

1                   A bill to be entitled  
2           An act relating to telehealth; creating s. 456.47,  
3           F.S.; defining terms; establishing standards of  
4           practice for telehealth providers; authorizing  
5           telehealth providers to use telehealth to perform  
6           patient evaluations; authorizing certain telehealth  
7           providers to use telehealth to prescribe certain  
8           controlled substances under specified circumstances;  
9           providing that a nonphysician telehealth provider  
10          using telehealth and acting within his or her relevant  
11          scope of practice is not deemed to be practicing  
12          medicine without a license; providing recordkeeping  
13          requirements for telehealth providers; providing  
14          registration requirements for out-of-state telehealth  
15          providers; requiring the Department of Health to  
16          publish certain information on its website;  
17          authorizing a board, or the department if there is no  
18          board, to take disciplinary action against a  
19          telehealth provider under certain circumstances;  
20          providing venue; providing exemptions from telehealth  
21          registration requirements; authorizing the applicable  
22          board, or the department if there is no board, to  
23          adopt rules; creating s. 627.42396, F.S.; providing  
24          requirements for a contract between a certain health  
25          insurer and a telehealth provider; amending s. 641.31,

26 F.S.; providing requirements for a contract between a  
 27 certain health maintenance organization and a  
 28 telehealth provider; requiring the department to  
 29 annually review the amount of certain collected fees  
 30 and make a determination relating to the sufficiency  
 31 of funding to implement specified telehealth  
 32 provisions; upon making a certain determination,  
 33 requiring the department to indicate insufficient  
 34 funding and recommend fee adjustments in its annual  
 35 legislative budget request; providing an  
 36 appropriation; authorizing positions; providing  
 37 effective dates.

38  
 39 Be It Enacted by the Legislature of the State of Florida:

40  
 41 Section 1. Section 456.47, Florida Statutes, is created to  
 42 read:

43 456.47 Use of telehealth to provide services.-

44 (1) DEFINITIONS.-As used in this section, the term:

45 (a) "Telehealth" means the use of synchronous or  
 46 asynchronous telecommunications technology by a telehealth  
 47 provider to provide health care services, including, but not  
 48 limited to, assessment, diagnosis, consultation, treatment, and  
 49 monitoring of a patient; transfer of medical data; patient and  
 50 professional health-related education; public health services;

51 and health administration. The term does not include audio-only  
52 telephone calls, e-mail messages, or facsimile transmissions.

53 (b) "Telehealth provider" means any individual who  
54 provides health care and related services using telehealth and  
55 who is licensed or certified under s. 393.17; part III of  
56 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;  
57 chapter 461; chapter 463; chapter 464; chapter 465; chapter 466;  
58 chapter 467; part I, part III, part IV, part V, part X, part  
59 XIII, or part XIV of chapter 468; chapter 478; chapter 480; part  
60 II or part III of chapter 483; chapter 484; chapter 486; chapter  
61 490; or chapter 491; who is licensed under a multi-state health  
62 care licensure compact of which Florida is a member state; or  
63 who is registered under and complies with subsection (4).

64 (2) PRACTICE STANDARDS.—

65 (a) A telehealth provider has the duty to practice in a  
66 manner consistent with his or her scope of practice and the  
67 prevailing professional standard of practice for a health care  
68 professional who provides in-person health care services to  
69 patients in this state.

70 (b) A telehealth provider may use telehealth to perform a  
71 patient evaluation. If a telehealth provider conducts a patient  
72 evaluation sufficient to diagnose and treat the patient, the  
73 telehealth provider is not required to research a patient's  
74 medical history or conduct a physical examination of the patient  
75 before using telehealth to provide health care services to the

76 patient.

77 (c) A telehealth provider may not use telehealth to  
78 prescribe a controlled substance unless the controlled substance  
79 is prescribed for the following:

80 1. The treatment of a psychiatric disorder;

81 2. Inpatient treatment at a hospital licensed under  
82 chapter 395;

83 3. The treatment of a patient receiving hospice services  
84 as defined in s. 400.601; or

85 4. The treatment of a resident of a nursing home facility  
86 as defined in s. 400.021.

87 (d) A telehealth provider and a patient may be in separate  
88 locations when telehealth is used to provide health care  
89 services to a patient.

90 (e) A nonphysician telehealth provider using telehealth  
91 and acting within his or her relevant scope of practice, as  
92 established by Florida law or rule, is not in violation of s.  
93 458.327(1)(a) or s. 459.013(1)(a).

94 (3) RECORDS.—A telehealth provider shall document in the  
95 patient's medical record the health care services rendered using  
96 telehealth according to the same standard as used for in-person  
97 services. Medical records, including video, audio, electronic,  
98 or other records generated as a result of providing such  
99 services, are confidential pursuant to ss. 395.3025(4) and  
100 456.057.

101 (4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—

102 (a) A health care professional not licensed in this state  
103 may provide health care services to a patient located in this  
104 state using telehealth if the health care professional registers  
105 with the applicable board, or the department if there is no  
106 board, and provides health care services within the applicable  
107 scope of practice established by Florida law or rule.

108 (b) The board, or the department if there is no board,  
109 shall register a health care professional not licensed in this  
110 state as a telehealth provider if the health care professional:

111 1. Completes an application in the format prescribed by  
112 the department;

113 2. Is licensed with an active, unencumbered license that  
114 is issued by another state, the District of Columbia, or a  
115 possession or territory of the United States and that is  
116 substantially similar to a license issued to a Florida-licensed  
117 provider specified in paragraph (1) (b);

118 3. Has not been the subject of disciplinary action  
119 relating to his or her license during the 5-year period  
120 immediately prior to the submission of the application;

121 4. Designates a duly appointed registered agent for  
122 service of process in this state on a form prescribed by the  
123 department; and

124 5. Demonstrates to the board, or the department if there  
125 is no board, that he or she is in compliance with paragraph (e).

126  
127 The department shall use the National Practitioner Data Bank to  
128 verify the information submitted under this paragraph, as  
129 applicable.

130 (c) The website of a telehealth provider registered under  
131 paragraph (b) must prominently display a hyperlink to the  
132 department's website containing information required under  
133 paragraph (h).

134 (d) A health care professional may not register under this  
135 subsection if his or her license to provide health care services  
136 is subject to a pending disciplinary investigation or action, or  
137 has been revoked in any state or jurisdiction. A health care  
138 professional registered under this subsection must notify the  
139 appropriate board, or the department if there is no board, of  
140 restrictions placed on his or her license to practice, or any  
141 disciplinary action taken or pending against him or her, in any  
142 state or jurisdiction. The notification must be provided within  
143 5 business days after the restriction is placed or disciplinary  
144 action is initiated or taken.

145 (e) A provider registered under this subsection shall  
146 maintain professional liability coverage or financial  
147 responsibility, that includes coverage or financial  
148 responsibility for telehealth services provided to patients not  
149 located in the provider's home state, in an amount equal to or  
150 greater than the requirements for a licensed practitioner under

151 s. 456.048, s. 458.320, or s. 459.0085, as applicable.

152 (f) A health care professional registered under this  
153 subsection may not open an office in this state and may not  
154 provide in-person health care services to patients located in  
155 this state.

156 (g) A pharmacist registered under this subsection may only  
157 use a pharmacy permitted under chapter 465, a nonresident  
158 pharmacy registered under s. 465.0156, or a nonresident pharmacy  
159 or outsourcing facility holding an active permit pursuant to s.  
160 465.0158 to dispense medicinal drugs to patients located in this  
161 state.

162 (h) The department shall publish on its website a list of  
163 all registrants and include, to the extent applicable, each  
164 registrant's:

165 1. Name.

