 429, §21 (NEW).]

C. Two dentists who are members of the board, appointed by the chair of the board. [PL 2015, c. 429, §21 (NEW).]  
[PL 2015, c. 429, §21 (NEW).]

**2. Terms.** Each of the 3 members of the subcommittee who also are members of the board shall serve on the subcommittee for the duration of that member's term on the board. The term of a member of the subcommittee who is not a member of the board is 5 years.  
[PL 2015, c. 429, §21 (NEW).]

**3. Duties.** The subcommittee shall:

A. Perform an initial review of all complaints involving denturists. Upon completion of its review of a complaint, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the complaint. The board shall adopt the subcommittee's recommended disposition of a complaint unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition; and [PL 2015, c. 429, §21 (NEW).]

B. Perform an initial review of all applications for licensure as a denturist and all submissions relating to continuing education of denturists. Upon completion of its review of an application or submission, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the application or submission, including issuance, renewal, denial or nonrenewal of a denturist license. The board shall adopt the subcommittee's recommended disposition of an application or submission unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition. [PL 2015, c. 429, §21 (NEW).]  
[PL 2015, c. 429, §21 (NEW).]

**4. Quorum; chair; secretary.** Notwithstanding any provision of law to the contrary, a majority of the members serving on the subcommittee constitutes a quorum. The subcommittee shall annually elect its chair and secretary.  
[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

#### §18327. Subcommittee on Dental Hygienists

The Subcommittee on Dental Hygienists, referred to in this section as "the subcommittee," is established. [PL 2015, c. 429, §21 (NEW).]

**1. Membership.** The subcommittee consists of 5 members as follows:

A. A dental hygienist who is a member of the board; [PL 2015, c. 429, §21 (NEW).]

B. Two dental hygienists, appointed by the Governor, who are legal residents of the State and have practiced in the State for at least 6 years immediately preceding appointment; and [PL 2015, c. 429, §21 (NEW).]

C. Two dentists who are members of the board, appointed by the chair of the board. [PL 2015, c. 429, §21 (NEW).]  
[PL 2015, c. 429, §21 (NEW).]

**2. Terms.** Each of the 3 members of the subcommittee who also are members of the board shall serve on the subcommittee for the duration of that member's term on the board. The term of a member of the subcommittee who is not a member of the board is 5 years.

[PL 2015, c. 429, §21 (NEW).]

**3. Duties.** The subcommittee shall:

A. Perform an initial review of all complaints involving dental hygienists and dental hygienists with additional authority pursuant to section 18345, subsection 2. Upon completion of its review of a complaint, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the complaint. The board shall adopt the subcommittee's recommended disposition of a complaint unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition; and [PL 2015, c. 429, §21 (NEW).]

B. Perform an initial review of all applications for licensure as a dental hygienist or a dental hygienist with additional authority pursuant to section 18345, subsection 2 and all submissions relating to continuing education of dental hygienists. Upon completion of its review of an application or submission, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the application or submission, including issuance, renewal, denial or nonrenewal of a dental hygienist license. The board shall adopt the subcommittee's recommended disposition of an application or submission unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition. [PL 2015, c. 429, §21 (NEW).]

[PL 2015, c. 429, §21 (NEW).]

**4. Quorum; chair; secretary.** Notwithstanding any provision of law to the contrary, a majority of the members serving on the subcommittee constitutes a quorum. The subcommittee shall annually elect its chair and secretary.

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

### SUBCHAPTER 3

#### LICENSING QUALIFICATIONS

##### §18341. Application; fees; general qualifications

**1. Application.** An applicant seeking an initial or a renewed license must submit an application with the fee established under section 18323 and any other materials required by the board.

[PL 2015, c. 429, §21 (NEW).]

**2. Age.** An applicant must be 18 years of age or older.

[PL 2015, c. 429, §21 (NEW).]

**3. Time limit.** An applicant has 90 days after being notified of the materials needed to complete the application to submit those materials to the board. Failure to complete the application within that 90-day period may result in a denial of the application.

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

##### §18342. Dentist

**1. Dentist license.** Except as provided in section 18347, an applicant for licensure as a dentist must comply with the provisions of section 18341 and must provide:

A. Verification of either a doctoral degree in dentistry from a dental program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization or the educational equivalent of a doctoral degree in dentistry, as determined by the board; and [PL 2021, c. 163, §1 (AMD).]

B. Verification of passing all examinations required by the board. [PL 2015, c. 429, §21 (NEW).]  
[PL 2021, c. 163, §1 (AMD).]

**2. Faculty dentist license.** An applicant for a faculty dentist license must comply with section 18341 and must provide:

A. Verification of an active dental license in good standing issued under the laws of another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental professions; and [PL 2021, c. 163, §2 (AMD).]

B. Credentials, satisfactory to the board, including a letter from the employing school of dentistry, dental hygiene or denturism indicating that the applicant satisfies the credentialing standards of the school and that the applicant will teach:

(1) Dentistry, dental hygiene or denturism in this State as part of a clinical and didactic program for professional education for dental students and dental residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board;

(2) Dental hygiene in this State as part of a clinical and didactic program for professional education for dental hygiene students and dental hygiene residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board; or

(3) Denturism in this State as part of a board-approved clinical and didactic program for professional education for denturism students. [PL 2015, c. 429, §21 (NEW).]

[PL 2021, c. 163, §2 (AMD).]

**3. Limited dentist license.** An applicant for a limited dentist license must comply with section 18341 and must provide:

A. Verification of either a doctoral degree in dentistry from a dental program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization or the educational equivalent of a doctoral degree in dentistry, as determined by the board; [PL 2021, c. 163, §3 (AMD).]

B. Verification that the applicant has been licensed as a dentist in good standing issued under the laws of this State or has an active dental license in good standing issued under the laws of another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental professions; [PL 2021, c. 163, §4 (AMD).]

C. Verification of passing all examinations required by board rule; and [PL 2015, c. 429, §21 (NEW).]

D. Verification that the applicant will be practicing dentistry in a nonprofit dental clinic without compensation for work performed at the clinic. [PL 2015, c. 429, §21 (NEW).]

[PL 2021, c. 163, §§3, 4 (AMD).]

**4. Clinical dentist educator license.**

[PL 2017, c. 388, §8 (RP).]

**5. Charitable dentist license.**

[PL 2017, c. 388, §8 (RP).]

**6. Resident dentist license.** An applicant for a resident dentist license must comply with section 18341 and must provide:

A. Verification of a doctoral degree in dentistry from a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor organization or the educational equivalent of a doctoral degree in dentistry as required by board rule; [PL 2021, c. 88, §1 (AMD).]

B. Verification of passing a jurisprudence examination as required by board rule; [PL 2021, c. 88, §2 (AMD).]

C. Verification that the applicant will be practicing dentistry in a board-approved practice setting within the State; and [PL 2015, c. 429, §21 (NEW).]

D. A statement from the supervising dentist that demonstrates that the level of supervision and control of the services to be performed by the applicant are adequate and that the performance of these services are within the applicant's dental knowledge and skill. [PL 2021, c. 223, §6 (AMD).] [PL 2021, c. 88, §§1, 2 (AMD); PL 2021, c. 223, §6 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §8 (AMD). PL 2021, c. 88, §§1, 2 (AMD). PL 2021, c. 163, §§1-4 (AMD). PL 2021, c. 223, §6 (AMD).

#### §18343. Dental radiographer

**1. Dental radiographer license.** Except as provided in section 18347, an applicant for a dental radiographer license must comply with section 18341 and must provide:

A. Verification of a high school diploma or its equivalent as determined by the board; and [PL 2015, c. 429, §21 (NEW).]

B. Verification of passing an examination in dental radiologic technique and safety required by board rule. [PL 2015, c. 429, §21 (NEW).] [PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

#### §18344. Expanded function dental assistant

**1. Expanded function dental assistant license.** Except as provided in section 18347, an applicant for an expanded function dental assistant license must comply with section 18341 and must provide:

A. Verification of a high school diploma or its equivalent as determined by the board; [PL 2015, c. 429, §21 (NEW).]

B. Verification of one of the following:

(1) A current certificate as a certified dental assistant from a board-approved certificate program;

(2) An active dental hygiene license in good standing issued under the laws of this State; or

(3) An active dental hygiene license in good standing issued under the laws of another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental professions; [PL 2021, c. 163, §5 (AMD).]

C. Verification of having successfully completed training in a school or program required by board rule; and [PL 2015, c. 429, §21 (NEW).]



D. Verification of passing all examinations required by board rule. [PL 2015, c. 429, §21 (NEW).]

[PL 2021, c. 163, §5 (AMD).]

#### SECTION HISTORY

RR 2015, c. 2, §22 (COR). PL 2015, c. 429, §21 (NEW). PL 2021, c. 163, §5 (AMD).

#### §18345. Dental hygienist

**1. Dental hygienist license.** Except as provided in section 18347, an applicant for a dental hygienist license must comply with section 18341 and must provide:

A. Verification of having successfully passed all examinations required by board rule and one of the following:

(1) Verification of an associate degree or higher in dental hygiene from a program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization or the educational equivalent of a dental hygiene degree, as determined by the board; or

(2) Verification of having completed at least 1/2 of the prescribed course of study in an accredited dental college as a dental student. [PL 2021, c. 163, §6 (AMD).]

[PL 2021, c. 163, §6 (AMD).]

**2. Additional authority.** A dental hygienist licensed under this section or section 18347 who applies for additional authority must comply with section 18341 and must provide:

A. For independent practice dental hygienist authority, verification of 2,000 work hours of clinical practice.

For purposes of meeting the clinical practice requirements of this paragraph, the applicant's hours in a private dental practice or nonprofit setting under the supervision of a dentist may be included as well as the applicant's hours as a public health dental hygienist or, prior to July 29, 2016, as a dental hygienist with public health supervision status; [PL 2017, c. 139, §1 (AMD).]

B. For public health dental hygienist authority:

(1) A copy of the written agreement between the applicant and a supervising dentist that outlines the roles and responsibilities of the parties, which must include, but is not limited to, the level of supervision provided by the dentist, the practice settings, the standing orders and the coordination and collaboration that each party must undertake if additional patient care is needed; and

(2) Verification that the services will be offered in a public health setting; [PL 2015, c. 429, §21 (NEW).]

C. For dental therapist authority:

(2) Verification of a master's degree in dental therapy from a school accredited by the American Dental Association Commission on Dental Accreditation or its successor organization or a master's degree in dental therapy from a program that meets the requirements adopted by board rule consistent with the accreditation standards identified by the American Dental Association Commission on Dental Accreditation or its successor organization;

(3) Verification of passing a clinical examination and all other examinations required by board rule. The clinical examination must be a comprehensive, competency-based clinical examination approved by the board and administered independently of an institution providing dental therapy education;

(4) Verification of having engaged in 2,000 hours of supervised clinical practice under the supervision of a dentist and in conformity with rules adopted by the board, during which supervised clinical practice the applicant is authorized to practice pursuant to paragraph F.

For purposes of meeting the clinical requirements of this subparagraph, an applicant's hours of supervised clinical experience completed under the supervision of a dentist licensed in another state or a Canadian province may be included, as long as the applicant was operating lawfully under the laws and rules of that state or province; and

(5) A copy of the written practice agreement and standing orders required by section 18377, subsection 3. [PL 2021, c. 44, §§1-3 (AMD).]

D. For local anesthesia authority:

(1) Verification of having successfully completed a course of study required by board rule; and

(2) Verification of passing all examinations required by board rule; [PL 2015, c. 429, §21 (NEW).]

E. For nitrous oxide analgesia authority:

(1) Verification of having successfully completed a course of study required by board rule; and

(2) Verification of passing all examinations required by board rule; and [PL 2015, c. 429, §21 (NEW).]

F. For provisional dental therapist authority:

(1) Verification of meeting the requirements of paragraph C, subparagraphs (2) and (3); and

(2) A copy of the written agreement between the applicant and a dentist who will provide levels of supervision consistent with the scope of practice outlined in section 18377 and in conformity with rules adopted by the board.

