

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 3196**

By Delegates Funkhouser, Rohrbach, Hott, Linville, J.

Cannon, Shamblin, Hall, and Barnhart

[Introduced March 06, 2025; referred to the  
Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §30-4C-1, §30-4C-2, and §30-4C-3, §30-4C-4, §30-4C-5, §30-4C-6, §30-4C-7,  
3 §30-4C-8, §30-4C-9, §30-4C-10, §30-4C-11, §30-4C-12, and §30-4C-13, §30-4C-14, §30-  
4 4C-15, §30-4C-16, §30-4C-17, §30-4C-18, and §30-4C-19, relating to creating the  
5 Teledentistry Practice Act; definitions; standard of care; provider-patient relationship; and  
6 disciplinary procedures.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 4C. TELEDENTISTRY PRACTICE ACT.**

### **§30-4C-1. Definitions.**

1 "Asynchronous transmission" means store and forward technology that allows a provider  
2 to transmit a patient's health information to another provider for viewing at a later time.

3 "Board" means the West Virginia Board of Dentistry.

4 "Distant site" means the location of the site where a teledentistry provider of health care is  
5 providing teledentistry services to a patient located at an originating site.

6 "Emergent care" means treatment of pain, infection or any other intraoral or perioral  
7 condition which presents immediate harm to the well-being of the patient and for which treatment  
8 cannot be postponed.

9 "Originating site" means the location of the site where a patient is receiving teledentistry  
10 services from a provider of healthcare at a distant site.

11 "Provider" means:

12 (1) A dentist; (2) A dental hygienist; (3) A medical facility as the employer of any person  
13 specified in these subsections (a)-(d);

14 "Public health program" means a program approved by the Board or any program  
15 administered by:

16 (1) The Department of Human Services; (2) a health district; or (3) a school district.

17 "Teledentistry" means the use of telehealth by a provider who is located at a distant site to

facilitate the diagnosis, treatment, education, care management and self-management of or consultation with a patient who is located at an originating site. The term includes, without limitation:

(1) Real-time interactions between a patient at an originating site and a provider at a distant site;

(2) The asynchronous transmission of medical and dental information concerning a patient from an originating site to a provider at a distant site;

(3) Interaction between a provider at a distant site who is providing dental services to a patient at an originating site and another provider at the originating site; and

(4) Monitoring of a patient at an originating site by a provider at a distant site.

**§30-4C-2. License required.**

A person may not provide dental services through teledentistry to a patient who is located at an originating site in this state unless the person:

(1) Is licensed to practice dentistry or dental hygiene in this state; and

(2) Possesses and maintains a policy of professional liability insurance which insures the provider against any liability arising from the provision of dental services.

**§30-4C-3. Standard of Care.**

(a) A provider who provides dental services through teledentistry, including, without limitation, providing consultation and recommendations for treatment, issuing a prescription, diagnosing, correcting the position of teeth and using orthodontic appliances, shall provide those services in accordance with the same standards of care and professional conduct as when providing those services in person or by other means.

(b) A provider may not:

(1) Provide treatment for any condition based solely on the results of an online questionnaire; (2) Engage in activity that is outside his or her scope of practice while providing services through teledentistry; or (3) Delegate to a dental hygienist, dental assistant, dental

auxiliary, or any other individual any act or duty through teledentistry that require the in-person supervision of a licensed dentist or that is otherwise outside such individuals permissible scope of practice.

**§30-4C-4. Provider-Patient Relationship Required.**

Except as otherwise provided in §30-4C-3(b) of this code, a provider shall establish a bona fide relationship with a patient before providing services to a patient through teledentistry. A bona fide relationship between a patient and a provider shall exist if the provider has:

(1) Reviewed the patient's relevant history, medical records, diagnostic records, and, if treatment is for the correction of a malposition of teeth, the patient's current radiographic records. "Current radiographic records" means those radiographs or images taken contemporaneously with the in-person examination.

(2) Performed an appropriate, in-person, physical examination of the patient for the purpose of diagnosing, assessing, developing a treatment plan, or determining the patient's current medical or dental condition; and

(3) A reasonable expectation that he or she will provide in-person follow-up care and treatment to the patient on a regular basis.