166 2. Health care occupation.

167 3. Completed health care training and education, including  
168 completion dates and any certificates or degrees obtained.

169 4. Out-of-state health care license with the license  
170 number.

171 5. Florida telehealth provider registration number.

172 6. Specialty.

173 7. Board certification.

174 8. Five-year disciplinary history, including sanctions and  
175 board actions.

176 9. Medical malpractice insurance provider and policy  
 177 limits, including whether the policy covers claims that arise in  
 178 this state.

179 10. The name and address of the registered agent  
 180 designated for service of process in this state.

181 (i) The board, or the department if there is no board, may  
 182 take disciplinary action against an out-of-state telehealth  
 183 provider registered under this subsection if the registrant:

184 1. Fails to notify the applicable board, or the department  
 185 if there is no board, of any adverse actions taken against his  
 186 or her license as required under paragraph (d).

187 2. Has restrictions placed on or disciplinary action taken  
 188 against his or her license in any state or jurisdiction.

189 3. Violates any of the requirements of this section.

190 4. Commits any act that constitutes grounds for  
 191 disciplinary action under s. 456.072(1) or the applicable  
 192 practice act for Florida-licensed providers.

193  
 194 Disciplinary action taken by a board, or the department if there  
 195 is no board, under this paragraph may include suspension or  
 196 revocation of the provider's registration or the issuance of a  
 197 reprimand or letter of concern. A suspension may be accompanied  
 198 by a corrective action plan as determined by the board, or the  
 199 department if there is no board, the completion of which may  
 200 lead to the suspended registration being reinstated according to



201 rules adopted by the board, or the department if there is no  
202 board.

203 (5) VENUE.—For the purposes of this section, any act that  
204 constitutes the delivery of health care services is deemed to  
205 occur at the place where the patient is located at the time the  
206 act is performed or in the patient's county of residence. Venue  
207 for a civil or administrative action initiated by the  
208 department, the appropriate board, or a patient who receives  
209 telehealth services from an out-of-state telehealth provider may  
210 be located in the patient's county of residence or in Leon  
211 County.

212 (6) EXEMPTIONS.—A health care professional who is not  
213 licensed to provide health care services in this state but who  
214 holds an active license to provide health care services in  
215 another state or jurisdiction, and who provides health care  
216 services using telehealth to a patient located in this state, is  
217 not subject to the registration requirement under this section  
218 if the services are provided:

219 (a) In response to an emergency medical condition as  
220 defined in s. 395.002; or

221 (b) In consultation with a health care professional  
222 licensed in this state who has ultimate authority over the  
223 diagnosis and care of the patient.

224 (7) RULEMAKING.—The applicable board, or the department if  
225 there is no board, may adopt rules to administer this section.

226 Section 2. Effective January 1, 2020, section 627.42396,  
 227 Florida Statutes, is created to read:

228 627.42396 Reimbursement for telehealth services.—A  
 229 contract between a health insurer issuing major medical  
 230 comprehensive coverage through an individual or group policy and  
 231 a telehealth provider, as defined in s. 456.47, must be  
 232 voluntary between the insurer and the provider and must  
 233 establish mutually acceptable payment rates or payment  
 234 methodologies for services provided through telehealth. Any  
 235 contract provision that distinguishes between payment rates or  
 236 payment methodologies for services provided through telehealth  
 237 and the same services provided without the use of telehealth  
 238 must be initialed by the telehealth provider.

239 Section 3. Effective January 1, 2020, subsection (45) is  
 240 added to section 641.31, Florida Statutes, to read:

241 641.31 Health maintenance contracts.—  
 242 (45) A contract between a health maintenance organization  
 243 issuing major medical individual or group coverage and a  
 244 telehealth provider, as defined in s. 456.47, must be voluntary  
 245 between the health maintenance organization and the provider  
 246 must establish mutually acceptable payment rates or payment  
 247 methodologies for services provided through telehealth. Any  
 248 contract provision that distinguishes between payment rates or  
 249 payment methodologies for services provided through telehealth  
 250 and the same services provided without the use of telehealth

251 must be initialed by the telehealth provider.

252       Section 4. Effective July 1, 2020, the Department of  
253 Health shall annually review the amount of any fees collected  
254 under section 456.47, Florida Statutes, in the prior fiscal year  
255 and shall determine whether such fees are sufficient to enable  
256 the department and the boards, as defined in section 456.001,  
257 Florida Statutes, to fully implement section 456.47, Florida  
258 Statutes. If the department determines that the fees collected  
259 are insufficient, the department shall so indicate to the  
260 Legislature in its annual legislative budget request and shall  
261 recommend appropriate adjustments to the applicable fees.

262       Section 5. For fiscal year 2019-2020, the sums of \$261,389  
263 in recurring funds and \$15,020 in nonrecurring funds from the  
264 Medical Quality Assurance Trust Fund are appropriated to the  
265 Department of Health, and four full-time equivalent positions  
266 with associated salary rate of 145,870 are authorized for the  
267 purpose of implementing s. 456.47, Florida Statutes, as created  
268 by this act.

269       Section 6. Except as otherwise provided, this act shall  
270 take effect July 1, 2019.

**DENTAL BOARD[650]**

**Notice of Intended Action**

**Proposing rule making related to teledentistry  
and providing an opportunity for public comment**

The Dental Board hereby proposes to amend Chapter 27, “Standards of Practice and Principles of Professional Ethics,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 153.33 and 272C.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 147.2, 153.13, 153.15, 153.17, and 153.38.

*Purpose and Summary*

The primary purpose of these proposed amendments is to define standards of practice for teledentistry. Technological advances have made it possible for dental services to be provided without an on-site dentist. New rule 650—27.12(153) expands access to dental services utilizing available technology. The new rule also establishes criteria to safely provide dental services while maintaining patient confidentiality.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

The rules in this chapter establish the minimum requirements to meet the standard of care in the practice of dentistry. Waiver of these rules would pose a risk to members of the public since it would mitigate the minimum acceptable standard of the practice of dentistry.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on May 15, 2019. Comments should be directed to:

Steve Garrison  
Iowa Dental Board  
400 S.W. Eighth Street, Suite D  
Des Moines, Iowa 50309  
Phone: 515.281.3248  
Fax: 515.281.7969  
Email: [steven.garrison@iowa.gov](mailto:steven.garrison@iowa.gov)

## Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Renumber rule **650—27.12(17A,147,153,272C)** as **650—27.13(17A,147,153,272C)**.

ITEM 2. Adopt the following **new** rule 650—27.12(153):

**650—27.12(153) Teledentistry.** This rule establishes the standards of practice for teledentistry.

**27.12(1) Definitions.** As used in this rule:

“*Asynchronous technology*” means store-and-forward technology that allows a dentist, dental hygienist, or dental assistant to transmit a patient’s health information to a dentist for viewing at a later time.

“*Board*” means the Iowa dental board.

“*Synchronous technology*” means two-way audiovisual technology that allows a dentist to see and communicate in real time with a patient who is located in a different physical location.

“*Teledentistry*” means the practice of dentistry when a patient receives dental care in a location where the dentist is not physically at that location but is delivering or overseeing the delivery of those services through the use of teledentistry technology.

“*Teledentistry technology*” means synchronous or asynchronous technology.

**27.12(2) Teledentistry authorized.** In accordance with this rule, 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 required.** A dentist who uses teledentistry in the examination, diagnosis, or treatment of a patient located in Iowa shall hold an active Iowa license to practice dentistry.

**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 teledentistry standards of practice and practice guidelines, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes.