During the period of provisional authority the applicant may be compensated for services performed as a dental therapist. The period of provisional authority may not exceed 3 years. [PL 2021, c. 44, §4 (AMD).]

[PL 2021, c. 44, §§1-4 (AMD).]

**3. Faculty dental hygiene license.** An applicant for a faculty dental hygienist license must comply with section 18341 and must provide:

A. Verification of an active dental hygiene license in good standing issued under the laws of another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental professions; and [PL 2021, c. 163, §7 (AMD).]

B. Credentials, satisfactory to the board, including a letter from the employing school of dentistry, dental hygiene or denturism indicating that the applicant satisfies the credentialing standards of the school and that the applicant will teach:

(1) Dental hygiene or denturism in this State as part of a clinical and didactic program for professional education for dental students and dental residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board;

(2) Dental hygiene in this State as part of a clinical and didactic program for professional education for dental hygiene students and dental hygiene residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board; or

(3) Denturism in this State as part of a board-approved clinical and didactic program for professional education for denturism students. [PL 2015, c. 429, §21 (NEW).]  
[PL 2021, c. 163, §7 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 139, §1 (AMD). PL 2017, c. 388, §9 (AMD). PL 2019, c. 388, §7 (AMD). PL 2021, c. 44, §§1-4 (AMD). PL 2021, c. 163, §§6, 7 (AMD).

#### §18346. Denturist

**1. Denturist license.** Except as provided in section 18347, an applicant for a denturist license must comply with section 18341 and must provide:

A. Verification of a high school diploma or its equivalent as determined by the board; [PL 2015, c. 429, §21 (NEW).]

B. Verification of a diploma from a board-approved denturism postsecondary institution; and [PL 2015, c. 429, §21 (NEW).]

C. Verification of passing all examinations required by board rule. The content of one examination must have a clinical component and a written component concerning, but not limited to, dental materials, denture technology, United States Department of Health and Human Services, Centers for Disease Control and Prevention guidelines, basic anatomy and basic pathology. [PL 2015, c. 429, §21 (NEW).]

[PL 2015, c. 429, §21 (NEW).]

**2. Faculty denturist license.** An applicant for a faculty denturist license must comply with section 18341 and must provide:

A. Verification of an active denturist license in good standing issued under the laws of another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental professions; and [PL 2021, c. 163, §8 (AMD).]

B. Credentials, satisfactory to the board, including a letter from the employing school of dentistry, dental hygiene or denturism indicating that the applicant satisfies the credentialing standards of the school. [PL 2015, c. 429, §21 (NEW).]

[PL 2021, c. 163, §8 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2021, c. 163, §8 (AMD).

#### §18347. Endorsement; applicants authorized to practice in another jurisdiction

The board is authorized, at its discretion, to waive the examination requirements and issue a license or grant an authority to an applicant who is licensed under the laws of another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental professions who furnishes proof, satisfactory to the board, that the requirements for licensure under this chapter have been met. Applicants must comply with the provisions set forth in section 18341. [PL 2021, c. 163, §9 (AMD).]

**1. Applicants licensed in another jurisdiction.** An applicant for licensure or seeking authority under this chapter who is licensed under the laws of another jurisdiction is governed by this subsection.

A. An applicant who is licensed in good standing at the time of application to the board under the laws of another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental professions may qualify for licensure by submitting evidence to the board that the applicant has held a substantially equivalent, valid license for at least 3

consecutive years immediately preceding the application to the board at the level of licensure applied for in this State. [PL 2021, c. 163, §9 (AMD).]

B. An applicant who does not meet the requirements of paragraph A but is licensed in good standing at the time of application to the board under the laws of another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental professions may qualify for licensure by submitting evidence satisfactory to the board that the applicant's qualifications for licensure are substantially similar to the requirements in this chapter for the relevant license. [PL 2021, c. 163, §9 (AMD).]

[PL 2021, c. 163, §9 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2021, c. 163, §9 (AMD).

#### §18348. Registration requirements

##### 1. Dentist externship registration.

[PL 2017, c. 388, §10 (RP).]

2. **Sedation and general anesthesia registration.** A dentist who holds a permit to administer sedation pursuant to section 18379 may register another dentist under that dentist's license for the purpose of providing clinical supervision in administering sedation or general anesthesia under direct supervision. A registration under this subsection expires one year from the date the registration is granted. Applicants must comply with section 18341 and must submit a letter from the supervising dentist describing the practice settings in which supervision will occur as well as attesting that these arrangements are commensurate with the registrant's education, training and competency. [PL 2015, c. 429, §21 (NEW).]

3. **Local anesthesia/nitrous oxide analgesia registration.** A dentist may register a dentist or dental hygienist under that dentist's license for the purpose of providing clinical supervision in administering local anesthesia or nitrous oxide analgesia under direct supervision. A registration under this section expires one year from the date the registration is granted. Applicants must comply with section 18341 and must submit a letter from the supervising dentist describing the practice settings in which supervision will occur as well as attesting that these arrangements are commensurate with the registrant's education, training and competency. [PL 2015, c. 429, §21 (NEW).]

4. **Denturist trainee registration.** A denturist or dentist may register under that dentist's or denturist's license an individual who has completed a board-approved denturism postsecondary program for the purpose of providing additional clinical supervision outside of the academic setting. A registration under this section expires one year from the date the registration is granted, but may be renewed for an additional year. An applicant must comply with section 18341 and must provide:

A. Verification that the trainee has successfully completed a denturism program approved by the board; and [PL 2017, c. 388, §11 (AMD).]

B. [PL 2017, c. 388, §11 (RP).]

C. A letter from the supervising denturist or dentist that describes the level of supervision that the denturist or dentist will provide and that attests that the performance of these services by the trainee will add to the trainee's knowledge and skill in denturism. [PL 2017, c. 388, §11 (AMD).]

[PL 2017, c. 388, §11 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §§10, 11 (AMD).

#### §18349. License renewal; reinstatement

**1. Renewal.** Licenses under this chapter expire at such times as the commissioner may designate. In the absence of any reason or condition that might warrant the refusal of granting a license, the board shall issue a renewal license to each applicant who meets the requirements of sections 18341 and 18350. [PL 2015, c. 429, §21 (NEW).]

**2. Late renewals.** Licenses may be renewed up to 90 days after the date of expiration if the applicant meets the requirements of subsection 1 and pays a late fee established by the board pursuant to section 18323, subsection 3. [PL 2015, c. 429, §21 (NEW).]

**3. Reinstatement.** A person who submits an application for reinstatement more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal application is received, together with the penalty fee established by the board pursuant to section 18323, subsection 3, within 2 years from the date of the license expiration. [PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

#### §18350. Continuing education

As a condition of renewal of a license to practice, an applicant must have a current cardiopulmonary resuscitation certification and complete continuing education during the licensing cycle prior to application for renewal. The board may prescribe by rule the content and types of continuing education activities that meet the requirements of this section. [PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

#### §18351. Inactive status

A licensee who wants to retain licensure while not practicing may apply for an inactive status license. The fee for inactive status licensure is set under section 18323, subsection 3. During inactive status, the licensee must renew the license and pay the renewal fee set under section 18323, subsection 3, but is not required to meet the continuing education requirements under section 18350. The board shall adopt rules by which an inactive status license may be reinstated. [PL 2015, c. 429, §21 (NEW).]

An individual who practices under a resident dentist license or as a provisional dental therapist may not apply for inactive status. [PL 2019, c. 388, §8 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §12 (AMD). PL 2019, c. 388, §8 (AMD).

#### §18352. Duty to require certain information from applicants and licensees

**1. Report in writing.** A licensee and an applicant for licensure shall report in writing to the board no later than 10 days after any of the following changes or events:

- A. Change of name or address; [PL 2015, c. 429, §21 (NEW).]
- B. Criminal conviction; [PL 2015, c. 429, §21 (NEW).]
- C. Revocation, suspension or other disciplinary action taken in this State or any other jurisdiction against any occupational or professional license held by the licensee or applicant; or [PL 2015, c. 429, §21 (NEW).]
- D. Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the board. [PL 2015, c. 429, §21 (NEW).]

[PL 2015, c. 429, §21 (NEW).]

## SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

### SUBCHAPTER 4

#### SCOPE OF PRACTICE; SUPERVISION; PRACTICE REQUIREMENTS

##### §18371. Dentist

##### (CONFLICT)

**1. Scope of practice.** A dentist, faculty dentist, limited dentist or resident dentist may:

A. Perform a dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money or other compensation paid, or to be paid, directly or indirectly to the person or to any other person or agency who is a proprietor of a place where dental operations, oral surgery or dental services are performed; [PL 2015, c. 429, §21 (NEW).]

B. Obtain impressions of a human tooth, teeth or jaws and perform a phase of an operation incident to the replacement of a part of a tooth; [PL 2017, c. 388, §13 (AMD).]

C. Supply artificial substitutes for the natural teeth and furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth; [PL 2015, c. 429, §21 (NEW).]

D. Place dental appliances or structures in the human mouth and adjust or attempt or profess to adjust the same; [PL 2015, c. 429, §21 (NEW).]

E. Furnish, supply, construct, reproduce or repair or profess to the public to furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or other structure to be worn in the human mouth; [PL 2015, c. 429, §21 (NEW).]

F. Diagnose or profess to diagnose, prescribe for and treat or profess to prescribe for and treat disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure; [PL 2015, c. 429, §21 (NEW).]

G. Extract or attempt to extract human teeth; [PL 2015, c. 429, §21 (NEW).]

H. Correct or attempt to correct malformations of teeth and jaws; [PL 2015, c. 429, §21 (NEW).]

I. Repair or fill cavities in the human teeth; [PL 2015, c. 429, §21 (NEW).]

J. Diagnose malposed teeth and make and adjust appliances or artificial casts for treatment of the malposed teeth in the human mouth with or without instruction; [PL 2015, c. 429, §21 (NEW).]

K. Use an x-ray machine for the purpose of taking dental x-rays and interpret or read or profess to interpret or read dental x-rays; [PL 2015, c. 429, §21 (NEW).]

L. Use the words dentist, dental surgeon or oral surgeon and the letters D.D.S. or D.M.D. and any other words, letters, title or descriptive matter that represents that person as being able to diagnose, treat, prescribe or operate for a disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structures and state, profess or permit to be stated or professed by any means or method whatsoever that the person can perform or will attempt to perform dental operations or render a diagnosis connected with dental operations; [PL 2015, c. 429, §21 (NEW).]

M. Prescribe drugs or medicine and administer local anesthesia, analgesia including nitrous oxide and oxygen inhalation and, with the appropriate permit issued by the board, administer sedation and general anesthesia necessary for proper dental treatment; [PL 2021, c. 134, §4 (AMD).]

N. Take case histories and perform physical examinations to the extent the activities are necessary in the exercise of due care in conjunction with the provision of dental treatment or the administration of anesthesia. A dentist is not permitted to perform physical examinations within a hospital licensed by the Department of Health and Human Services unless this activity is permitted by the hospital; and [PL 2021, c. 134, §5 (AMD).]

O. Administer botulinum toxin or dermal fillers to a patient with a diagnosed dental condition or when that administration is identified as part of a patient's dental treatment plan. A dentist who has successfully completed postgraduate training and certification in oral and maxillofacial surgery from a program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization may administer botulinum toxin or dermal fillers in the course of treatment for oral or maxillofacial disease, disfigurement or disjunction. [RR 2021, c. 1, Pt. A, §35 (COR).]

[RR 2021, c. 1, Pt. A, §35 (COR).]

**2. Limitations.** Individuals practicing dentistry as described in this section who possess one of the following licenses shall adhere to the restrictions in this subsection.

A. [PL 2017, c. 388, §14 (RP).]

B. [PL 2017, c. 388, §14 (RP).]

C. An individual with a faculty dentist license may provide dental services only as part of the education program for which the license was issued by the board. [PL 2015, c. 429, §21 (NEW).]

