

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 710

BY SENATORS CHAPMAN AND ROBERTS

[Reported March 7, 2025, from the Committee on
Health and Human Resources]

1 A BILL to amend and reenact §30-4-3 of the Code of West Virginia, 1931, as amended; and to
2 amend the code by adding a new section, designated §30-4-8b, relating to the practice of
3 dentistry; defining terms; setting forth the requirements for teledentistry licensure or
4 registration; setting forth the standard of care for teledentistry; setting forth the
5 requirements to establish a provider-patient relationship for teledentistry; setting forth
6 exceptions to the provider-patient relationship for teledentistry; setting forth prerequisites
7 to services for teledentistry; setting forth required disclosures for teledentistry; setting forth
8 informed consent for teledentistry; setting forth record-keeping requirements for
9 teledentistry; setting forth patient privacy requirements for teledentistry; setting forth
10 provider competency requirements for teledentistry; requiring rulemaking; setting forth
11 disciplinary proceedings for teledentistry; and setting forth disciplinary procedures
12 teledentistry.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-3. Definitions.

1 As used in §30-4-1 *et seq.*, §30-4A-1 *et seq.*, and §30-4B-1 *et seq.* of this code, the
2 following words and terms have the following meanings:

3 "AAOMS" means the American Association of Oral and Maxillofacial Surgeons;

4 "AAPD" means the American Academy of Pediatric Dentistry;

5 "ACLS" means advanced cardiac life support;

6 "ADA" means the American Dental Association;

7 "AMA" means the American Medical Association;

8 "ASA" means American Society of Anesthesiologists;

9 "Anxiolysis/minimal sedation" means removing, eliminating, or decreasing anxiety by the
10 use of a single anxiety or analgesia medication that is administered in an amount consistent with
11 the manufacturer's current recommended dosage for the unsupervised treatment of anxiety,

insomnia, or pain, in conjunction with nitrous oxide and oxygen. This does not include multiple dosing or exceeding current normal dosage limits set by the manufacturer for unsupervised use by the patient at home for the treatment of anxiety;

"Approved dental hygiene program" means a program that is approved by the board and is accredited, or its educational standards are deemed by the board to be substantially equivalent to those required by the Commission on Dental Accreditation of the American Dental Association;

"Approved dental school, college, or dental department of a university" means a dental school, college, or dental department of a university that is approved by the board and is accredited, or its educational standards are deemed by the board to be substantially equivalent to those required by the Commission on Dental Accreditation of the American Dental Association;

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

"Authorize" means that the dentist is giving permission or approval to dental auxiliary personnel to perform delegated procedures in accordance with the dentist's diagnosis and treatment plan;

"BLS" means basic life support;

"Board" means the West Virginia Board of Dentistry;

"Business entity" means any firm, partnership, association, company, corporation, limited partnership, limited liability company, or other entity;

"Central nervous system anesthesia" means an induced, controlled state of unconsciousness or depressed consciousness produced by a pharmacologic method;

"Certificate of qualification" means a certificate authorizing a dentist to practice a specialty;

"CPR" means cardiopulmonary resuscitation;

"Conscious sedation/moderate sedation" means an induced, controlled state of depressed consciousness, produced through the administration of nitrous oxide and oxygen and/or the administration of other agents whether enteral or parenteral, in which the patient retains the ability

to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command;

"CRNA" means certified registered nurse anesthetist;

"Defibrillator" means an electronic device that applies an electric shock to the heart to restore the normal functional rhythm of a fibrillating, nonfunctional heart and includes an Automatic Electronic Defibrillator (AED);

"Delegated procedures" means those procedures specified by law or by rule of the board and performed by dental auxiliary personnel under the supervision of a licensed dentist;

"Dentist anesthesiologist" means a dentist who is trained in the practice of anesthesiology and has completed an additional approved anesthesia education course;

"Dental anesthesiology" is the specialty of dentistry and discipline of anesthesiology encompassing the art and science of managing pain, anxiety, and overall patient health during dental, oral, maxillofacial, and adjunctive surgical or diagnostic procedures throughout the entire perioperative period. The specialty is dedicated to promoting patient safety as well as access to care for all dental patients, including the very young and patients with special health care needs;