**27.12(5) Calibration training.** The dentist, dental hygienist, and dental assistant shall undergo calibration training for any teledentistry technology utilized. Calibration training shall include communication and data sharing to ensure that the use of teledentistry technologies allows the dentist to provide diagnoses and treatment planning with comparable efficacy to diagnoses and treatment planning provided at an in-person examination. Calibration training includes processes and protocols for screening, data collection, definitive examination, and diagnosis. The purpose of calibration training is to diminish practice inconsistencies and ensure coordinated efforts.

**27.12(6) 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, licensure, credentials, and qualifications of all dentists, dental hygienists, and dental assistants involved in the patient's dental care; and

c. Precautions for technological failures or emergency situations.

**27.12(7) 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(8) 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(9) Supervision.** With the exception of administering local anesthesia or nitrous oxide inhalation analgesia, or performing expanded functions, a dentist may delegate and supervise services to be performed to 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 synchronous technology. A dentist is not required to directly supervise the entire delivery of dental care but must appear using synchronous technology upon request 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 technology.

c. When public health supervision is utilized, a supervising dentist may authorize use of teledentistry technology.

**27.12(10) Patient records.** A teledentistry encounter shall be clearly characterized as such in a patient record.

**27.12(11) 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.

ITEM 3. Amend **650—Chapter 27**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 153.34(7), ~~153.34(9)~~, 272C.3, 272C.4(1f) and 272C.4(6).



## NOTICE OF TEXT [Authority G.S. 150B-21.2(c)]

**OAH USE ONLY**

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing  
 Notice without a scheduled hearing  
 Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.  
Previous publication of text was published in Volume:                      Issue:

1. Rule-Making Agency: North Carolina Board of Dental Examiners

2. Link to agency website pursuant to G.S. 150B-19.1(c): [www.ncdentalboard.org](http://www.ncdentalboard.org)

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

- ADOPTION: 21 NCAC 16T.0103
- READOPTION with substantive changes: 21 NCAC 16T.0101
- READOPTION without substantive changes:
- AMENDMENT:
- REPEAL:

4. Proposed effective date: January 1, 2019

5. Is a public hearing planned?  Yes  No

If yes: Public Hearing date: October 11, 2018

Public Hearing time: 6:30 pm

Public Hearing Location: 2000 Perimeter Park Drive, Suite 160, Morrisville, North Carolina 27560

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:



7. Explain Reason For Proposed Rule(s): The Board determined that a patient's informed consent to treatment must be documented by the dentist in the patient record. To that end, the Board proposes amending 21 NCAC 16T.0101 to add this requirement, and to adopt 21 NCAC 16T.0103 to define the requirements for obtaining informed consent. 21 NCAC 16T.0101 was identified as a rule with substantive public interest during the Board's periodic review of existing rules, and the Board seeks to readopt the rule with this change.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Bobby D. White, Esq.

Address: 2000 Perimeter Park Drive, Suite 160, Morrisville, North Carolina 27560

Phone (optional):

Fax (optional):

E-Mail (optional):

10. Comment Period Ends: November 5, 2018

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- State funds affected
- Environmental permitting of DOT affected  
Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact ( $\geq$ \$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

12. Rule-making Coordinator: Whitney Waldenberg

Address: 2000 Perimeter Park Drive, Suite 160,  
Morrisville, North Carolina 27560

Phone: 919-610-0573

E-Mail: whitney@brockerlawfirm.com

Agency contact, if any:

Phone:

E-mail:

13. The Agency formally proposed the text of this rule(s) on  
Date: August 10, 2018

14. Signature of Agency Head\* or Rule-making Coordinator:



\*If this function has been delegated (reassigned) pursuant to  
G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Whitney Waldenberg

Title: Rulemaking Coordinator



1 21 NCAC 16T .0101 is proposed for readoption with substantive changes as follows:

2  
3 **SUBCHAPTER 16T – PATIENT RECORDS**

4  
5 **SECTION .0100 – PATIENT RECORDS**

6  
7 **21 NCAC 16T .0101 RECORD CONTENT**

8 A dentist shall maintain ~~complete~~ treatment records on all patients for a period of ~~at least~~ 10 years from the last  
9 treatment ~~date-date~~, except that work orders must only be maintained for a period of 2 years. Treatment records may  
10 include such information as the dentist deems appropriate but shall include:

- 11 (1) the patient's ~~Patient's~~ full name, address, and treatment dates;
- 12 (2) the patient's ~~Patient's~~ nearest relative ~~emergency contact~~ or responsible party;
- 13 (3) a current ~~Current~~ health history;
- 14 (4) the diagnosis ~~Diagnosis~~ of condition;
- 15 (5) the ~~Specific~~ treatment rendered and by whom;
- 16 (6) the name ~~Name~~ and strength of any medications prescribed, dispensed, or administered along with  
17 the quantity and date provided;
- 18 (7) the work ~~Work~~ orders issued; ~~issued during the past two years~~;
- 19 (8) the treatment ~~Treatment~~ plans for patients of record, except that treatment plans are not required for  
20 patients seen only on an emergency basis;
- 21 (9) the diagnostic ~~Diagnostic~~ radiographs, orthodontic study models, and other diagnostic aids, if taken;
- 22 (10) the patient's ~~Patients'~~ financial records and copies of all insurance claim forms; ~~and~~
- 23 (11) the rationale ~~Rationale~~ for prescribing each ~~narcotic-narcotic~~; and
- 24 (12) A written record that the patient gave informed consent consistent with Rule .0103 of this Section.

25  
26 *History Note: Authority G.S. 90-28; 90-48;*  
27 *Eff. October 1, 1996;*  
28 *Amended Eff. May 1, 2016; July 1, 2015;*  
29 *Readopted with substantive changes January 1, 2019.*

1 21 NCAC 16T .0103 is proposed for adoption as follows:

2

3 **21 NCAC 16T .0103 INFORMED CONSENT**

4 (a) To obtain informed consent to a specific procedure or treatment to be provided, the dentist shall discuss with a  
5 patient or other person authorized by the patient or by law to give informed consent on behalf of the patient, prior to  
6 any treatment or procedure, information sufficient to permit the patient or authorized person to understand:

7 (1) the condition to be treated;

8 (2) the specific procedures and treatments to be provided;

9 (3) the anticipated results of the procedures and treatments to be provided;

10 (4) the risks and hazards of the procedures or treatments to be provided that are recognized by dentists  
11 engaged in the same field of practice;

12 (5) the risks of foregoing the proposed treatments or procedures; and

13 (6) alternative procedures or treatment options;

14 (b) A dentist is not required to obtain informed consent if

15 (1) treatment is rendered on an emergency basis; and

16 (2) the patient is incapacitated.

17

18 *History Note: Authority G.S. 90-28; 90-48;*

19 *Eff. January 1, 2019.*

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## INTERPRETIVE STATEMENT REGARDING INFORMED CONSENT

To protect the public interest, the North Carolina Board of Dental Examiners (Board) provides interpretation and guidance regarding acceptable standards of care on the issue of patients' informed consent. Patients have the right to receive adequate information regarding proposed treatments or procedures to enable them to make informed decisions about their care. The patient's informed consent to treatments and procedures must be documented in the treatment record consistent with 21 NCAC 16T.0101 and 21 NCAC 16T.0103. [[Link to Rules](#)]

A dentist may satisfy the requirements of 21 NCAC 16T.0101 and 21 NCAC 16T.0103 for routine, low-risk procedures by personally discussing the procedures with the patient, or other person authorized to give informed consent on behalf of the patient, at the initial visit and by obtaining the patient's general consent to such procedures, which personal discussion with the dentist and general consent must be documented in the patient record. The general consent may apply to all routine, low-risk procedures performed at future visits. Examples of such low-risk, routine procedures and services include those defined under the Diagnostic, Preventive, and Restorative sections of the ADA Dental Procedures Codes (CDT Codes).