D. An individual with a limited dentist license may provide dental services only in the nonprofit dental clinic for which the license was issued by the board and may not accept remuneration for those services. [PL 2015, c. 429, §21 (NEW).]

E. **(CONFLICT: Text as amended by PL 2021, c. 88, §3)** An individual with a resident dentist license may provide dental services only under the supervision of the sponsoring dentist in a board-approved setting and in accordance with the level of supervision and control for which the license was issued by the board. [PL 2021, c. 88, §3 (AMD).]

E. **(CONFLICT: Text as amended by PL 2021, c. 223, §7)** An individual with a resident dentist license may provide dental services only under the supervision of a dentist and in accordance with the level of supervision and control for which the license was issued by the board. [PL 2021, c. 223, §7 (AMD).]

[PL 2021, c. 88, §3 (AMD); PL 2021, c. 223, §7 (AMD).]

**3. Delegation authorized.** A dentist may delegate to an unlicensed person or a licensed person activities related to dental care and treatment that are delegated by custom and usage as long as those activities are under the supervision or control of the dentist. A dentist who delegates activities to an unlicensed person as described is legally liable for the activities of that unlicensed person and the unlicensed person in this relationship is considered the dentist's agent.

A. [PL 2021, c. 223, §8 (RP).]

B. [PL 2021, c. 223, §8 (RP).]

C. [PL 2021, c. 223, §8 (RP).]

[PL 2021, c. 223, §8 (RPR).]

**4. Delegation not authorized.** A dentist may not delegate to an unlicensed person activities related to dental care or treatment that require a license under this chapter. A dentist may not delegate to a

licensed person activities related to dental care or treatment that are outside the scope of practice of that licensed person.

[PL 2021, c. 223, §9 (AMD).]

**5. Supervision of dental therapists.** A dentist, referred to in this section as the "supervising dentist," who employs a dental therapist shall comply with this subsection.

A. A supervising dentist shall arrange for another dentist or specialist to provide any services needed by a patient of a dental therapist supervised by that dentist that are beyond the scope of practice of the dental therapist and that the supervising dentist is unable to provide. [PL 2019, c. 388, §9 (AMD).]

B. The supervising dentist is responsible for all authorized services and procedures performed by the dental therapist pursuant to a written practice agreement executed by the dentist pursuant to section 18377. [PL 2019, c. 388, §9 (AMD).]

C. Revisions to a written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental therapist. [PL 2019, c. 388, §9 (AMD).]

D. A supervising dentist who signs a written practice agreement shall file a copy of the agreement with the board, keep a copy for the dentist's own records and make a copy available to patients of the dental therapist upon request. [PL 2019, c. 388, §9 (AMD).]

[PL 2019, c. 388, §9 (AMD).]

**6. Prescription for laboratory services.** A dentist who uses the services of a person not licensed to practice dentistry in this State to construct, alter, repair or duplicate a denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance shall first furnish the unlicensed person with a written prescription, which must contain:

A. The name and address of the unlicensed person; [PL 2015, c. 429, §21 (NEW).]

B. The patient's name or number. In the event the number is used, the name of the patient must be written upon the duplicate copy of the prescription retained by the dentist; [PL 2015, c. 429, §21 (NEW).]

C. The date on which the prescription was written; [PL 2015, c. 429, §21 (NEW).]

D. A description of the work to be done, with diagrams if necessary; [PL 2015, c. 429, §21 (NEW).]

E. A specification of the type and quality of materials to be used; and [PL 2015, c. 429, §21 (NEW).]

F. The signature of the dentist and the number of the dentist's state license. [PL 2015, c. 429, §21 (NEW).]

The dentist shall retain for 2 years a duplicate copy of all prescriptions issued pursuant to this subsection for inspection by the board.

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 288, Pt. A, §35 (AMD). PL 2017, c. 388, §§13-15 (AMD). PL 2019, c. 388, §9 (AMD). PL 2021, c. 88, §3 (AMD). PL 2021, c. 134, §§4-6 (AMD). PL 2021, c. 223, §§7-9 (AMD). RR 2021, c. 1, Pt. A, §35 (COR).

#### §18372. Dental radiographer

**1. Scope of practice.** A licensed dental radiographer may practice dental radiography under the general supervision of a dentist or an independent practice dental hygienist.



[PL 2017, c. 388, §16 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §16 (AMD).

#### §18373. Expanded function dental assistant

**1. Scope of practice.** An expanded function dental assistant may perform under the general supervision of a dentist all of the activities that may be delegated by a dentist to an unlicensed person pursuant to section 18371, subsection 3. An expanded function dental assistant may also perform the following activities authorized under the general supervision of a dentist:

- A. Apply cavity liners and bases as long as the dentist:
  - (1) Has ordered the cavity liner or base; and
  - (2) Has checked the cavity liner or base prior to the placement of the restoration; [PL 2021, c. 223, §10 (AMD).]
- B. Apply pit and fissure sealants after an evaluation of the teeth by the dentist at the time of sealant placement; [PL 2015, c. 429, §21 (NEW).]
- C. Apply supragingival desensitizing agents to an exposed root surface or dentinal surface of teeth; [PL 2015, c. 429, §21 (NEW).]
- D. Apply topical fluorides recognized for the prevention of dental caries; [PL 2015, c. 429, §21 (NEW).]
- E. [PL 2021, c. 223, §10 (RP).]
- F. [PL 2021, c. 223, §10 (RP).]
- G. Place and contour amalgam, composite and other restorative materials prior to the final setting or curing of the material; [PL 2015, c. 429, §21 (NEW).]
- H. [PL 2017, c. 388, §17 (RP).]
- I. Place and remove gingival retraction cord; [PL 2017, c. 388, §17 (AMD).]
- J. [PL 2017, c. 388, §17 (RP).]
- K. Size, place and cement or bond orthodontic bands and brackets with final inspection by the dentist; [PL 2015, c. 429, §21 (NEW).]
- L. Supragingival polishing using a slow-speed rotary instrument and rubber cup; and [PL 2021, c. 223, §10 (AMD).]
- M. [PL 2021, c. 223, §10 (RP).]
- N. [PL 2017, c. 388, §17 (RP).]
- O. [PL 2017, c. 388, §17 (RP).]
- P. [PL 2017, c. 388, §17 (RP).]
- Q. [PL 2017, c. 388, §17 (RP).]
- R. [PL 2017, c. 388, §17 (RP).]
- S. [PL 2017, c. 388, §17 (RP).]
- T. [PL 2017, c. 388, §17 (RP).]
- U. [PL 2017, c. 388, §17 (RP).]
- V. [PL 2017, c. 388, §17 (RP).]

W. [PL 2017, c. 388, §17 (RP).]

X. [PL 2017, c. 388, §17 (RP).]

Y. [PL 2017, c. 388, §17 (RP).]

Z. [PL 2017, c. 388, §17 (RP).]

AA. [PL 2017, c. 388, §17 (RP).]

BB. [PL 2017, c. 388, §17 (RP).]

CC. [PL 2017, c. 388, §17 (RP).]

DD. [PL 2017, c. 388, §17 (RP).]

EE. [PL 2017, c. 388, §17 (RP).]

FF. [PL 2017, c. 388, §17 (RP).]

GG. [PL 2017, c. 388, §17 (RP).]

HH. Contour or finish restorative materials using a high-speed, power-driven handpiece or instrument. [PL 2021, c. 223, §10 (NEW).]

[PL 2021, c. 223, §10 (AMD).]

**2. Scope of practice; general supervision.**

[PL 2021, c. 223, §11 (RP).]

**3. Procedures not authorized.** An expanded function dental assistant may not engage in the following activities:

A. Complete or limited examination, diagnosis or treatment planning; [PL 2015, c. 429, §21 (NEW).]

B. Surgical or cutting procedures of hard or soft tissue; [PL 2015, c. 429, §21 (NEW).]

C. Prescribing drugs, medicaments or work authorizations; [PL 2015, c. 429, §21 (NEW).]

D. Pulp capping, pulpotomy or other endodontic procedures; [PL 2015, c. 429, §21 (NEW).]

E. Placement and intraoral adjustments of fixed or removable prosthetic appliances; or [PL 2015, c. 429, §21 (NEW).]

F. Administration of local anesthesia, parenteral or inhalation sedation or general anesthesia. [PL 2015, c. 429, §21 (NEW).]

[PL 2015, c. 429, §21 (NEW).]

**SECTION HISTORY**

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §17 (AMD). PL 2021, c. 223, §§10, 11 (AMD).

**§18374. Dental hygienist**

**1. Scope of practice; direct supervision.** A dental hygienist and faculty dental hygienist may perform the following under the direct supervision of a dentist:

A. Administer local anesthesia or nitrous oxide analgesia, as long as the dental hygienist or faculty dental hygienist has authority to administer the relevant medication pursuant to section 18345, subsection 2, paragraph D or E. [PL 2021, c. 223, §12 (AMD).]

B. [PL 2021, c. 223, §12 (RP).]

C. [PL 2021, c. 223, §12 (RP).]

D. [PL 2021, c. 223, §12 (RP).]

E. [PL 2021, c. 223, §12 (RP).]

F. [PL 2021, c. 223, §12 (RP).]  
[PL 2021, c. 223, §12 (AMD).]

**2. Scope of practice; general supervision.** A dental hygienist and faculty dental hygienist may perform under the general supervision of a dentist all of the activities that may be delegated to an unlicensed person pursuant to section 18371, subsection 3. A dental hygienist and faculty dental hygienist may also perform the following procedures under the general supervision of a dentist:

A. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse; [PL 2015, c. 429, §21 (NEW).]

B. [PL 2017, c. 388, §19 (RP).]

C. Apply desensitizing agents to teeth; [PL 2015, c. 429, §21 (NEW).]

D. Apply fluoride to control caries; [PL 2015, c. 429, §21 (NEW).]

E. [PL 2017, c. 388, §19 (RP).]

F. Apply sealants; [PL 2017, c. 388, §19 (AMD).]

G. [PL 2017, c. 388, §19 (RP).]

H. [PL 2017, c. 388, §19 (RP).]

I. [PL 2017, c. 388, §19 (RP).]

J. Expose and process radiographs; [PL 2015, c. 429, §21 (NEW).]

K. [PL 2017, c. 388, §19 (RP).]

L. [PL 2017, c. 388, §19 (RP).]

M. [PL 2017, c. 388, §19 (RP).]

N. [PL 2017, c. 388, §19 (RP).]

O. [PL 2021, c. 223, §12 (RP).]

P. [PL 2017, c. 388, §19 (RP).]

Q. [PL 2017, c. 388, §19 (RP).]

R. [PL 2021, c. 223, §12 (RP).]

S. Perform all procedures necessary for a complete prophylaxis, including root planing; [PL 2015, c. 429, §21 (NEW).]

T. [PL 2017, c. 388, §19 (RP).]

U. Perform complete periodontal and dental restorative charting; [PL 2015, c. 429, §21 (NEW).]

V. [PL 2017, c. 388, §19 (RP).]

W. [PL 2017, c. 388, §19 (RP).]

X. Perform oral inspections, recording all conditions that should be called to the attention of the dentist; [PL 2015, c. 429, §21 (NEW).]

Y. [PL 2021, c. 223, §12 (RP).]

Z. [PL 2017, c. 388, §19 (RP).]

AA. [PL 2017, c. 388, §19 (RP).]

BB. [PL 2017, c. 388, §19 (RP).]