**§30-4C-5. Exceptions to Provider-Patient Relationship.**

Notwithstanding the limitations provided §30-4C-3(b) of this code, a provider may establish a relationship with a patient through teledentistry only:

(1) For the purpose of emergent care;

(2) In connection with a public health program; or

(3) To make an initial diagnosis of a malposition of teeth and a determination of the need for an orthodontic appliance. Such an initial diagnosis and determination must be confirmed through an in-person visit and review of the patient's current radiographic records, before the patient begins using the orthodontic appliance.

**§30-4C-6. Prerequisites to Services.**

1 Prior to the provision of services to a patient through teledentistry, a provider shall:

2 (1) Confirm the identity of the patient. If the patient is a minor who is not authorized by law  
3 to consent to the services, confirm that the parent or legal guardian of the patient is present;

4 (2) Confirm that the patient is located in a jurisdiction where the provider is licensed or  
5 otherwise authorized to practice and document the location of the patient in the record of the  
6 patient;

7 (3) Obtain informed written consent that meets the requirements of §30-4C-8 of this code  
8 from a patient who is an adult or a minor authorized by law to provide consent; or informed written  
9 consent that meets the requirements of §30-4C-8 of this code from the parent or guardian of a  
10 patient who is a minor and is not authorized by law to provide consent; and

11 (4) Document the informed consent provided pursuant to paragraph (d) in the record of the  
12 patient.

#### **§30-4C-7.**

#### **Disclosures.**

1 Prior to providing services through teledentistry and upon the request of a patient to whom  
2 services are provided through teledentistry, a provider or any partnership, corporation, or other  
3 entity through which a provider provides services shall make available to the patient proof of the  
4 identity of the provider, the telephone number of the provider, the address at which the provider  
5 practices, the license number of the provider and any other relevant information concerning the  
6 qualifications of the provider and any other provider who will be involved in providing the services  
7 through teledentistry.

#### **§30-4C-8. Informed Consent.**

1 Informed consent to the provision of services through teledentistry requires the patient or  
2 his or her parent or guardian, as applicable, to be informed of:

3 (1) The types of services that will be provided through teledentistry and any limitations on  
4 the provision of those services through teledentistry;

5 (2) The information prescribed by subsection 7 for each provider who will provide services

6 through teledentistry;

7 (3) Precautions that shall be taken in the event of a technological failure or an emergency;

8 and

9 (4) Any other information prescribed by regulation of the Board.

**§30-4C-9. Dentist of Record.**

1 Except in situations requiring emergency treatment, a dentist of record is required for all  
2 patients being treated through teledentistry. The dentist of record shall remain primarily  
3 responsible for all dental treatment of the patient, regardless of whether treatment has been  
4 delegated to a teledentistry provider.

**§30-4C-10. Advertisement of Teledentistry Services.**

1 No provider, partnership, corporation, or other entity which provides, or purports to provide  
2 teledentistry services or provides a platform, technology, or support services through which  
3 teledentistry is provided, may advertise their services unless they employ a provider licensed in  
4 this State. Any such advertisements for teledentistry services must include the following  
5 disclaimer, in a conspicuous location, stating the limitations and safety concerns regarding  
6 teledentistry:

7 DISCLAIMER: Orthodontic treatment is a complex biological process that if not done  
8 correctly or performed without a thorough examination of the overall health of the teeth and gums  
9 could result in the permanent loss of teeth, which may result in additional costs or lifelong dental  
10 problems. Teledentistry services are intended to supplement traditional treatment methods and  
11 are not intended to replace in-person examinations. It is important to consult with a licensed  
12 orthodontist or dentist prior to beginning any treatment.

**§30-4C-11. Patient Privacy.**

1 A provider who provides services through teledentistry shall:

2 (1) Use communications technology that complies with Health Insurance Portability and  
3 Accountability Act of 1996, Public Law 104-191, and any regulations adopted pursuant thereto;

4 and

5 (2) Create a complete record of each encounter with a patient through teledentistry and  
6 maintain such records in accordance with all applicable federal and state laws and regulations.