However, for treatments and procedures that are aimed at addressing a diagnosed condition, and that carry an increased risk for unwanted outcomes, the dentist must obtain the patient's informed consent for the specific treatment or procedure prior to undertaking such treatment or procedure, which personal discussion with the dentist and specific consent must be documented in the treatment record. Examples of treatments, services, or procedures that would require the dentist to separately document the patient's informed consent include those defined in the Endodontics, Periodontics, Prosthodontics (Removable and Fixed), Maxillofacial Prosthetics, Implant Services, Oral and Maxillofacial Surgery, Orthodontics, and Anesthesia sections of the CDT Codes.

Dentists can satisfy the requirement to document obtaining informed consent from the patient utilizing different methods, such as including it in the patient's clinical treatment record or chart, documenting it in the patient's electronic dental records, or using a separate written informed consent form, possibly signed and dated by the patient. The Board, however, cautions dentists against the overuse of templates and forms and emphasizes that the treatment record should reflect the actual exchange of information between the dentist and patient regarding the conditions diagnosed, proposed course of treatment, expected result, risks involved in treatment, and alternative treatment options.

By: Perry

S.B. No. 792

A BILL TO BE ENTITLED

AN ACT

relating to the practice of dentistry and the provision of teledentistry dental services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

1 scope of the health professional's license, certification, or  
2 entitlement to a patient at a different physical location than the  
3 health professional using telecommunications or information  
4 technology.

5 SECTION 3. Section [111.002](#), Occupations Code, is amended to  
6 read as follows:

7 Sec. 111.002. INFORMED CONSENT. A treating physician,  
8 dentist, or health professional who provides or facilitates the use  
9 of telemedicine medical services, teledentistry dental services,  
10 or telehealth services shall ensure that the informed consent of  
11 the patient, or another appropriate individual authorized to make  
12 health care treatment decisions for the patient, is obtained before  
13 telemedicine medical services, teledentistry dental services, or  
14 telehealth services are provided.

15 SECTION 4. Section [111.003](#), Occupations Code, is amended to  
16 read as follows:

17 Sec. 111.003. CONFIDENTIALITY. A treating physician,  
18 dentist, or health professional who provides or facilitates the use  
19 of telemedicine medical services, teledentistry dental services,  
20 or telehealth services shall ensure that the confidentiality of the  
21 patient's clinical [~~medical~~] information is maintained as required  
22 by Chapter [159](#), by Subchapter C, Chapter [258](#), or by other applicable  
23 law.

24 SECTION 5. Section [111.004](#), Occupations Code, is amended  
25 to read as follows:

26 Sec. 111.004. RULES. (a) The Texas Medical Board, in  
27 consultation with the commissioner of insurance, as appropriate,

1 may adopt rules necessary to:

2 (1) ensure that patients using telemedicine medical  
3 services receive appropriate, quality care;

4 (2) prevent abuse and fraud in the use of telemedicine  
5 medical services, including rules relating to the filing of claims  
6 and records required to be maintained in connection with  
7 telemedicine medical services;

8 (3) ensure adequate supervision of health  
9 professionals who are not physicians and who provide telemedicine  
10 medical services; and

11 (4) establish the maximum number of health  
12 professionals who are not physicians that a physician may supervise  
13 through a telemedicine medical service.

14 (b) The State Board of Dental Examiners, in consultation  
15 with the commissioner of insurance, as appropriate, may adopt rules  
16 necessary to:

17 (1) ensure that patients using teledentistry dental  
18 services receive appropriate, quality care;

19 (2) prevent abuse and fraud in the use of  
20 teledentistry dental services, including rules relating to the  
21 filing of claims and records required to be maintained in  
22 connection with teledentistry dental services;

23 (3) ensure adequate supervision of health  
24 professionals who are not dentists and who provide teledentistry  
25 dental services; and

26 (4) establish the maximum number of health  
27 professionals who are not dentists that a dentist may supervise

1 through a teledentistry dental service.

2 SECTION 6. The heading to Section 111.005, Occupations  
3 Code, is amended to read as follows:

4 Sec. 111.005. PRACTITIONER-PATIENT RELATIONSHIP FOR  
5 TELEMEDICINE MEDICAL SERVICES OR TELEDENTISTRY DENTAL SERVICES.

6 SECTION 7. Sections 111.005(a) and (b), Occupations Code,  
7 are amended to read as follows:

8 (a) For purposes of Section 562.056, a valid  
9 practitioner-patient relationship is present between a  
10 practitioner providing a telemedicine medical service or a  
11 teledentistry dental service and a patient receiving the  
12 [~~telemedicine medical~~] service as long as the practitioner complies  
13 with the standard of care described in Section 111.007 and the  
14 practitioner:

15 (1) has a preexisting practitioner-patient  
16 relationship with the patient established in accordance with rules  
17 adopted under Section 111.006;

18 (2) communicates, regardless of the method of  
19 communication, with the patient pursuant to a call coverage  
20 agreement established in accordance with:

21 (A) Texas Medical Board rules with a physician  
22 requesting coverage of medical care for the patient; or

23 (B) State Board of Dental Examiners rules with a  
24 dentist requesting coverage of dental care for the patient; or

25 (3) provides the telemedicine medical services or  
26 teledentistry dental services through the use of one of the  
27 following methods, as long as the practitioner complies with the

1 follow-up requirements in Subsection (b), and the method allows the  
2 practitioner to have access to, and the practitioner uses, the  
3 relevant clinical information that would be required in accordance  
4 with the standard of care described in Section 111.007:

5 (A) synchronous audiovisual interaction between  
6 the practitioner and the patient in another location;

7 (B) asynchronous store and forward technology,  
8 including asynchronous store and forward technology in conjunction  
9 with synchronous audio interaction between the practitioner and the  
10 patient in another location, as long as the practitioner uses  
11 clinical information from:

12 (i) clinically relevant photographic or  
13 video images, including diagnostic images; or

14 (ii) the patient's relevant clinical  
15 ~~[medical]~~ records, such as the relevant medical or dental history,  
16 laboratory and pathology results, and prescriptive histories; or

17 (C) another form of audiovisual  
18 telecommunication technology that allows the practitioner to  
19 comply with the standard of care described in Section 111.007.

20 (b) A practitioner who provides telemedicine medical  
21 services or teledentistry dental services to a patient as described  
22 in Subsection (a)(3) shall:

23 (1) provide the patient with guidance on appropriate  
24 follow-up care; and

25 (2) if the patient consents and the patient has a  
26 primary care physician or a regular dentist, provide to the  
27 patient's primary care physician or regular dentist, as



1 appropriate, within 72 hours after the practitioner provides the  
2 services to the patient, a clinical [~~medical~~] record or other  
3 report containing an explanation of the treatment provided by the  
4 practitioner to the patient and the practitioner's evaluation,  
5 analysis, or diagnosis, as appropriate, of the patient's condition.

6 SECTION 8. Section [111.006](#), Occupations Code, is amended by  
7 adding Subsection (c) to read as follows:

8 (c) The State Board of Dental Examiners and the Texas State  
9 Board of Pharmacy shall jointly adopt rules that establish the  
10 determination of a valid prescription in accordance with Section  
11 [111.005](#), as that section applies to teledentistry dental services.  
12 Rules adopted under this subsection must allow for the  
13 establishment of a practitioner-patient relationship by a  
14 teledentistry dental service provided by a practitioner to a  
15 patient in a manner that complies with Section [111.005](#)(a)(3). The  
16 State Board of Dental Examiners and the Texas State Board of  
17 Pharmacy shall jointly develop and publish on each respective  
18 board's Internet website responses to frequently asked questions  
19 relating to the determination of a valid prescription issued in the  
20 course of the provision of teledentistry dental services.