- CC. [PL 2021, c. 223, §12 (RP).]  
 DD. [PL 2017, c. 388, §19 (RP).]  
 EE. [PL 2017, c. 388, §19 (RP).]  
 FF. [PL 2017, c. 388, §19 (RP).]  
 GG. Place localized delivery of chemotherapeutic agents when treatment is planned by the dentist; [PL 2015, c. 429, §21 (NEW).]  
 HH. [PL 2017, c. 388, §19 (RP).]  
 II. [PL 2017, c. 388, §19 (RP).]  
 JJ. Place temporary restorations as an emergency procedure, as long as the patient is informed of the temporary nature of the restoration; and [PL 2021, c. 223, §12 (AMD).]  
 KK. [PL 2017, c. 388, §19 (RP).]  
 LL. [PL 2021, c. 223, §12 (RP).]  
 MM. [PL 2017, c. 388, §19 (RP).]  
 NN. [PL 2017, c. 388, §19 (RP).]  
 OO. [PL 2017, c. 388, §19 (RP).]  
 PP. [PL 2017, c. 388, §19 (RP).]  
 QQ. [PL 2017, c. 388, §19 (RP).]  
 RR. [PL 2017, c. 388, §19 (RP).]  
 SS. [PL 2017, c. 388, §19 (RP).]  
 TT. Smooth and polish amalgam restorations. [PL 2021, c. 223, §12 (AMD).]  
 UU. [PL 2017, c. 388, §19 (RP).]  
 VV. [PL 2021, c. 223, §12 (RP).]  
 WW. [PL 2017, c. 388, §19 (RP).]  
 XX. [PL 2017, c. 388, §19 (RP).]  
 YY. [PL 2017, c. 388, §19 (RP).]  
 [PL 2021, c. 223, §12 (AMD).]

**3. Limitation.** An individual with a faculty dental hygienist license may provide the services described in this section only as part of the education program for which the license was issued by the board.

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §§18, 19 (AMD). PL 2021, c. 223, §12 (AMD).

#### **§18375. Independent practice dental hygienist**

**1. Scope of practice.** An independent practice dental hygienist may perform only the following duties without supervision by a dentist:

- A. Interview patients and record complete medical and dental histories; [PL 2015, c. 429, §21 (NEW).]
- B. Take and record the vital signs of blood pressure, pulse and temperature; [PL 2015, c. 429, §21 (NEW).]

- C. Perform oral inspections, recording all conditions that should be called to the attention of a dentist; [PL 2015, c. 429, §21 (NEW).]
  - D. Perform complete periodontal and dental restorative charting; [PL 2015, c. 429, §21 (NEW).]
  - E. Perform all procedures necessary for a complete prophylaxis, including root planing; [PL 2015, c. 429, §21 (NEW).]
  - F. Apply fluoride to control caries; [PL 2015, c. 429, §21 (NEW).]
  - G. Apply desensitizing agents to teeth; [PL 2015, c. 429, §21 (NEW).]
  - H. Apply topical anesthetics; [PL 2015, c. 429, §21 (NEW).]
  - I. Apply sealants; [PL 2015, c. 429, §21 (NEW).]
  - J. Smooth and polish amalgam restorations, limited to slow-speed application only; [PL 2015, c. 429, §21 (NEW).]
  - K. [PL 2017, c. 388, §20 (RP).]
  - L. Obtain impressions for athletic mouth guards and custom fluoride trays; [PL 2017, c. 388, §21 (AMD).]
  - M. Place and remove rubber dams; [PL 2015, c. 429, §21 (NEW).]
  - N. Place temporary restorations in compliance with the protocol adopted by the board; [PL 2015, c. 429, §21 (NEW).]
  - O. Apply topical antimicrobials, including fluoride but excluding antibiotics, for the purposes of bacterial reduction, caries control and desensitization in the oral cavity. The independent practice dental hygienist shall follow current manufacturer's instructions in the use of these medicaments; [PL 2015, c. 429, §21 (NEW).]
  - P. Expose and process radiographs, including but not limited to vertical and horizontal bitewing films, periapical films, panoramic images and full-mouth series, under protocols developed by the board as long as the independent practice dental hygienist has a written agreement with a licensed dentist that provides that the dentist is available to interpret all dental radiographs within 21 days from the date the radiograph is taken and that the dentist will sign a radiographic review and findings form; and [PL 2015, c. 429, §21 (NEW).]
  - Q. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse. For the purposes of this paragraph, "topical" includes superficial and intraoral application. [PL 2015, c. 429, §21 (NEW).]
- [PL 2017, c. 388, §§20, 21 (AMD).]

**2. Practice standards.** An independent practice dental hygienist has the duties and responsibilities set out in this subsection with respect to each patient seen in an independent capacity.

- A. Prior to an initial patient visit, an independent practice dental hygienist shall obtain from the patient or the parent or guardian of a minor patient written acknowledgment of the patient's or parent's or guardian's understanding that the independent practice dental hygienist is not a dentist and that the service to be rendered does not constitute restorative care or treatment. [PL 2015, c. 429, §21 (NEW).]
  - B. An independent practice dental hygienist shall provide to a patient or the parent or guardian of a minor patient a written plan for referral to a dentist for any necessary dental care. The referral plan must identify all conditions that should be called to the attention of the dentist. [PL 2015, c. 429, §21 (NEW).]
- [PL 2015, c. 429, §21 (NEW).]

## SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §§20, 21 (AMD).

**§18376. Public health dental hygienist**

**1. Scope of practice.** A public health dental hygienist may perform the following procedures in a public health setting under a supervision agreement with a dentist that outlines the roles and responsibilities of the collaboration:

- A. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse; [PL 2015, c. 429, §21 (NEW).]
- B. Apply cavity varnish; [PL 2015, c. 429, §21 (NEW).]
- C. Apply desensitizing agents to teeth; [PL 2015, c. 429, §21 (NEW).]
- D. Apply fluoride to control caries; [PL 2015, c. 429, §21 (NEW).]
- E. Apply liquids, pastes or gel topical anesthetics; [PL 2015, c. 429, §21 (NEW).]
- F. Apply sealants; [PL 2015, c. 429, §21 (NEW).]
- G. Apply topical antimicrobials, including fluoride but excluding antibiotics, for the purposes of bacterial reduction, caries control and desensitization in the oral cavity. The public health dental hygienist shall follow current manufacturer's instructions in the use of these medicaments. For the purposes of this paragraph, "topical" includes superficial and intramuscular application; [PL 2015, c. 429, §21 (NEW).]
- H. [PL 2017, c. 388, §22 (RP).]
- I. Expose and process radiographs upon written standing prescription orders from a dentist who is available to interpret all dental radiographs within 21 days and who will complete and sign a radiographic review and findings form; [PL 2015, c. 429, §21 (NEW).]
- J. For instruction purposes, demonstrate to a patient how the patient should place and remove removable prostheses, appliances or retainers; [PL 2015, c. 429, §21 (NEW).]
- K. For the purposes of eliminating pain or discomfort, remove loose, broken or irritating orthodontic appliances; [PL 2015, c. 429, §21 (NEW).]
- L. Give oral health instruction; [PL 2015, c. 429, §21 (NEW).]
- M. Interview patients and record complete medical and dental histories; [PL 2015, c. 429, §21 (NEW).]
- N. Irrigate and aspirate the oral cavity; [PL 2015, c. 429, §21 (NEW).]
- O. Isolate operative fields; [PL 2015, c. 429, §21 (NEW).]
- P. Perform all procedures necessary for a complete prophylaxis, including root planing; [PL 2015, c. 429, §21 (NEW).]
- Q. Perform complete periodontal and dental restorative charting; [PL 2015, c. 429, §21 (NEW).]
- R. Perform dietary analyses for dental disease control; [PL 2015, c. 429, §21 (NEW).]
- S. Perform temporary filling procedures without a dentist present under protocols adopted by board rule; [PL 2015, c. 429, §21 (NEW).]
- T. Perform oral inspections, recording all conditions that should be called to the attention of the dentist; [PL 2015, c. 429, §21 (NEW).]

- U. Perform pulp vitality tests pursuant to the direction of a dentist; [PL 2017, c. 388, §23 (AMD).]
- V. Place and remove gingival retraction cord without vasoconstrictor; [PL 2015, c. 429, §21 (NEW).]
- W. Place and remove matrix bands for purposes of fabricating or placing temporary restorations; [PL 2015, c. 429, §21 (NEW).]
- X. Place and remove rubber dams; [PL 2015, c. 429, §21 (NEW).]
- Y. Place and remove wedges for purposes of fabricating or placing temporary restorations; [PL 2015, c. 429, §21 (NEW).]
- Z. Place temporary restorations in compliance with the protocol adopted by board rule; [PL 2015, c. 429, §21 (NEW).]
- AA. Remove excess cement from the supragingival surfaces of teeth; [PL 2015, c. 429, §21 (NEW).]
- BB. Retract lips, cheek, tongue and other tissue parts; [PL 2015, c. 429, §21 (NEW).]
- CC. Smooth and polish restorations, limited to slow-speed application only; [PL 2015, c. 429, §21 (NEW).]
- DD. Take and record the vital signs of blood pressure, pulse and temperature; [PL 2015, c. 429, §21 (NEW).]
- EE. Take dental plaque smears for microscopic inspection and patient education; [PL 2015, c. 429, §21 (NEW).]
- FF. Obtain impressions for and deliver athletic mouth guards and custom fluoride trays; and [PL 2017, c. 388, §23 (AMD).]
- GG. Take intraoral photographs. [PL 2015, c. 429, §21 (NEW).]  
[PL 2017, c. 388, §§22, 23 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §§22, 23 (AMD).

#### §18377. Dental therapist

**1. Scope of practice.** A dental therapist may perform the following procedures in limited practice settings, if authorized by a written practice agreement with a dentist licensed in this State pursuant to subsection 3.

- A. To the extent permitted in a written practice agreement, a dental therapist may provide the care and services listed in this paragraph only under the direct supervision of the supervising dentist:
  - (1) Perform oral health assessments, pulpal disease assessments for primary and young teeth, simple cavity preparations and restorations and simple extractions;
  - (2) Prepare and place stainless steel crowns and aesthetic anterior crowns for primary incisors and prepare, place and remove space maintainers;
  - (4) Administer local anesthesia and nitrous oxide analgesia;
  - (6) Conduct urgent management of dental trauma, perform suturing, extract primary teeth and perform nonsurgical extractions of periodontally diseased permanent teeth if authorized in advance by the supervising dentist; and
  - (7) Provide, dispense and administer anti-inflammatories, nonprescription analgesics, antimicrobials, antibiotics and anticaries materials. [PL 2021, c. 223, §13 (AMD).]

B. To the extent permitted in a written practice agreement, a dental therapist may provide the care and services identified in section 18371, subsection 3 and section 18374 under the general supervision of the supervising dentist. [PL 2021, c. 223, §13 (AMD).]  
[PL 2021, c. 223, §13 (AMD).]

**2. Supervision responsibilities.** A dental therapist may be delegated a dentist's responsibility to supervise up to 2 dental hygienists and 3 unlicensed persons in any one practice setting through a written practice agreement pursuant to subsection 3.  
[PL 2019, c. 388, §10 (AMD).]

**3. Practice requirements.** A dental therapist must comply with the following practice limitations.

A. [PL 2019, c. 388, §10 (RP).]

B. A dental therapist may practice only under the direct supervision of a dentist through a written practice agreement signed by both parties. A written practice agreement is a signed document that outlines the functions that the dental therapist is authorized to perform, which may not exceed the scopes of practice specified in subsections 1 and 2. A dental therapist may practice only under the standing order of the supervising dentist, may provide only care that follows written protocols and may provide only services that the dental therapist is authorized to provide by the written practice agreement. [PL 2019, c. 388, §10 (AMD).]

C. A written practice agreement between a supervising dentist and a dental therapist must include the following elements:

- (1) The services and procedures and the practice settings for those services and procedures that the dental therapist may provide, together with any limitations on those services and procedures;
- (2) Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines and imaging frequency;
- (3) Procedures to be used with patients treated by the dental therapist for obtaining informed consent and for creating and maintaining dental records;
- (4) A plan for review of patient records by the supervising dentist and the dental therapist;
- (5) A plan for managing medical emergencies in each practice setting in which the dental therapist provides care;
- (6) A quality assurance plan for monitoring care, including patient care review, referral follow-up and a quality assurance chart review;
- (7) Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed;
- (8) Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation prior to initiating care; and
- (9) Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the scope of practice or capabilities of the dental therapist. [PL 2019, c. 388, §10 (AMD).]