"Dental assistant" means a person qualified by education, training, or experience who aids or assists a dentist in the delivery of patient care in accordance with delegated procedures as specified by the board by rule or who may perform nonclinical duties in the dental office;

"Dental auxiliary personnel" or "auxiliary" means dental hygienists and dental assistants who assist the dentist in the practice of dentistry;

"Dental hygiene" means the performance of educational, preventive, or therapeutic dental services and as further provided in §30-4-11 of this code and legislative rule;

"Dental hygienist" means a person licensed by the board to practice and who provides dental hygiene and other services as specified by the board by rule to patients in the dental office and in a public health setting;

"Dental laboratory" means a business performing dental laboratory services;

"Dental laboratory services" means the fabricating, repairing, or altering of a dental prosthesis;

"Dental laboratory technician" means a person qualified by education, training, or experience who has completed a dental laboratory technology education program and who fabricates, repairs, or alters a dental prosthesis in accordance with a dentist's work authorization;

"Dental office" means the place where the licensed dentist and dental auxiliary personnel are practicing dentistry;

"Dental prosthesis" means an artificial appliance fabricated to replace one or more teeth or other oral or peri-oral structure in order to restore or alter function or aesthetics;

"Dental public health" is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which considers the community to be the patient rather than any individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis;

"Dentist" means an individual licensed by the board to practice dentistry;

"Dentistry" means the evaluation, diagnosis, prevention, and treatment, of diseases, disorders, and conditions of the oral cavity and the maxillofacial, adjacent, and associated structures and their impact on the human body;

"Direct supervision" means supervision provided by a licensed dentist who is physically present in the dental office or treatment facility when procedures are being performed;

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

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

"Endodontics" is the branch of dentistry which is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp and associated periradicular conditions;

"Facility permit" means a permit for a facility where sedation procedures are used that correspond with the level of anesthesia provided;

"General anesthesia" means an induced, controlled state of unconsciousness in which the patient experiences complete loss of protective reflexes, as evidenced by the inability to independently maintain an airway, the inability to respond purposefully to physical stimulation or the inability to respond purposefully to verbal command;

"Deep conscious sedation/general anesthesia" includes partial loss of protective reflexes while the patient retains the ability to independently and continuously maintain an airway;

"General supervision" means a dentist is not required to be in the office or treatment facility when procedures are being performed, has personally authorized the procedures to be completed, and will evaluate the treatment provided at a future appointment by the dental auxiliary personnel;

"Health care provider BLS/CPR" means health care provider basic life support/cardiopulmonary resuscitation;

"License" means a license to practice dentistry or dental hygiene;

"Licensee" means a person holding a license;

"Mobile dental facility" means any self-contained facility in which dentistry or dental hygiene will be practiced which may be moved, towed, or transported from one location to another;

"Originating site" means the location of the site where a patient is receiving teledentistry services from a provider of health care at a distant site;

"Portable dental unit" means any non-facility in which dental equipment, utilized in the practice of dentistry, is transported to and utilized on a temporary basis in an out-of-office location including, but not limited to, patients' homes, schools, nursing homes, or other institutions;

"Provider" means a dentist, a dental hygienist, or a medical facility as the employer of any person in this definition;

"Public health program" means a program approved by the board or any program administered by: The Department of Health, a health district, or a school district;

"Oral medicine" is the specialty of dentistry responsible for the oral health care of medically complex patients and for the diagnosis and management of medically related disorders or conditions affecting the oral and maxillofacial region;

"Oral pathology" is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of oral pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations;

"Oral and maxillofacial radiology" is the specialty of dentistry and discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders, and conditions of the oral and maxillofacial region;

"Oral and maxillofacial surgery" is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region;

"Orofacial pain" is the specialty of dentistry that encompasses the diagnosis, management and treatment of pain disorders of the jaw, mouth, face and associated regions, which specialty is dedicated to the evidenced-based understanding of the underlying pathophysiology, etiology, prevention, and treatment of these disorders and improving access to interdisciplinary patient

care. These disorders as they relate to orofacial pain include, but are not limited to, temporomandibular muscle and joint (TMJ) disorders, jaw movement disorders, neuropathic and neurovascular pain disorders, headache, and sleep disorders;