21 SECTION 9. Section [111.007](#), Occupations Code, is amended to  
22 read as follows:

23 Sec. [111.007](#). STANDARD OF CARE FOR TELEMEDICINE MEDICAL  
24 SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES.

25 (a) A health professional providing a health care service or  
26 procedure as a telemedicine medical service, a teledentistry dental  
27 service, or a telehealth service is subject to the standard of care

1 that would apply to the provision of the same health care service or  
2 procedure in an in-person setting.

3 (b) An agency with regulatory authority over a health  
4 professional may not adopt rules pertaining to telemedicine medical  
5 services, teledentistry dental services, or telehealth services  
6 that would impose a higher standard of care than the standard  
7 described in Subsection (a).

8 SECTION 10. Chapter [111](#), Occupations Code, is amended by  
9 adding Section 111.009 to read as follows:

10 Sec. 111.009. CERTAIN PRESCRIPTIONS PROHIBITED. (a) In  
11 this section, "controlled substance" and "prescribe" have the  
12 meanings assigned by Section [481.002](#), Health and Safety Code.

13 (b) A dentist may not prescribe a controlled substance to a  
14 patient as a teledentistry dental service.

15 SECTION 11. Section [251.003](#), Occupations Code, is amended  
16 by adding Subsection (d) to read as follows:

17 (d) For purposes of this subtitle, a person located in  
18 another state practices dentistry in this state if the person  
19 through the use of any medium, including an electronic medium,  
20 performs an act that constitutes the practice of dentistry on a  
21 patient in this state.

22 SECTION 12. Chapter [254](#), Occupations Code, is amended by  
23 adding Section 254.0035 to read as follows:

24 Sec. 254.0035. RULES REGARDING CALL COVERAGE AGREEMENTS.  
25 The board shall adopt rules governing a call coverage agreement  
26 between dentists.

27 SECTION 13. Section [258.001](#), Occupations Code, is amended

1 to read as follows:

2           Sec. 258.001. IMPERMISSIBLE DELEGATIONS. A dentist may not  
3 delegate:

4           (1) an act to an individual who, by board order, is  
5 prohibited from performing the act;

6           (2) any of the following acts to a person not licensed  
7 as a dentist or dental hygienist:

8           (A) the removal of calculus, deposits, or  
9 accretions from the natural and restored surfaces of exposed human  
10 teeth and restorations in the human mouth;

11           (B) root planing or the smoothing and polishing  
12 of roughened root surfaces or exposed human teeth; or

13           (C) any other act the delegation of which is  
14 prohibited by board rule;

15           (3) any of the following acts to a person not licensed  
16 as a dentist:

17           (A) comprehensive examination or diagnosis and  
18 treatment planning;

19           (B) a surgical or cutting procedure on hard or  
20 soft tissue;

21           (C) the prescription of a drug, medication, or  
22 work authorization;

23           (D) the taking of an impression for a final  
24 restoration, appliance, or prosthesis;

25           (E) the making of an intraoral occlusal  
26 adjustment;

27           (F) direct pulp capping, pulpotomy, or any other

1 endodontic procedure;

2 (G) the final placement and intraoral adjustment  
3 of a fixed or removable appliance; or

4 (H) the placement of any final restoration; or

5 (4) the authority to an individual to administer a  
6 local anesthetic agent, inhalation sedative agent, parenteral  
7 sedative agent, or general anesthetic agent, including the  
8 authority to administer an anesthetic or sedative agent as a  
9 teledentistry dental service as that term is defined by Section  
10 111.001, if the individual is not licensed as:

11 (A) a dentist with a permit issued by the board  
12 for the procedure being performed, if a permit is required;

13 (B) a certified registered nurse anesthetist  
14 licensed by the Texas Board of Nursing, only if the delegating  
15 dentist holds a permit issued by the board for the procedure being  
16 performed, if a permit is required; or

17 (C) a physician anesthesiologist licensed by the  
18 Texas Medical Board.

19 SECTION 14. Subchapter A, Chapter 258, Occupations Code, is  
20 amended by adding Section 258.004 to read as follows:

21 Sec. 258.004. COLLABORATIVE PRACTICE WITH DENTAL  
22 HYGIENIST. (a) In this section, "collaborative practice  
23 agreement" means a written practice agreement and protocols for the  
24 practice of dental hygiene.

25 (b) A dental hygienist may practice dental hygiene under a  
26 collaborative practice agreement with a dentist if the dental  
27 hygienist has been engaged in the practice of dental hygiene for at

1 least one year with a minimum of 2,000 practice hours.

2 (c) A dental hygienist may enter into a collaborative  
3 practice agreement to practice dental hygiene in any setting  
4 authorized by law for the practice of dental hygiene.

5 (d) A collaborative practice agreement must include  
6 protocols:

7 (1) describing the practice of dental hygiene for:

8 (A) medically compromised patients;

9 (B) specific medical conditions;

10 (C) patients with needs related to age; and

11 (D) patients with complex medical histories;

12 (2) prescribing standards for specific dental hygiene  
13 procedures, including intervals for the performance of those  
14 procedures;

15 (3) prescribing intervals at which a supervising  
16 dentist must examine a patient;

17 (4) describing the services that the dental hygienist  
18 may provide, the procedures that the dental hygienist may perform,  
19 the practice settings in which the services may be provided and the  
20 procedures may be performed, and any limitations on the services  
21 and procedures;

22 (5) describing case selection criteria, assessment  
23 guidelines, and imaging frequency guidelines for patients by age  
24 and in relation to specific procedures;

25 (6) prescribing procedures for obtaining informed  
26 consent from patients and for creating and maintaining patient  
27 records;

1           (7) establishing a plan for the dentist to review  
2 patient records created and maintained by the dental hygienist;

3           (8) establishing a plan for the management of medical  
4 emergencies in each setting in which the dental hygienist  
5 practices;

6           (9) establishing a quality assurance plan for the  
7 dentist to monitor care provided by the dental hygienist, including  
8 review of patient care, referrals, and charts;

9           (10) describing the medications that may be  
10 administered and dispensed by the dental hygienist and the specific  
11 circumstances under which the medications may be administered and  
12 dispensed;

13           (11) describing any requirements for consultation  
14 with the dentist before providing care to patients with specific  
15 medical conditions or complex medical histories; and

16           (12) establishing a plan, which includes clinical  
17 resources and referrals, for situations in which a patient requires  
18 treatment that exceeds the capabilities or scope of practice of the  
19 dental hygienist.

20           (e) A collaborative practice agreement may include  
21 provisions to allow the practice of dental hygiene without:

22                   (1) prior examination of the patient by a dentist; and

23                   (2) the presence of a supervising dentist.

24           (f) A collaborative practice agreement must be:

25                   (1) signed by the dentist, the dental hygienist, and,  
26 if applicable, a representative of the facility, program, or  
27 organization in which the practice of dental hygiene takes place;

1           (2) reviewed annually by the dentist and the dental  
2 hygienist who are parties to the collaborative practice agreement;  
3 and

4           (3) made available to the board and other interested  
5 parties on request.

6           (g) Not more than two collaborative practice agreements  
7 between a dentist and a dental hygienist may be in effect at a time.

8           (h) Notwithstanding any rule adopted under Section  
9 111.004(b)(4), a dentist may have a collaborative practice  
10 agreement with not more than six dental hygienists at the same time.  
11 The board may grant an exception to the requirements of this  
12 subsection for the practice of dental hygiene in a public health  
13 setting.