D. Revisions to a written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental therapist. [PL 2019, c. 388, §10 (AMD).]

E. A dental therapist shall file a copy of a written practice agreement with the board, keep a copy for the dental therapist's own records and make a copy available to patients of the dental therapist upon request. [PL 2019, c. 388, §10 (AMD).]



F. A dental therapist shall refer patients in accordance with a written practice agreement to another qualified dental or health care professional to receive needed services that exceed the scope of practice of the dental therapist. [PL 2019, c. 388, §10 (AMD).]

G. A dental therapist who provides services or procedures beyond those authorized in a written agreement engages in unprofessional conduct and is subject to discipline pursuant to section 18325. [PL 2019, c. 388, §10 (AMD).]

[PL 2019, c. 388, §10 (AMD).]

**4. Dental coverage and reimbursement.** Notwithstanding Title 24-A, section 2752, any service performed by a dentist, dental assistant or dental hygienist licensed in this State that is reimbursed by private insurance, a dental service corporation, the MaineCare program under Title 22 or the Cub Care program under Title 22, section 3174-T must also be covered and reimbursed when performed by a dental therapist authorized to practice under this chapter.

[PL 2019, c. 388, §10 (AMD).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2019, c. 388, §10 (AMD). PL 2021, c. 223, §13 (AMD).

#### §18378. Denturist

**1. Scope of practice.** A denturist and faculty denturist may:

A. Obtain denture impressions and bite registrations for the purpose of or with a view to making, producing, reproducing, constructing, finishing, supplying, altering or repairing a denture to be fitted to an edentulous or partially edentulous arch or arches; [PL 2017, c. 388, §24 (AMD).]

B. Fit a denture to an edentulous or partially edentulous arch or arches, including by making, producing, reproducing, constructing, finishing, supplying, altering or repairing dentures without performing alteration to natural or reconstructed tooth structure. A denturist may perform clinical procedures related to the fabrication of a removable tooth-borne partial denture, including cast frameworks; [PL 2015, c. 429, §21 (NEW).]

C. Perform procedures incidental to the procedures specified in paragraphs A and B, as specified by board rule; and [PL 2015, c. 429, §21 (NEW).]

D. Make, place, construct, alter, reproduce or repair nonorthodontic removable sports mouth guards and provide teeth whitening services, including by fabricating whitening trays, providing whitening solutions determined to be safe for public use and providing any required follow-up care and instructions for use of the trays and solutions at home. [PL 2015, c. 429, §21 (NEW).]

[PL 2017, c. 388, §24 (AMD).]

**2. Limitation.** An individual with a faculty denturist license may provide the services described in this section only as part of the education program for which the license was issued by the board.

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 388, §24 (AMD).

#### §18379. Sedation and general anesthesia permits

The board shall adopt by rule the qualifications a dentist must have to obtain a permit from the board authorizing the administration of sedation and general anesthesia. The board shall also adopt the guidelines for such administration, including but not limited to practice setting requirements. [PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

## SUBCHAPTER 5

### PRACTICE STANDARDS

#### §18391. Amalgam brochures; posters

**1. Brochure; poster.** The Director of the Bureau of Health within the Department of Health and Human Services shall develop a brochure that explains the potential advantages and disadvantages to oral health, overall human health and the environment of using mercury or mercury amalgam in dental procedures. The brochure must describe what alternatives are available to mercury amalgam in various dental procedures and what potential advantages and disadvantages are posed by the use of those alternatives. The brochure may also include other information that contributes to the patient's ability to make an informed decision when choosing between the use of mercury amalgam or an alternative material in a dental procedure, including, but not limited to, information on the durability, cost, aesthetic quality or other characteristics of the mercury amalgam and alternative materials. The director shall also develop a poster that informs patients of the availability of the brochure.

The Director of the Bureau of Health shall, in consultation with the Department of Environmental Protection, adopt the brochure and the poster described in this subsection through major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 429, §21 (NEW).]

**2. Display.** A dentist who uses mercury or a mercury amalgam in any dental procedure shall display the poster adopted by the Department of Health and Human Services, Bureau of Health under this section in the public waiting area of the practice setting and shall provide each patient a copy of the brochure adopted by the bureau under this section. The Department of Health and Human Services shall also post on its publicly accessible website a copy of the brochure that is suitable for downloading and printing by dentists, patients and other interested parties.

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

#### §18392. Removable dental prosthesis; owner identification

**1. Identification required.** Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist or denturist, or fabricated pursuant to the dentist's or denturist's work order or under the dentist's or denturist's direction or supervision, must be marked with the name and social security number of the patient for whom the prosthesis is intended. The markings must be made during fabrication and must be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant the markings must be determined by the dentist or dental laboratory fabricating the prosthesis. If, in the professional judgment of the dentist or dental laboratory, this identification is not practical, identification must be provided as follows:

A. The social security number of the patient may be omitted if the name of the patient is shown; [PL 2015, c. 429, §21 (NEW).]

B. The initials of the patient may be shown alone, if use of the name of the patient is impracticable; or [PL 2015, c. 429, §21 (NEW).]

C. The identification marks may be omitted in their entirety if none of the forms of identification specified in paragraphs A and B are practicable or clinically safe. [PL 2015, c. 429, §21 (NEW).]  
[PL 2015, c. 429, §21 (NEW).]

**2. Applicability.** A removable dental prosthesis in existence prior to September 23, 1983 that was not marked in accordance with subsection 1 at the time of its fabrication must be marked in accordance with subsection 1 at the time of a subsequent rebasing.

[PL 2015, c. 429, §21 (NEW).]

**3. Violation.** Failure of a dentist or denturist to comply with this section constitutes grounds for discipline pursuant to section 18325, as long as the dentist or denturist is charged with the violation within 2 years of initial insertion of the dental prosthetic device.

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW).

#### §18393. Confidentiality

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Confidential communication" means a communication not intended to be disclosed to 3rd persons other than those present to further the interest of the patient in the consultation, examination or interview or persons who are participating in the diagnosis and treatment under the direction of the dentist, including members of the patient's family. [PL 2015, c. 429, §21 (NEW).]

B. "Patient" means a person who consults or is examined or interviewed by a dentist or dental auxiliary. [PL 2015, c. 429, §21 (NEW).]

[PL 2015, c. 429, §21 (NEW).]

**2. General rule of privilege.** A patient has a privilege to refuse to disclose and to prevent another person from disclosing confidential communications made for the purpose of diagnosis or treatment of the patient's physical, mental or emotional conditions, including substance use disorder, among the patient, the patient's dentist and persons who are participating in the diagnosis or treatment under the direction of the dentist, including members of the patient's family.

[PL 2017, c. 407, Pt. A, §149 (AMD).]

**3. Who may claim the privilege.** The privilege under subsection 2 may be claimed by the patient, by the patient's guardian or conservator or by the personal representative of a deceased patient. The dentist or dental auxiliary at the time of the communication is presumed to have authority to claim the privilege, but only on behalf of the patient.

[PL 2015, c. 429, §21 (NEW).]

**4. Exceptions.** Notwithstanding any other provision of law, the following are exceptions to the privilege under subsection 2.

A. If the court orders an examination of the physical, mental or emotional condition of a patient, whether a party or a witness, communications made in the course of the examination are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the court orders otherwise. [PL 2015, c. 429, §21 (NEW).]

B. There is not any privilege under this section as to communications relevant to an issue of the physical, mental or emotional condition of a patient in a proceeding in which the condition of the patient is an element of the claim or defense of the patient or of a party claiming through or under the patient or because of the patient's condition or claiming as a beneficiary of the patient through a contract to which the patient is or was a party or, after the patient's death, in a proceeding in which a party puts the condition in issue. [PL 2015, c. 429, §21 (NEW).]

C. There is not any privilege under this section as to information regarding a patient that is sought by the Chief Medical Examiner or the Chief Medical Examiner's designee in a medical examiner case, as defined by Title 22, section 3025, in which the Chief Medical Examiner or the Chief

Medical Examiner's designee has reason to believe that information relating to dental treatment may assist in determining the identity of a deceased person. [PL 2015, c. 429, §21 (NEW).]

D. There is not any privilege under this section as to disclosure of information concerning a patient when that disclosure is required by law, and nothing in this section may modify or affect the provisions of Title 22, sections 4011-A to 4015 and Title 29-A, section 2405. [PL 2015, c. 429, §21 (NEW).]

[PL 2015, c. 429, §21 (NEW).]

#### SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 407, Pt. A, §149 (AMD).

#### §18394. Teledentistry

An individual licensed under this chapter may provide oral health care services and procedures authorized under this chapter or by rule using teledentistry. The board shall adopt by rule guidelines and practice standards for the use of teledentistry, including, but not limited to, practice requirements for protecting patient rights and protocols for referrals, quality and safety, informed consent, patient evaluation, treatment parameters, patient records, prescribing, supervision and compliance with data exchange standards for the security and confidentiality of patient information. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 223, §14 (NEW).]

#### SECTION HISTORY

PL 2021, c. 223, §14 (NEW).

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**Summary:** As used in the Board rules, unless the context otherwise indicates, the following words have the following meanings:

[NOTE: Additional definitions are found in Title 32, Chapter 143 “Dental Professions”]

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**I. DEFINITIONS**

- A. **ACLS:** “ACLS” means advanced cardiac life support.
- B. **ADA:** “ADA” means the American Dental Association or its successor.
- C. **Advertising:** “Advertising” means any verbal, written, or electronic medium designed to call public attention to or to attract patronage to an individual licensed under the Maine Dental Practice Act.
- D. **BLS:** “BLS” means basic cardiac life support.
- E. **Certified Dental Assistant (CDA):** “Certified Dental Assistant” means a dental assistant who has successfully passed a certification examination administered by the Dental Assisting National Board.
- F. **CDC:** “CDC” means the Center for Disease Control and Prevention or its successor.
- G. **CODA:** “CODA” means the ADA Commission on Dental Accreditation.
- H. **CPR:** “CPR” means cardiopulmonary resuscitation.
- I. **Deep Sedation:** “Deep Sedation” means an induced state of depressed consciousness, accompanied by a partial loss of protective reflexes, including the inability to maintain independently and continuously an airway and/or to respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method or combination thereof.
- J. **FDA:** “FDA” means the Food and Drug Administration of the United States Department of Health and Human Services.
- K. **General Anesthesia:** “General Anesthesia” means an induced state of unconsciousness, accompanied by a partial or complete loss of protective reflexes, including inability to maintain independently an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or a nonpharmacologic method, or combination thereof.

- L. **Moderate Sedation:** “Moderate Sedation” means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation.
  - M. **OSHA:** “OSHA” means the Occupational Safety and Health Administration of the United States Department of Labor.
  - N. **Patient:** “Patient” means an individual who has established a professional relationship with a dental professional licensed under the Maine Dental Practice Act who is responsible for the delivery of the individual’s dental care.
  - O. **PALS:** “PALS” means pediatric advanced life support.
  - P. **Jurisdiction.** “Jurisdiction” means another state, a United States territory, a foreign nation or a foreign administrative division that issues licenses in the dental professions.
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STATUTORY AUTHORITY:

32 M.R.S. §§ 18324, 18379; and P.L. 2021 ch. 163 (Emergency, effective June 11, 2021)

EFFECTIVE DATE:

May 22, 2007 – filing 2007-192

AMENDED:

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June 27, 2010 – filing 2010-255

REPEALED AND REPLACED:

April 5, 2020 – filing 2020-065

AMENDED:

December 15, 2021 – filing 2021-248

Chapter 12: PRACTICE REQUIREMENTS

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**Summary:** This chapter sets forth the practice requirements as noted for individuals licensed under the *Maine Dental Practice Act*. Failure to adhere to the practice requirements may result in disciplinary action taken pursuant to 32 M.R.S. §18325 and 10 M.R.S. §8003(5).