"Orthodontics and dentofacial orthopedics" is the dental specialty that includes the diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and skeletal abnormalities of the developing or mature orofacial structures;

"PALS" means pediatric advanced life support;

"Pediatric dentistry" is an age-defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs;

"Pediatric patient" means infants and children;

"Periodontics" is that specialty of dentistry which encompasses the prevention, diagnosis, and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function, and aesthetics of these structures and tissues;

"Physician anesthesiologist" means a physician, medical doctor, or doctor of osteopathy who is specialized in the practice of anesthesiology;

"Prosthodontics" is the dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth and/or oral and maxillofacial tissues using biocompatible substitutes;

"Public health practice" means treatment or procedures in a public health setting which shall be designated by a rule promulgated by the board to require direct, general, or no supervision of a dental hygienist by a dentist;

"Public health setting" means hospitals, schools, correctional facilities, jails, community clinics, long-term care facilities, nursing homes, home health agencies, group homes, state

institutions under the Department of Health Facilities, public health facilities, homebound settings, accredited dental hygiene education programs, and any other place designated by the board by rule;

"Qualified monitor" means an individual who by virtue of credentialing and/or training is qualified to check closely and document the status of a patient undergoing anesthesia and observe utilized equipment;

"Relative analgesia/minimal sedation" means an induced, controlled state of minimally depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide and oxygen or single oral premedication without the addition of nitrous oxide and oxygen in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command;

"Specialty" means the practice of a certain branch of dentistry;

"Subcommittee" means West Virginia Board of Dentistry Subcommittee on Anesthesia; and

"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; and

"Work authorization" means a written order for dental laboratory services which has been issued by a licensed dentist.

§30-4-8b. License or registration requirements to practice teledentistry; rules; and penalties.

(a) License or registration required. — A person shall 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 pursuant to this article or registered pursuant to §30-1-1 et seq. of this code 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.

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

(1) A provider shall not:

(A) Provide treatment for any condition based solely on the results of an online questionnaire;

(B) Engage in activity that is outside his or her scope of practice while providing services through teledentistry; or

(C) Delegate to a dental hygienist, dental assistant, dental auxiliary, or any other individual any act or duty through teledentistry that requires the in-person supervision of a licensed or registered dentist or that is otherwise outside such individuals permissible scope of practice.

(c) Provider-patient relationship required. — Except as otherwise provided for in the exceptions contained in §30-4-8b(d) of this code, a provider must 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;

(A) "Current radiographic records" means those radiographs or images taken contemporaneously; and

(B) Occurring 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.

(d) Exceptions to provider-patient relationship. — Notwithstanding the limitations provided in §30-4-8b(c) 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.

(e) Prerequisites to services. — Prior to the provision of services to a patient through teledentistry, a provider shall:

(1) Confirm the identity of the patient;

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

49 (3) Confirm that the patient is located in a jurisdiction where the provider is licensed or
50 otherwise authorized to practice and document the location of the patient in the record of the
51 patient;

52 (4) Obtain:

53 (A) Informed written consent that meets the requirements of §30-4-8b(g) of this code from
54 a patient who is an adult or a minor authorized by law to provide consent; or

55 (B) Informed written consent that meets the requirements of §30-4-8b(g) of this code from
56 the parent or guardian of a patient who is a minor and is not authorized by law to provide consent;
57 and

58 (5) Document the informed consent provided pursuant to subdivision (4), subsection (e)
59 of this section in the record of the patient.

60 (f) Disclosures. — Prior to providing services through teledentistry and upon the request
61 of a patient to whom services are provided through teledentistry, a provider or any partnership,
62 corporation, or other entity through which a provider provides services shall make available to the
63 patient proof of the identity of the provider, the telephone number of the provider, the address at
64 which the provider practices, the license or registration number of the provider, and any other
65 relevant information concerning the qualifications of the provider, and any other provider who will
66 be involved in providing the services through teledentistry.