**§30-4C-12. Provider Competency.**

1 (a) A provider who provides services through teledentistry must be adequately familiar with  
2 the nature and availability of dental care in the geographical area in which the patient is located to  
3 ensure that the patient receives appropriate care during the provision of the services.

4 (b) If a provider is not able to competently provide services through teledentistry, including  
5 without limitation, because the provider is unable to receive adequate information about the  
6 patient, the provider shall notify the patient of that fact and:

7 (1) Provide the services in person;

8 (2) Request any additional information necessary to competently provide the services  
9 through teledentistry; or

10 (3) Refer the patient to an appropriate licensee to receive the services in person.

**§30-4C-13. Delegated Duties.**

1 A dentist may only delegate tasks to auxiliaries, including but not limited to dental  
2 hygienists and dental assistants, to the extent permitted by existing law or the Dental Practice Act.

**§30-4C-14. Referral in the case of emergency.**

1 A provider who provides services through teledentistry shall refer a patient to the  
2 emergency department of a hospital or another provider of acute care in an emergency or any  
3 other situation where the provision of acute care is necessary to protect the health and safety of  
4 the patient.

**§30-4C-15 . Board to adopt rules.**

1 The Board shall adopt regulations governing the provision of dental services through  
2 teledentistry. Those regulations must include, without limitation, requirements concerning:

3 (1) The issuance of prescription through teledentistry;

4           (2) The maintenance of records concerning patients to whom services are provided  
5 through teledentistry and the protection of the privacy of such patients;

6           (3) The use of teledentistry for collaboration between:

7           (A) Providers and the office of a physician, physician assistant or advanced practice nurse;  
8 and

9           (B) Providers who practice in different specialty areas; and

10          (C) Interaction between providers using teledentistry, including without limitation:

11          (4) The supervision of a dental therapist who has not completed the necessary hours of  
12 clinical practice or of a dental hygienist by a dentist using teledentistry; and

13          (5) Interaction between different providers who are providing care to the same patient.

**§30-4C-16 . Evidence-Based Standards.**

1           The regulations adopted pursuant to §30-4C-15 of this code may prescribe evidence-  
2 based standards of practice that must be used when providing services through teledentistry to  
3 ensure the safety of patients, the quality of care and positive outcomes.

**§30-4C-17. Unprofessional Conduct.**

1           It shall be considered unprofessional conduct for a provider or teledentistry service or  
2 platform to:

3           (1) Fail to actively involve a patient in decisions concerning his or her treatment;

4           (2) Require a patient to enter into an agreement that restricts the ability of the patient to  
5 submit a complaint to the Board, file a lawsuit, join a class action lawsuit, make reports to any  
6 governmental entity, to require the patient to submit to binding arbitration, or to otherwise limit or  
7 prohibit the patient from obtaining relief for deficiencies in the treatment or services they have  
8 received;

9           (3) Fail to perform an in-person examination of a patient or fail to review a patient's  
10 diagnostic and radiographic images taken concurrently with the in-person visit prior to initiating  
11 treatment, except for those situations enumerated in §30-4C-5 of this code.



- 12           (4) Fail to review diagnostic digital or conventional radiographs for orthodontia before:  
13           (A) Taking any action to correct a malposition of teeth; or  
14           (B) The initial use of an orthodontic appliance;  
15           (5) Delegate to an auxiliary a task or service that is not indicated or permitted by existing  
16 law to be performed by that individual;  
17           Fail to comply with the requirements of §30-4C-7 of this code.

**§30-4C-18. Disciplinary Proceedings.**

- 1           In addition to the grounds for disciplinary action authorized by the Dental Practice Act, the  
2 Board may also take disciplinary action against any provider who is found to be practicing  
3 teledentistry in violation of any section of this article or has committed any of the acts specified in  
4 §30-4C-17 of his code.

**§30-4C-19. Disciplinary Procedure.**

- 1           The process for instituting and conducting disciplinary proceedings against a teledentistry  
2 provider pursuant to this act shall be the same process as that contained in the Dental Practice Act  
3 for disciplinary actions.

NOTE: The purpose of this bill is to create the Teledentistry Practice Act.

Strike-throughs indicate language that would be stricken from a heading or the present law  
and underscoring indicates new language that would be added.