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**I. GENERAL PRACTICE REQUIREMENTS**

The following practice responsibilities apply to individuals licensed as indicated below:

**A. INFECTION CONTROL**

- (1) All licensees shall utilize the CDC Guidelines for Infection Control in Dental Health-Care Settings, 2003.
- (2) A licensee who is providing general supervision or direct supervision must ensure the supervised individual's training and/or certification is completed to comply with the CDC Guidelines noted in Section I (A)(1).

**B. RADIATION PROTECTION; DENTAL RADIOGRAPHS; PATIENT SELECTION**

- (1) A licensee who is providing dental services utilizing radiological equipment is required to operate and maintain such equipment in compliance with Maine's Radiation Control Program, as provided for in the *Radiation Protection Act*, 22 M.R.S. §§ 671-690.
- (2) A licensee who is authorized to practice dental radiography or use ionizing radiation for diagnostic purposes is required to place on or over a patient's body radiation barriers, such as protective aprons and thyroid shields, prior to exposing that patient to ionizing radiation.
- (3) A licensee shall utilize the ADA/FDA publication "Dental Radiographic Examinations: Recommendations for Patient Selection and Limiting Radiation Exposure" (as revised in 2012) when selecting patients for dental radiographic examinations and utilizing ionizing radiation.

**C. LOCAL, STATE, AND FEDERAL HEALTH AND SAFETY REGULATIONS**

- (1) All licensees shall comply with the following:
  - (a) Premises shall be kept clean, orderly and free of accumulated rubbish and similar substances;

- (b) Premises shall be kept free of all insects and vermin by utilizing proper control and eradication methods;
- (c) Piped water supply shall conform with local, state and federal regulations. Use of other water sources shall comply with the CDC Guidelines for Infection Control in Dental Health-Care Settings, 2003;
- (d) All structures shall be in compliance with local and state building codes;
- (e) Sanitary conditions shall be maintained at all times for patients and employees, including immediately available toilet facilities. *See* 29 C.F.R. § 1910.141(c); and
- (f) Operations shall be in compliance with OSHA Standards applicable to dental practices related to bloodborne pathogens, hazard communication, ionizing radiation, and exit routes and emergency planning. *See* 29 C.F.R. §§ 1910.35-1910.39, 1910.1030, 1910.1096, 1910.1200.

**D. EMERGENCY PROTOCOL**

- (1) All licensees shall comply with the following:
  - (a) Adopt and follow a written protocol for managing medical or dental emergencies;
  - (b) Maintain a current emergency drug kit appropriate to scope of practice;
  - (c) Maintain communication equipment that ensures rapid access to emergency responders and others as necessary;
  - (d) Provide training, if responsible for hiring and/or supervising staff, to ensure that staff are trained upon employment/supervision, and at least annually thereafter, to implement the emergency protocols; and
  - (e) Maintain accessibility to an automated external defibrillator device.

**E. DENTAL ADVERSE OCCURENCE REPORT**

- (1) All licensees shall report the following adverse conditions to the Board:
  - (a) Death of a patient within 48 hours after the administration of a dental practice procedure. Such reporting shall be made within 72 hours of the death.
  - (b) Activation of an emergency response of a patient or emergent transport of a patient to another facility. Such reporting shall be made within 72 hours of obtaining knowledge of the emergency.
- (2) Information to be included in the adverse report:
  - (a) Date and time of occurrence;



- (b) Name of patient;
  - (c) Dental practice procedure involved, if any;
  - (d) Type and dosage of nitrous oxide analgesia, local anesthesia, sedation, and/or general anesthesia used in the procedure; and
  - (e) Description of the occurrence.
- (3) In the event the licensee does not have knowledge or cannot reasonably be expected to have knowledge, but subsequently obtains actual knowledge of an adverse occurrence, then such licensee shall report to the Board the earlier of 72 hours after obtaining knowledge of a patient death, or 30 days after obtaining knowledge of the permanent organic brain dysfunction or hospitalization of a patient related to a dental procedure.

**F. CONTROLLED SUBSTANCES; INVENTORY CONTROL**

- (1) Dentists who are authorized to dispense, administer, and prescribe any controlled substances shall do so in accordance with 32 M.R.S. §18308, Board Rules, Chapter 21, and the provisions of the *Comprehensive Drug Abuse Prevention and Control Act of 1970*, 21 U.S.C. §§ 801-971.
- (2) Dentists authorized to prescribe, administer and dispense controlled substances shall adopt protocols to maintain inventories and records of controlled substances in accordance with state and federal laws and regulations. Protocols shall be reviewed at least annually and updated as needed. Licensees who hold permits issued by the United States Department of Justice, Drug Enforcement Administration shall adhere to the practitioner requirements as outlined in the “Practitioner’s Manual – An Informational Outline of the Controlled Substances Act” (2006 Edition), published by the Drug Enforcement Administration, Office of Diversion Control.

**G. PATIENT RECORDS:** Commensurate with a licensee’s scope of practice, patient records shall include, but are not limited to, dental charts, photographs, patient histories, examination and test results, diagnoses, treatment plans, progress notes, anesthesia charts, prescriptions, radiographs, patient consents, and billing records.

- (1) **Confidentiality of Patient Records.** All patient records shall be maintained in a manner that ensures confidentiality and access for patients and authorized practitioners who may wish to obtain a copy of patient records as required by the state and federal requirements. *See* 22 M.R.S. § 1711-C; 45 C.F.R. §§ 164.500-164.534 (privacy rule of the *Health Insurance Portability and Accountability Act*, or “HIPAA”).
- (2) **Record Retention Requirement.** A dentist, denturist, dental hygienist who is practicing with an independent practice dental hygiene authority, public health dental hygiene authority, or dental therapy authority (including a provisional authority) shall maintain a patient's original dental record and original

radiographs for a minimum of seven (7) years from the date of the last patient treatment.

Licensees who do not have legal authority or ownership over patient records in the delivery of their services shall, at a minimum, maintain access to such records to comply with this subsection.

(3) **Availability of Dental Records**

- (a) The licensee shall provide upon written request by a patient or another specifically authorized person, a copy of the patient's dental record. A copy of the patient record, including radiographs, shall be provided within a reasonable amount of time not to exceed 21 days from the receipt of the request. The licensee may charge a reasonable fee for the expense of providing a patient's record, not to exceed the cost of either labor and/or materials incurred in the copying of the patient record and radiographs. The licensee shall not require payment for services rendered as a condition of providing a copy of the patient record.
- (b) Electronic patient records shall be unalterable and producible in paper form upon request.

H. **CONTENT OF PATIENT RECORDS:** All licensees shall comply as set forth below:

- (1) The patient record shall be a complete record of all patient contact, including, but not limited to, a general description of the patient's medical and dental history and status at the time of examination, diagnoses, patient education, treatment plan, referral for specialty treatment, medications administered and prescribed, pre- and post-treatment instructions, and information conveyed to the patient.
- (2) Patient records shall be legible and clear in meaning to a subsequent examining or treating dentist, the patient, dental auxiliaries or other authorized persons.
- (3) At a minimum, a patient's record shall include:
  - (a) **Patient Information**
    - i. Name, address and date of birth of the patient;
    - ii. If the patient is not of the age of majority, the name of the parent or legal representative; and
    - iii. Patient's telephone numbers(s) and electronic mail addresses, except if the patient declines to provide this information.
  - (b) **Medical and Dental History Form.** The patient's medical history and dental history shall include, but not be limited to:
    - i. A review of past and present illnesses, diseases and disabilities;
    - ii. Systemic disease(s);

- iii. Current prescription and non-prescription medications as well as any known drug allergies;
  - iv. Documentation of consultation with the patient's medical physician(s) as appropriate;
  - v. Date of the patient's last dental visit and frequency of dental visits; and
  - vi. At each patient visit, the licensee shall inquire and document in the patient record any changes in the patient's medical history, including but not limited to, changes in medications.
- (c) **Record of Examination.** Each patient record shall include documentation of the results of a comprehensive examination of the following areas:
- i. Head and neck;
  - ii. Radiographic images as necessary and appropriate to facilitate a comprehensive diagnosis of the patient. Radiographs shall be clearly identified with the patient name, and date the radiographic exposure was taken;
  - iii. Intra-oral and extra-oral soft tissue examination, including charting of existing restorations and current status of patient's hard and soft tissue;
  - iv. Comprehensive periodontal screening;
  - v. Oral cancer screening;
  - vi. Examination of the teeth;
  - vii. Duration of edentulousness, and any previous or existing removable prosthesis;
  - viii. Results of any other examination performed as necessary and appropriate to facilitate comprehensive diagnoses of the patient's dental status;
  - ix. Findings which are within or outside of normal limits; and
  - x. Baseline blood pressure at initial consultation visit, and as clinically necessary thereafter.
- (d) **Diagnoses.** The patient record shall include written diagnoses of the patient's current dental status based on the evaluation of the patient's medical and dental history, examination, and radiographic findings.
- (e) **Treatment Plan.** The patient record shall include a written treatment plan describing in detail the proposed treatment. The proposed treatment plan, including alternatives to treatment, and information regarding estimated fees must be reviewed with the patient prior to the commencement of treatment. The treatment plan shall also include referrals to other providers as necessary. If there is no treatment plan this must be explained and documented in the patient record.
- (f) **Informed Consent.** There are two categories of informed consent: implied consent and express consent.
- i. **Implied Consent.** Implied consent is a presumed type of permission based on the patient's conduct and it applies primarily

to non-invasive procedures such as consultations, examinations, and diagnoses.

- ii. **Express Consent.** Express consent is a more formal type of permission founded on words, either oral or written, and it applies to more invasive procedures. Written informed consent is an express consent which includes the signature of (at least) both the licensee and the patient (or the patient's legal guardian).

- (g) **Progress Notes.** The patient record shall include written documentation of the treatment provided by the dentist and/or dental auxiliary, including but not limited to:

- i. Administration of medicines and medicaments including the type, amount, and route of administration;
- ii. A statement of services provided including patient reaction, if any, during the treatment visit, procedures performed, and diagnoses;
- iii. A description of the pre- and post-treatment instructions including, if applicable, plans for subsequent treatment;
- iv. Documentation of any referral for specialty treatment, including the name of the specialist the patient is referred to; and
- v. A dated written or electronic signature by the dentist or dental auxiliary who treated the patient.

- (h) **Patient Financial Payment/Record.** The patient's financial record shall include, but not be limited to, the name of the patient's dental insurer, documentation of fees for treatment and payment schedule, and claims submitted to third parties.

- I. **PATIENT DISMISSAL:** Dentists, denturists, dental hygienists who are practicing with an independent practice dental hygiene authority, a public health hygiene authority, or a dental therapist authority (including provisional) shall comply as set forth below:

- (1) A written notice of dismissal shall be sent to the patient and/or patient's guardian by certified return/receipt mail. The dismissal is effective as of the date of the letter. However, the licensee must offer the patient a 30-day emergency care period from the date of the dismissal notice. The date identifying the end of the 30-day emergency care period must also be clearly indicated in the dismissal notice; and
- (2) The licensee shall offer and supply copies of the dismissed patient's dental records upon request by the dismissed patient and/or patient's guardian, regardless of the patient meeting his/her financial obligation. Offering to supply the patient's records should be clearly noted, as well, within the termination letter. Supplying records may not be contingent on receipt of payment.

## J. PRACTICE SALE AND CLOSURE NOTIFICATIONS; WAIVER

- (1) Licensees who either sell or close a practice shall provide to the Board in writing within 10 days from the date of sale or closure the following documentation:

- (a) **Practice sale.** If the practice sale includes the transfer of patient records, then contact information including the name, address, phone number of the new owner and/or individual responsible for the patient records shall be submitted to the Board.
- (b) **Practice closure.** If the practice closure includes the transfer of patient records, then contact information including the name, address, phone number of the individual responsible for the patient records shall be submitted to the Board.
- (c) **Practice closure.** Submit documentation of the communication tools used such as newspaper ads, social media accounts, email notifications, or letters notifying patients at least 30 days in advance of the closure. The notification shall list specific times for patients to obtain copies of their records.
- (d) **Board waiver.** The Board retains the authority to waive the requirements where immediate sale and/or closure is a result of sudden illness, incapacity, death, or other cause as determined by the Board.