14           (i) Before providing any service authorized by a  
15 collaborative practice agreement, the dental hygienist must  
16 provide the patient with a written statement advising the patient  
17 that the dental hygiene services performed are not a substitute for  
18 examination by a dentist.

19           (j) If a dental hygienist operating under a collaborative  
20 practice agreement makes a referral for further dental procedures,  
21 the dental hygienist must complete a referral form approved by the  
22 board and provide a copy of the form to the dentist who is a party to  
23 the collaborative practice agreement.

24           SECTION 15. Section 262.001, Occupations Code, is amended  
25 by adding Subdivision (3) to read as follows:

26           (3) "Teledentistry dental service" has the meaning  
27 assigned by Section 111.001.

1 SECTION 16. Section 262.151(a), Occupations Code, is  
2 amended to read as follows:

3 (a) A licensed dentist may delegate orally or in writing a  
4 service, task, or procedure to a dental hygienist who is under the  
5 supervision and responsibility of the dentist, if:

6 (1) the dental hygienist is licensed to perform the  
7 service, task, or procedure;

8 (2) the supervising dentist:

9 (A) examines the patient, including an  
10 examination performed as a teledentistry dental service:

11 (i) [~~(A)~~] at the time the service, task, or  
12 procedure is performed by the dental hygienist; or

13 (ii) [~~(B)~~] during the 12 calendar months  
14 preceding the date of performance of the service, task, or  
15 procedure by the dental hygienist; or

16 (B) enters into a collaborative practice  
17 agreement with the dental hygienist, as described by Section  
18 258.004, that includes a provision allowing the dental hygienist to  
19 practice dental hygiene without prior examination of the patient by  
20 the dentist; and

21 (3) the dental hygienist does not:

22 (A) diagnose a dental disease or ailment;

23 (B) prescribe a treatment or a regimen;

24 (C) prescribe or[7] order[7, ~~or~~ ~~dispense~~]  
25 medication; [~~or~~]

26 (D) except as authorized by the supervising  
27 dentist in a collaborative practice agreement described by Section



1 258.004, administer or dispense medication; or

2 (E) perform any procedure that is irreversible or  
3 involves the intentional cutting of soft or hard tissue by any  
4 means.

5 SECTION 17. Sections 262.1515(a), (b), and (c), Occupations  
6 Code, are amended to read as follows:

7 (a) A licensed dentist may delegate a service, task, or  
8 procedure, pursuant to this section, to a dental hygienist, without  
9 complying with Section 262.151(a)(2) if:

10 (1) the dental hygienist has at least two years'  
11 experience in the practice of dental hygiene; and

12 (2) the service, task, or procedure is performed in  
13 one of the following locations:

14 (A) a medical facility, including:

15 (i) a public health clinic conducted by a  
16 local health unit, health department, or public health district  
17 organized and recognized under Chapter 121, Health and Safety Code;

18 (ii) a general hospital or special  
19 hospital, as those terms are defined by Section 241.003, Health and  
20 Safety Code, including a hospital maintained or operated by this  
21 state;

22 (iii) a nursing facility as defined in  
23 Section 242.301, Health and Safety Code;

24 (iv) an ambulatory surgical center licensed  
25 under Chapter 243, Health and Safety Code;

26 (v) a birthing center licensed under  
27 Chapter 244, Health and Safety Code;

1                    (vi) a mental hospital licensed under  
2 Chapter 577, Health and Safety Code;

3                    (vii) a community health center as defined  
4 by Section 136.002, Human Resources Code;

5                    (viii) a mobile dental facility operating  
6 under a permit issued by the board; and

7                    (ix) an outpatient clinic;

8                    (B) a primary or secondary school [~~school-based~~  
9 ~~health center established under Subchapter B, Chapter 38, Education~~  
10 ~~Code~~]; [~~or~~]

11                    (C) a Head Start program facility;

12                    (D) a secure correctional facility as defined by  
13 Section 1.07, Penal Code;

14                    (E) the residence of a patient who is homebound  
15 or who is receiving or is eligible to receive:

16                    (i) home and community-based waiver  
17 services under the Medicaid program;

18                    (ii) hospice services; or

19                    (iii) other home care services; or

20                    (F) any other facility approved by board rule [~~a~~  
21 ~~community health center as defined by Section 136.002, Human~~  
22 ~~Resources Code~~].

23                    (b) The patient may [~~must~~] be referred as needed to a  
24 licensed dentist after the completion of a service, task, or  
25 procedure performed under Subsection (a).

26                    (c) A dental hygienist may [~~only~~] perform delegated tasks or  
27 procedures with respect to a patient for not more than 12 [~~six~~]

1 months unless:

2           (1) the patient has been examined by a dentist in  
3 compliance with Section [262.151\(a\)\(2\)\(A\)](#);

4           (2) a dentist reviews the patient's dental records,  
5 including a review performed as a teledentistry dental service, and  
6 determines that the dental hygienist may continue to provide  
7 services to the patient; or

8           (3) a dentist otherwise provides teledentistry dental  
9 services to the patient and determines that the dental hygienist  
10 may continue to provide services to the patient [~~262.151(a)(2)~~].

11           SECTION 18. Section [562.056\(c\)](#), Occupations Code, is  
12 amended to read as follows:

13           (c) For purposes of this section and Section [562.112](#), a  
14 valid practitioner-patient relationship is present between a  
15 practitioner providing telemedicine medical services or  
16 teledentistry dental services and the patient receiving the  
17 [~~telemedicine medical~~] services if the practitioner has complied  
18 with the requirements for establishing such a relationship in  
19 accordance with Section [111.005](#).

20           SECTION 19. Section [531.001](#), Government Code, is amended by  
21 adding Subdivision (6-a) to read as follows:

22           (6-a) "Teledentistry dental service" has the meaning  
23 assigned by Section [111.001](#), Occupations Code.

24           SECTION 20. The heading to Section [531.0216](#), Government  
25 Code, is amended to read as follows:

26           Sec. 531.0216. PARTICIPATION AND REIMBURSEMENT OF  
27 TELEMEDICINE MEDICAL SERVICE PROVIDERS, TELEDENTISTRY DENTAL

1 SERVICE PROVIDERS, AND TELEHEALTH SERVICE PROVIDERS UNDER  
2 MEDICAID.

3 SECTION 21. Sections 531.0216(a), (b), (c), (d), (e), and  
4 (f), Government Code, are amended to read as follows:

5 (a) The executive commissioner by rule shall develop and  
6 implement a system to reimburse providers of services under  
7 Medicaid for services performed using telemedicine medical  
8 services, teledentistry dental services, or telehealth services.

9 (b) In developing the system, the executive commissioner by  
10 rule shall:

11 (1) review programs and pilot projects in other states  
12 to determine the most effective method for reimbursement;

13 (2) establish billing codes and a fee schedule for  
14 services;

15 (3) consult with the Department of State Health  
16 Services to establish procedures to:

17 (A) identify clinical evidence supporting  
18 delivery of health care services using a telecommunications system;  
19 and

20 (B) annually review health care services,  
21 considering new clinical findings, to determine whether  
22 reimbursement for particular services should be denied or  
23 authorized;

24 (4) establish a separate provider identifier for  
25 telemedicine medical services providers, teledentistry dental  
26 services providers, telehealth services providers, and home  
27 telemonitoring services providers; and

1           (5) establish a separate modifier for telemedicine  
2 medical services, teledentistry dental services, telehealth  
3 services, and home telemonitoring services eligible for  
4 reimbursement.