67 (g) Informed consent. — Informed consent to the provision of services through
68 teledentistry requires the patient or his or her parent or guardian, as applicable, to be informed of:

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

71 (2) The information prescribed by §30-4-8b(f) of this code for each provider who will
72 provide services through teledentistry;

73 (3) Precautions that will be taken in the event of a technological failure or an emergency;
74 and

75 (4) Any other information prescribed by regulation of the board.

76 (h) *Dentist of record.* — Except in situations requiring emergency treatment, a dentist of
77 record is required for all patients being treated through teledentistry. The dentist of record will
78 remain primarily responsible for all dental treatment of the patient, regardless of whether
79 treatment has been delegated to a teledentistry provider.

80 (i) *Advertisement of teledentistry services.* — No provider, partnership, corporation, or
81 other entity which provides, or purports to provide teledentistry services or provides a platform,
82 technology, or support services through which teledentistry is provided, may advertise their
83 services unless they employ a provider licensed or registered in this state. Any such
84 advertisements for teledentistry services must include the following disclaimer, in a conspicuous
85 location, stating the limitations and safety concerns regarding teledentistry:

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

92 (j) *Patient privacy.* — A provider who provides services through teledentistry shall:

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

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

98 (k) *Provider competency.* —

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

102 (2) If a provider is not able to competently provide services through teledentistry, including,
103 without limitation, because the provider is unable to receive adequate information about the
104 patient, the provider must notify the patient of that fact and:

105 (A) Provide the services in person;

106 (B) Request any additional information necessary to competently provide the services
107 through teledentistry; or

108 (C) Refer the patient to an appropriate licensee or registrant to receive the services in
109 person.

110 (l) *Delegated duties.* — A dentist may only delegate tasks to auxiliaries including, but not
111 limited to, dental hygienists and dental assistants, to the extent permitted by existing law or the
112 Dental Practice Act.

113 (m) *Referral in the case of emergency.* — A provider who provides services through
114 teledentistry shall refer a patient to the emergency department of a hospital or another provider
115 of acute care in an emergency or any other situation where the provision of acute care is
116 necessary to protect the health and safety of the patient.

117 (n) *Board to adopt rules.* — The board shall propose rules for legislative approval in
118 accordance with the provisions of §29A-3-1 *et seq.* of this code regarding dental services offered
119 through teledentistry. Those regulations must include, without limitation, requirements
120 concerning:

121 (1) The issuance of prescriptions through teledentistry, consistent with the limitations in
122 §30-1-26(b)(5) of this code;

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

(3) The development of evidence-based standards;

(4) The use of teledentistry for collaboration between:

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

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

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

(A) The supervision of a dental hygienist by a dentist using teledentistry; and

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

(o) Evidence-based standards. — The regulations adopted pursuant to §30-4-8b(n) of this code may prescribe evidence-based standards of practice that must be used when providing services through teledentistry to ensure the safety of patients, the quality of care, and positive outcomes.

(p) Unprofessional conduct. — It shall be considered unprofessional conduct for a provider or teledentistry service or platform to:

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

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

(3) Fail to perform an in-person examination of a patient or fail to review a patient's diagnostic and radiographic images taken concurrently with the in-person visit prior to initiating treatment, except for those situations enumerated in §30-4-8b(d) of this code;

(4) Fail to review diagnostic digital or conventional radiographs for orthodontia before:

(A) Taking any action to correct a malposition of teeth; or

(B) The initial use of an orthodontic appliance;

151 (5) Delegate to an auxiliary a task or service that is not indicated or permitted by existing
152 law to be performed by that individual; or

153 (6) Failure to comply with the requirements of §30-4-8b(f) of this code.

154 (q) *Disciplinary proceedings.* — In addition to the grounds for disciplinary action authorized
155 by the Dental Practice Act, the board may also take disciplinary action against any provider who
156 is found to be practicing teledentistry in violation of any section or has committed any of the acts
157 specified in §30-4-8b(p) of this code.

158 (r) *Disciplinary procedure.* — The process for instituting and conducting disciplinary
159 proceedings against a teledentistry provider pursuant to this act shall be the same process as
160 that contained in the Dental Practice Act for disciplinary actions.