## II. SPECIFIC PRACTICE REQUIREMENTS – ADMINISTRATION OF NITROUS OXIDE ANALGESIA

### A. DENTAL HYGIENIST RESPONSIBILITIES

- (1) **Limitations.** A dental hygienist who is not authorized to administer nitrous oxide analgesia from the Board may, during nitrous oxide analgesia administration by the dentist, observe the gauges and advise the dentist of any changes in gauge indices or readings but shall not in any way or under any circumstances adjust, manipulate, or control the nitrous oxide apparatus or equipment.
- (2) **Authorization.** A dental hygienist issued a permit or authority to administer nitrous oxide analgesia may administer nitrous oxide analgesia utilizing induction via titration and not to exceed 50% concentration under the direct supervision of a dentist.

### B. DENTIST RESPONSIBILITIES

- (1) A dentist who is providing the direct supervision of the administration of nitrous oxide analgesia must:
  - (a) Decide which patient will receive nitrous oxide analgesia and document this decision by note or prescription in the patient dental record;
  - (b) Note in the patient dental record the condition of the patient's recovery prior to the patient's discharge; and
  - (c) Utilize engineering controls and maintenance procedures to ensure safety of inhalation equipment.

- (2) A dentist who is supervising the delivery of nitrous oxide analgesia or providing the delivery of nitrous oxide analgesia to a patient is responsible to ensure that any nitrous oxide delivery system within the dental practice adheres to the hazard controls recommendations of nitrous oxide during anesthetic administration as established by the following publications of the U.S. Department of Health and Human Services (“DHHS”), CDC, National Institute for Occupational Safety and Health (NIOSH):
- (a) DHHS (NIOSH) Publication No. 94-100, “Controlling Exposures to Nitrous Oxide During Anesthetic Administration”;
  - (b) DHHS (NIOSH) Publication No. 94-118, “NIOSH Warns: Nitrous Oxide Continues to Threaten Health Care Workers”; and
  - (c) DHHS (NIOSH) Publication No. 96-107, “Control of Nitrous Oxide in Dental Operatories.”

Copies of the foregoing publications may be obtained on line at [www.cdc.gov/niosh/pubs.html](http://www.cdc.gov/niosh/pubs.html), by calling 1-800-356-4674, or by writing to the physical address at:

NIOSH  
4676 Columbia Parkway, Mail Slot C-13  
Cincinnati, OH 45226

### **III. SPECIFIC REQUIREMENTS FOR THE USE OF CERTAIN MATERIALS, LASER AND DIGITAL EQUIPMENT**

- A. Use and placement of temporary restorations. A licensee shall use temporary restorative material that is not harmful to the tooth, and preferably be fluoride releasing. A licensee shall use the protocols attached to this Chapter as Figure 1 and Figure 2 when placing a temporary restoration with or without the use of a dental radiograph.
- B. Use of silver diamine fluoride. A licensee who applies silver diamine fluoride shall obtain written informed consent from the patient (or the patient’s legal guardian). The informed consent will identify the risks, benefits, contraindicators and alternatives to the treatment of silver diamine fluoride.
- C. Use of mercury or mercury amalgam. A licensee who uses mercury or mercury amalgam in any dental procedure shall obtain written informed consent from the patient (or the patient’s legal guardian). The informed consent will identify the risks, benefits, contraindicators, and alternatives to the use of mercury or mercury amalgam in dental procedures.
- D. Use of lasers and digital equipment devices. A licensee may delegate the use of lasers and digital equipment when both the supervising licensee and the individual subject to the supervision obtain proper training on the use of the device. The use of the device is subject to the limitations of the licensee’s scope of practice, including the limitations of the licensee’s ability to delegate the procedure.

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**IV. SPECIFIC PRACTICE REQUIREMENTS – INDEPENDENT PRACTICE DENTAL HYGIENE AUTHORITY**

- A. Prior to an initial patient visit, an independent practice dental hygienist shall obtain from the patient or the parent or guardian of a minor patient written acknowledgment of the patient's or parent's or guardian's understanding that the independent practice dental hygienist is not a dentist and that the service to be rendered does not constitute restorative care or treatment.
- B. An independent practice dental hygienist shall provide to a patient or the parent or guardian of a minor patient a written plan for referral to a dentist for any necessary dental care. The referral plan must identify all conditions that should be called to the attention of the dentist.
- C. An independent practice dental hygienist exposing radiographs must have a written agreement with a licensed dentist that provides that the licensed dentist will be available to interpret all dental radiographs within 21 days from the date the radiograph is taken and that the dentist will sign a radiographic review and findings form.

**V. SPECIFIC PRACTICE REQUIREMENTS – REFERAL NETWORK**

- A. A licensee who provides patient care shall have in place a referral network to handle patient conditions outside of their scope of practice, training, or level of expertise.
- B. Referrals shall be made in writing and clearly identify the condition(s) that prompted the referral. The licensee accepting the referral is obligated to use his or her level of training to complete the assessment, diagnosing, and treatment planning for referred patients.
- C. Once referred treatment is completed, ethical standards require that the patient is returned to the referring licensee. Patients, however, retain the right to choose their dental provider as long as such provider is willing and able to accept them in their practice.
- D. A denturist must immediately refer to a licensed dentist or physician any abnormality or disease process that requires medical or dental treatment observed during oral inspection. In such a case, the denturist shall take no further action to manufacture or place a denture if it may impact the successful outcome of the treatment until the patient has been examined by a dentist or physician. If the examination reveals the need for tissue modification or opposing natural tooth modification in order to assure proper fit of a full denture, the denturist shall refer the patient to a dentist and assure that the modification has been completed before taking an impression for the completion of the denture.

**VI. SPECIFIC PRACTICE REQUIREMENTS – AFTER HOUR PATIENT CARE**

- A. A licensee shall make reasonable efforts to establish a network of providers to offer both emergency and non-emergency dental care to a patient after hours.

**VII. SPECIFIC PRACTICE REQUIREMENTS – DEVIATION OF PRACTICE STANDARDS**

- A. A licensee may deviate from the standards outlined in this Chapter, if the deviation is shown to be reasonable, is based upon physiological conditions or requirements, or responds to specific requests of the individual patient. The reason(s) for any deviation from the standards must be documented in the patient's records at the time the deviation is made.

**X. PRINCIPLES OF ETHICS AND CODES OF PROFESSIONAL CONDUCT**

- A. Dentists shall comply with the American Dental Association Principles of Ethics and Code of Professional Conduct, as amended, February 2018.
  - B. Dental hygienists shall comply with the American Dental Hygienists' Association Code of Ethics as published in its Bylaws and Code of Ethics, adopted June 13, 2016.
  - C. Denturists shall comply with the National Denturist Association's Code of Conduct, Appendix A, as published in its By-Laws dated September 19, 2015.
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**STATUTORY AUTHORITY:**

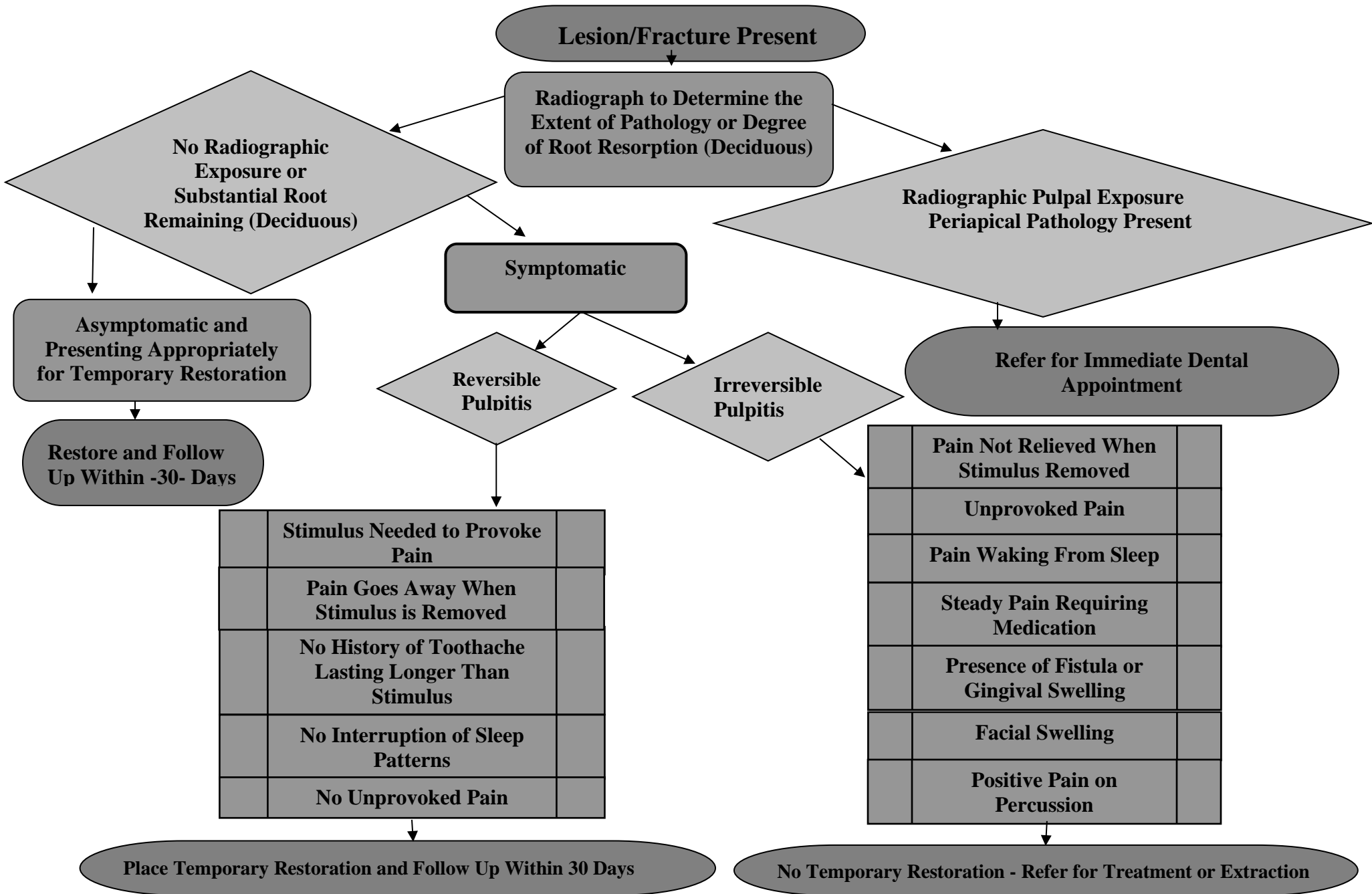
32 M.R.S. §§ 18324, 18325, 18371, 18372, 18373, 18374, 18374, 18375, 18376, 18377, 18378, 18393