5           (c) The commission shall encourage health care providers  
6 and health care facilities to participate as telemedicine medical  
7 service providers, teledentistry dental service providers, or  
8 telehealth service providers in the health care delivery system.  
9 The commission may not require that a service be provided to a  
10 patient through telemedicine medical services, teledentistry  
11 dental services, or telehealth services when the service can  
12 reasonably be provided by a physician or a dentist, if appropriate,  
13 through a face-to-face consultation with the patient in the  
14 community in which the patient resides or works. This subsection  
15 does not prohibit the authorization of the provision of any service  
16 to a patient through telemedicine medical services, teledentistry  
17 dental services, or telehealth services at the patient's request.

18           (d) Subject to Sections 111.004 and ~~[Section]~~ 153.004,  
19 Occupations Code, the executive commissioner may adopt rules as  
20 necessary to implement this section. In the rules adopted under  
21 this section, the executive commissioner shall:

22           (1) refer to the site where the patient is physically  
23 located as the patient site; and

24           (2) refer to the site where the physician, dentist, or  
25 health professional providing the telemedicine medical service,  
26 teledentistry dental service, or telehealth service is physically  
27 located as the distant site.

1 (e) The commission may not reimburse a health care facility  
2 for telemedicine medical services, teledentistry dental services,  
3 or telehealth services provided to a Medicaid recipient unless the  
4 facility complies with the minimum standards adopted under Section  
5 [531.02161](#).

6 (f) Not later than December 1 of each even-numbered year,  
7 the commission shall report to the speaker of the house of  
8 representatives and the lieutenant governor on the effects of  
9 telemedicine medical services, teledentistry dental services,  
10 telehealth services, and home telemonitoring services on Medicaid  
11 in the state, including the number of physicians, dentists, health  
12 professionals, and licensed health care facilities using  
13 telemedicine medical services, teledentistry dental services,  
14 telehealth services, or home telemonitoring services, the  
15 geographic and demographic disposition of the physicians,  
16 dentists, and health professionals, the number of patients  
17 receiving telemedicine medical services, teledentistry dental  
18 services, telehealth services, and home telemonitoring services,  
19 the types of services being provided, and the cost of utilization of  
20 telemedicine medical services, teledentistry dental services,  
21 telehealth services, and home telemonitoring services to Medicaid.

22 SECTION 22. The heading to Section [531.02161](#), Government  
23 Code, is amended to read as follows:

24 Sec. 531.02161. TELEMEDICINE, TELEDENTISTRY, TELEHEALTH,  
25 AND HOME TELEMONITORING TECHNOLOGY STANDARDS.

26 SECTION 23. Section [531.02161](#)(b), Government Code, is  
27 amended to read as follows:

1 (b) The executive commissioner by rule shall establish and  
2 adopt minimum standards for an operating system used in the  
3 provision of telemedicine medical services, teledentistry dental  
4 services, telehealth services, or home telemonitoring services by a  
5 health care facility participating in Medicaid, including  
6 standards for electronic transmission, software, and hardware.

7 SECTION 24. The heading to Section 531.02162, Government  
8 Code, is amended to read as follows:

9 Sec. 531.02162. MEDICAID SERVICES PROVIDED THROUGH  
10 TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND  
11 TELEHEALTH SERVICES TO CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

12 SECTION 25. Sections 531.02162(b) and (c), Government Code,  
13 are amended to read as follows:

14 (b) The executive commissioner by rule shall establish  
15 policies that permit reimbursement under Medicaid and the child  
16 health plan program for services provided through telemedicine  
17 medical services, teledentistry dental services, and telehealth  
18 services to children with special health care needs.

19 (c) The policies required under this section must:

20 (1) be designed to:

21 (A) prevent unnecessary travel and encourage  
22 efficient use of telemedicine medical services, teledentistry  
23 dental services, and telehealth services for children with special  
24 health care needs in all suitable circumstances; and

25 (B) ensure in a cost-effective manner the  
26 availability to a child with special health care needs of services  
27 appropriately performed using telemedicine medical services,

1 teledentistry dental services, and telehealth services that are  
2 comparable to the same types of services available to that child  
3 without the use of telemedicine medical services, teledentistry  
4 dental services, and telehealth services; and

5 (2) provide for reimbursement of multiple providers of  
6 different services who participate in a single session of  
7 telemedicine medical services, teledentistry dental services,  
8 [and] telehealth services, or any combination of those services,  
9 [session] for a child with special health care needs, if the  
10 commission determines that reimbursing each provider for the  
11 session is cost-effective in comparison to the costs that would be  
12 involved in obtaining the services from providers without the use  
13 of telemedicine medical services, teledentistry dental services,  
14 and telehealth services, including the costs of transportation and  
15 lodging and other direct costs.

16 SECTION 26. Subchapter B, Chapter 531, Government Code, is  
17 amended by adding Section 531.02172 to read as follows:

18 Sec. 531.02172. REIMBURSEMENT FOR TELEDENTISTRY DENTAL  
19 SERVICES. The commission by rule shall require each health and  
20 human services agency that administers a part of the Medicaid  
21 program to provide Medicaid reimbursement for teledentistry dental  
22 services provided by a dentist licensed to practice dentistry in  
23 this state or a dental hygienist licensed to practice dental  
24 hygiene in this state. The commission shall require reimbursement  
25 for a teledentistry dental service at the same rate as the Medicaid  
26 program reimburses for a comparable in-person dental service. A  
27 request for reimbursement may not be denied solely because an



1 in-person dental service between a dentist and a patient did not  
2 occur.

3 SECTION 27. The heading to Section 62.157, Health and  
4 Safety Code, is amended to read as follows:

5 Sec. 62.157. TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY  
6 DENTAL SERVICES, AND TELEHEALTH SERVICES FOR CHILDREN WITH SPECIAL  
7 HEALTH CARE NEEDS.

8 SECTION 28. Sections 62.157(a) and (b), Health and Safety  
9 Code, are amended to read as follows:

10 (a) In providing covered benefits to a child with special  
11 health care needs, a health plan provider must permit benefits to be  
12 provided through telemedicine medical services, teledentistry  
13 dental services, and telehealth services in accordance with  
14 policies developed by the commission.

15 (b) The policies must provide for:

16 (1) the availability of covered benefits  
17 appropriately provided through telemedicine medical services,  
18 teledentistry dental services, and telehealth services that are  
19 comparable to the same types of covered benefits provided without  
20 the use of telemedicine medical services, teledentistry dental  
21 services, and telehealth services; and

22 (2) the availability of covered benefits for different  
23 services performed by multiple health care providers during a  
24 single [~~telemedicine medical services and telehealth services~~]  
25 session of telemedicine medical services, teledentistry dental  
26 services, telehealth services, or any combination of those  
27 services, if the executive commissioner determines that delivery of

1 the covered benefits in that manner is cost-effective in comparison  
2 to the costs that would be involved in obtaining the services from  
3 providers without the use of telemedicine medical services,  
4 teledentistry dental services, and telehealth services, including  
5 the costs of transportation and lodging and other direct costs.

6 SECTION 29. Section 62.1571, Health and Safety Code, is  
7 amended to read as follows:

8 Sec. 62.1571. TELEMEDICINE MEDICAL SERVICES AND  
9 TELEDENTISTRY DENTAL SERVICES. (a) In providing covered benefits  
10 to a child, a health plan provider must permit benefits to be  
11 provided through telemedicine medical services and teledentistry  
12 dental services in accordance with policies developed by the  
13 commission.