**EFFECTIVE DATE**

April 5, 2020 – filing 2020-085



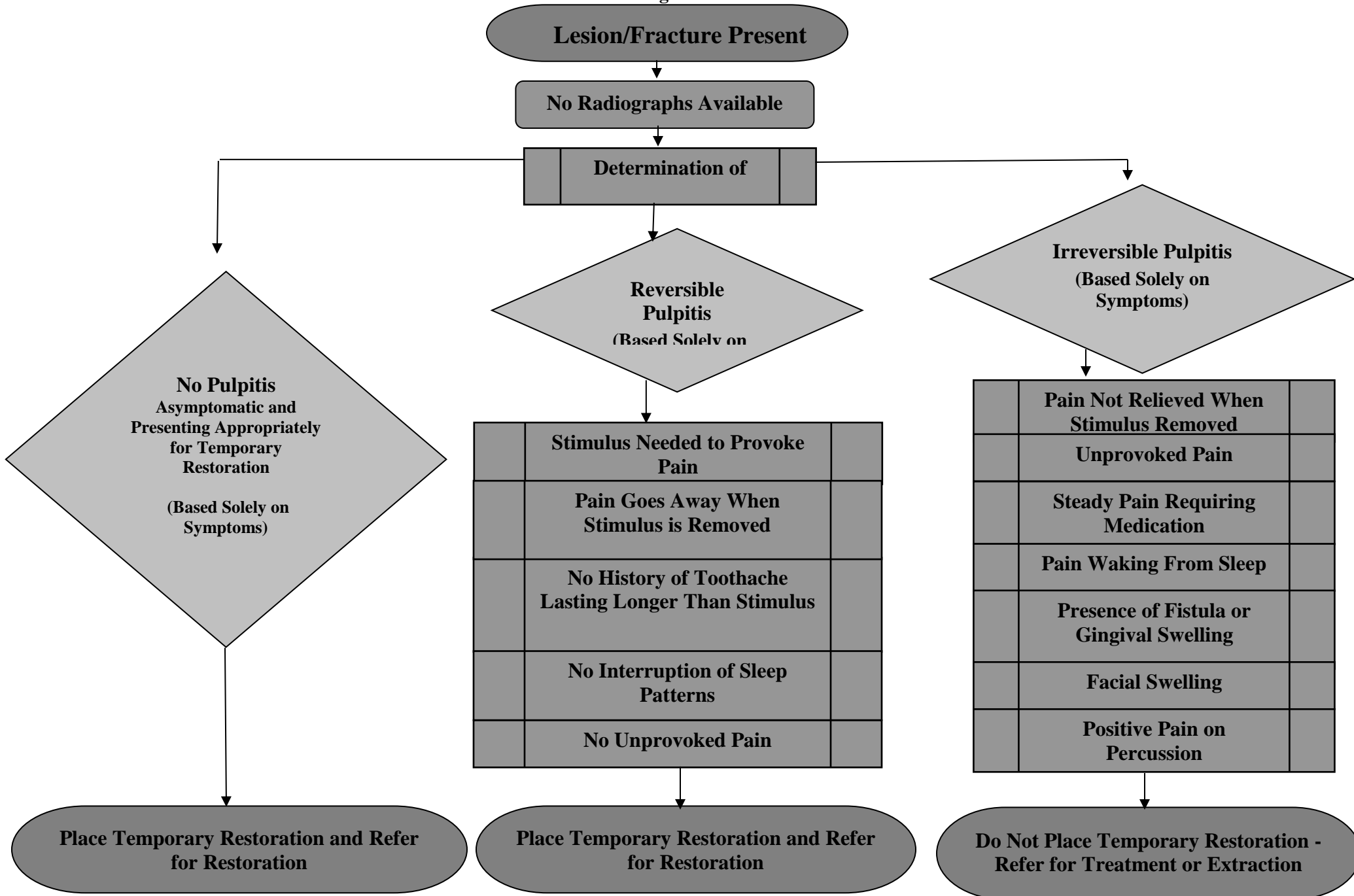
Placement of Temporary Restorations – Dental Radiograph Available  
Figure 1.



	<b>Stimulus Needed to Provoke Pain</b>	
	<b>Pain Goes Away When Stimulus is Removed</b>	
	<b>No History of Toothache Lasting Longer Than Stimulus</b>	
	<b>No Interruption of Sleep Patterns</b>	
	<b>No Unprovoked Pain</b>	

	<b>Pain Not Relieved When Stimulus Removed</b>	
	<b>Unprovoked Pain</b>	
	<b>Pain Waking From Sleep</b>	
	<b>Steady Pain Requiring Medication</b>	
	<b>Presence of Fistula or Gingival Swelling</b>	
	<b>Facial Swelling</b>	
	<b>Positive Pain on Percussion</b>	

**Placement of Temporary Restorations – Dental Radiograph Not Available  
Figure 2.**



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**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**313 BOARD OF DENTAL PRACTICE**

**Chapter XX: PRACTICE REQUIREMENTS FOR TELEDENTISTRY SERVICES**

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**Summary:** This chapter sets forth the practice requirements for individuals licensed under the *Maine Dental Practice Act* who are authorized to provide teledentistry services. Failure to adhere to the practice requirements of this chapter may result in disciplinary action taken pursuant to 32 M.R.S. §18325 and 10 M.R.S. §8003(5).

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**I. DEFINITIONS**

- A. Asynchronous encounter.** “Asynchronous encounter” means an interaction between a patient and a licensee through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the licensee.
- B. Licensee.** “Licensee” is a dental professional described in Section II(A) who holds a current and valid license issued by the Board to practice and who is authorized to provide teledentistry services.
- C. Mobile oral health care.** “Mobile oral health care” means the use of mobile communication devices such as cell phones, tablet computers and personal digital assistants to provide oral health care services and education.
- D. Remote patient monitoring.** “Remote patient monitoring” means the use of information technology to remotely monitor a patient’s oral health status via electronic means, allowing the licensee to track the patient’s oral health data over time. Monitoring may be synchronous or asynchronous.
- E. Store and forward transfer.** “Store and forward transfer” means the transmission of a patient’s records through a secure electronic system to a licensee.
- F. Synchronous encounter.** “Synchronous encounter” means a real-time interaction conducted with an interactive audio or video connection between a patient and a licensee or between a licensee and another dental or health care provider.
- G. Teledentistry services.** “Teledentistry services” means oral health care services delivered through the use of interactive, real-time visual, audio or other electronic media for the purposes of education, assessment, examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by licensees and includes a synchronous encounter, an asynchronous encounter, a store and forward transfer and remote patient monitoring and mobile oral health care in accordance with this chapter.

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**II. GENERAL REQUIREMENTS – LICENSE REQUIRED**

- A.** A dental professional who delivers teledentistry services to a patient in Maine must hold a current and valid license issued by the Board to practice as follows:
- (1) A dentist;
  - (2) A dental hygienist;
  - (3) A dental hygienist who holds an active, valid practice authority as a provisional dental therapist, a dental therapist, a public health dental hygienist, or an independent practice dental hygienist;
  - (4) A dental radiographer;
  - (5) A denturist; and
  - (6) An expanded function dental assistant.
- B.** A licensee providing teledentistry services to a patient physically located in any other jurisdiction is responsible for ensuring compliance with all laws and rules of that jurisdiction prior to providing services to a patient located in that jurisdiction.

**III. SCOPE OF PRACTICE**

- A.** A licensee who uses teledentistry in providing oral health care services must ensure that the services and/or procedures provided are within the licensee’s scope of practice, including the licensee’s education, training, experience, ability, licensure and certification.
- B.** Teledentistry services do not expand the licensee’s scope of practice or alter required levels of supervision, supervision agreements or authorized delegated duties.

**IV. SUPERVISION AND DELEGATION**

A licensee must adhere to the supervision and , delegation and scopes of practice provisions authorized by the Dental Practice Act when providing teledentistry services. The use of teledentistry services by a licensee must not be construed to alter the scope of practice of a licensee, change the level of supervision required, change a supervision agreement, or alter delegation authorities.

**V. PATIENT RELATIONSHIP REQUIRED**

A licensee must take reasonable steps to verify the patient’s physical location prior to establishing a patient relationship as defined by Board Rules, Chapter 1(I)(N) and prior to providing teledentistry services.

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**VI. PRACTICE REQUIREMENTS SPECIFIC TO TELEDENTISTRY SERVICES**

- A.** Principles of Ethics, Code of Professional Conduct and Patient Care. Pursuant to 32 M.R.S. § 18325(1) and Board Rules, Chapter 12, a licensee must provide oral health services competently and professionally. Below are additional requirements a licensee must follow to ensure public safety when providing teledentistry services:
- (1) Deliver teledentistry services with the same standards of care and professional ethics as in-person encounters with patients. A licensee must use judgment in all aspects of care and consider what aspects of care can be provided safely using teledentistry technology. The use of teledentistry technologies may not be appropriate in some circumstances.
  - (2) Delegate and supervise through a teledentistry service no more than five individuals or licensees simultaneously;
  - (3) Establish and maintain competence in the use of teledentistry through continuing education, consultation or other available resources;
  - (4) Provide informed consent to the patient for public display and in writing. Information on the informed consent must include the following:
    - i. the licensee’s name, license number, credentials, qualifications, contact information, and practice location involved in the patient’s care. Additionally, the name, license number, credentials, and qualifications of all dental personnel involved in the patient’s care; and
    - ii. a dentist who delegates a teledentistry service must ensure that the informed consent of the patient includes disclosure to the patient that the dentist has delegated the service.

**VII. EMERGENCY SERVICES**

A licensee who uses teledentistry services must obtain emergency contact information and/or telephone contact information of the patient and maintain the information in a patient’s record. A licensee must refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

**VIII. PRACTICE REQUIREMENTS SPECIFIC TO ISSUANCE OF PRESCRIPTIONS**

- A.** The validity of a prescription issued by a licensee to a patient as a result of a teledentistry service is determined by the same standards that would apply to the issuance of the prescription in an in-person setting.
- B.** This section does not limit the professional judgment, discretion or decision-making authority of a licensee. A licensee is expected to meet the standard of care and

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demonstrate professional practice standards and judgment, consistent with all applicable statutes and rules when issuing or administering a prescription medication as a result of a teledentistry service.

- C. A valid prescription must be issued for a legitimate dental purpose by a licensee as part of an established patient relationship and must meet all other applicable laws and rules governing controlled substances.

**XI. PRIVACY AND SECURITY**

- A. A licensee who uses teledentistry in providing oral health care services must ensure that all teledentistry encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act and applicable law to ensure that all patient communications and records are secure and remain confidential.

- (1) Written protocols must be established that address the following:

- i. Privacy;
    - ii. Dental personnel who will process messages;
    - iii. Hours of operation;
    - iv. Types of transactions that will be permitted electronically;
    - v. Required patient information to be included in any communication, including patient name, identification number and type of transaction;
    - vi. Archiving and retrieval; and
    - vii. Quality oversight mechanisms.

- (2) The written protocols should be periodically evaluated for accuracy and should be maintained in an accessible and readily available manner for review. The written protocols must include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.

**X. TECHNOLOGY AND EQUIPMENT**

- A. The Board recognizes that certain technology and equipment exists for teledentistry and when utilized for teledentistry services, a licensee must comply with the following requirements:

- (1) The technology and equipment utilized in the provision of teledentistry services must comply with all relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic or assessment capabilities;

- (2) The technology and equipment utilized in the provision of teledentistry services must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the teledentistry services;

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- (3) The technology and equipment utilized in the provision of teledentistry services must be compliant with the Health Insurance Portability and Accountability Act and other applicable law;
- (4) The technology and equipment utilized in the provision of teledentistry services must be able to verify the identity and location of the patient; and
- (5) The technology and equipment utilized in the provision of teledentistry services must be able to specify and disclose the identity and credentials of the licensee(s).

**XI. DISCLOSURE AND FUNCTIONALITY OF TELEDENTISTRY SERVICES**

- A. Except for licensee-to-licensure direct consultation, a licensee who uses teledentistry in providing oral health care services must ensure that the following information is clearly disclosed to the patient:
  - (1) Types of services provided;
  - (2) Contact information for the licensee;
  - (3) Identity, licensure, certification, credentials and qualifications of all licensees and/or dental personnel who are providing the teledentistry services;
  - (4) Limitations in the services that can be provided via teledentistry;
  - (5) Fees for services, cost-sharing responsibilities, and how payment is to be made;
  - (6) Appropriate uses and limitations of the technologies, including in emergency situations;
  - (8) Uses of and response times for e-mails, electronic messages and other communications transmitted via teledentistry technologies;
  - (9) To whom patient health information may be disclosed and for what purpose;
  - (10) Rights of patients with respect to patient health information; and
  - (11) Information collected and passive tracking mechanisms utilized.

**MAINE BOARD OF DENTAL PRACTICE**  
**TELEDENTISTRY STAKEHOLDER MEETING MATERIALS – MARCH 25, 2022**  
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