14 (b) The policies must provide for:

15 (1) the availability of covered benefits  
16 appropriately provided through telemedicine medical services and  
17 teledentistry dental services that are comparable to the same types  
18 of covered benefits provided without the use of telemedicine  
19 medical services and teledentistry dental services; and

20 (2) the availability of covered benefits for different  
21 services performed by multiple health care providers during a  
22 single session of telemedicine medical services, teledentistry  
23 dental services, or both services, if the executive commissioner  
24 determines that delivery of the covered benefits in that manner is  
25 cost-effective in comparison to the costs that would be involved in  
26 obtaining the services from providers without the use of  
27 telemedicine medical services or teledentistry dental services,

1 including the costs of transportation and lodging and other direct  
2 costs.

3 (c) [~~(d)~~] In this section, "teledentistry dental service"  
4 and "telemedicine medical service" have [~~has~~] the meanings  
5 [~~meaning~~] assigned by Section 531.001, Government Code.

6 SECTION 30. Section 32.024, Human Resources Code, is  
7 amended by adding Subsection (11) to read as follows:

8 (11) The executive commissioner shall establish a separate  
9 provider type for dental hygienists for purposes of enrollment as a  
10 provider of and reimbursement under the medical assistance program.

11 SECTION 31. Section 843.002(24), Insurance Code, is amended  
12 to read as follows:

13 (24) "Provider" means:

14 (A) a person, other than a physician, who is  
15 licensed or otherwise authorized to provide a health care service  
16 in this state, including:

17 (i) a chiropractor, registered nurse,  
18 pharmacist, optometrist, [~~ex~~] acupuncturist, or dental hygienist;  
19 or

20 (ii) a pharmacy, hospital, or other  
21 institution or organization;

22 (B) a person who is wholly owned or controlled by  
23 a provider or by a group of providers who are licensed or otherwise  
24 authorized to provide the same health care service; or

25 (C) a person who is wholly owned or controlled by  
26 one or more hospitals and physicians, including a  
27 physician-hospital organization.

1 SECTION 32. Section 1301.001(1-a), Insurance Code, is  
2 amended to read as follows:

3 (1-a) "Health care provider" means a practitioner,  
4 institutional provider, or other person or organization that  
5 furnishes health care services and that is licensed or otherwise  
6 authorized to practice in this state. [~~The term includes a  
7 pharmacist and a pharmacy.~~] The term does not include a physician.

8 The term includes:

9 (A) a pharmacist;

10 (B) a pharmacy; and

11 (C) a dental hygienist.

12 SECTION 33. Section 1451.101, Insurance Code, is amended by  
13 amending Subdivision (1) and adding Subdivision (1-a) to read as  
14 follows:

15 (1) "Dental hygienist" has the meaning assigned by  
16 Section 256.051, Occupations Code.

17 (1-a) "Health insurance policy" means a policy,  
18 contract, or agreement described by Section 1451.102.

19 SECTION 34. Subchapter C, Chapter 1451, Insurance Code, is  
20 amended by adding Section 1451.128 to read as follows:

21 Sec. 1451.128. SELECTION OF DENTAL HYGIENIST. An insured  
22 may select a dental hygienist to provide the services scheduled in  
23 the health insurance policy that are within the scope of the dental  
24 hygienist's license.

25 SECTION 35. The heading to Chapter 1455, Insurance Code, is  
26 amended to read as follows:

27 CHAPTER 1455. TELEMEDICINE, TELEDENTISTRY, AND TELEHEALTH

1 SECTION 36. Section 1455.001, Insurance Code, is amended by  
2 amending Subdivisions (1) and (3) and adding Subdivision (1-a) to  
3 read as follows:

4 (1) "Dentist" means a person licensed to practice  
5 dentistry in this state under Subtitle D, Title 3, Occupations  
6 Code.

7 (1-a) "Health professional" means:

8 (A) a physician;

9 (B) an individual who is:

10 (i) licensed or certified in this state to  
11 perform health care services; and

12 (ii) authorized to assist:

13 (a) a physician in providing  
14 telemedicine medical services that are delegated and supervised by  
15 the physician; or

16 (b) a dentist in providing  
17 teledentistry dental services that are delegated and supervised by  
18 the dentist;

19 (C) a licensed or certified health professional  
20 acting within the scope of the license or certification who does not  
21 perform a telemedicine medical service; or

22 (D) a dentist.

23 (3) "Teledentistry dental service," "telehealth  
24 ["Telehealth] service," and "telemedicine medical service" have  
25 the meanings assigned by Section 111.001, Occupations Code.

26 SECTION 37. Section 1455.004, Insurance Code, is amended to  
27 read as follows:

1           Sec. 1455.004. COVERAGE FOR TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES. (a) A  
2 health benefit plan may not exclude from coverage a covered health  
3 care service or procedure delivered by a preferred or contracted  
4 health professional to a covered patient as a telemedicine medical  
5 service, a teledentistry dental service, or a telehealth service  
6 solely because the covered health care service or procedure is not  
7 provided through an in-person consultation.  
8

9           (b) A health benefit plan may require a deductible, a  
10 copayment, or coinsurance for a covered health care service or  
11 procedure delivered by a preferred or contracted health  
12 professional to a covered patient as a telemedicine medical  
13 service, a teledentistry dental service, or a telehealth service.  
14 The amount of the deductible, copayment, or coinsurance may not  
15 exceed the amount of the deductible, copayment, or coinsurance  
16 required for the covered health care service or procedure provided  
17 through an in-person consultation.

18           (c) Notwithstanding Subsection (a), a health benefit plan  
19 is not required to provide coverage for a telemedicine medical  
20 service, a teledentistry dental service, or a telehealth service  
21 provided by only synchronous or asynchronous audio interaction,  
22 including:

- 23                   (1) an audio-only telephone consultation;  
24                   (2) a text-only e-mail message; or  
25                   (3) a facsimile transmission.

26           SECTION 38. Section [1455.006](#), Insurance Code, is amended to  
27 read as follows:

1           Sec. 1455.006.   TELEMEDICINE                   MEDICAL                   SERVICES,  
2 TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES STATEMENT.

3   (a) Each issuer of a health benefit plan shall adopt and display in  
4 a conspicuous manner on the health benefit plan issuer's Internet  
5 website the issuer's policies and payment practices for  
6 telemedicine medical services, teledentistry dental services, and  
7 telehealth services.

8       (b) This section does not require an issuer of a health  
9 benefit plan to display negotiated contract payment rates for  
10 health professionals who contract with the issuer to provide  
11 telemedicine medical services, teledentistry dental services, or  
12 telehealth services.

13       SECTION 39. (a) Not later than March 1, 2020, the State  
14 Board of Dental Examiners and the Texas State Board of Pharmacy  
15 shall jointly adopt rules as required by Section 111.006(c),  
16 Occupations Code, as added by this Act.

17       (b) Not later than March 1, 2020, the State Board of Dental  
18 Examiners shall adopt:

19           (1) rules necessary to implement Chapter 111,  
20 Occupations Code, as amended by this Act;

21           (2) rules as required by Section 254.0035, Occupations  
22 Code, as added by this Act; and

23           (3) rules necessary to implement Section 258.004,  
24 Occupations Code, as added by this Act.

25       SECTION 40. As soon as practicable after the effective date  
26 of this Act, the Health and Human Services Commission shall  
27 establish and implement a separate provider type for dental

1 hygienists as required by Section 32.024(11), Human Resources Code,  
2 as added by this Act.

3 SECTION 41. If before implementing any provision of this  
4 Act a state agency determines that a waiver or authorization from a  
5 federal agency is necessary for implementation of that provision,  
6 the agency affected by the provision shall request the waiver or  
7 authorization and may delay implementing that provision until the  
8 waiver or authorization is granted.

9 SECTION 42. (a) Except as provided by Subsection (b) of  
10 this section, this Act takes effect September 1, 2019.

11 (b) Sections 1455.004 and 1455.006, Insurance Code, as  
12 amended by this Act, take effect January 1, 2020.