
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2645 Session of
2020

INTRODUCED BY MURT, SCHLOSSBERG, FREEMAN, CALTAGIRONE, FRANKEL,
CIRESI, SCHWEYER AND YOUNGBLOOD, JUNE 29, 2020

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JUNE 29, 2020

AN ACT

1 Relating to teledentistry; authorizing the regulation of
2 teledentistry by the State Board of Dentistry; and providing
3 for insurance coverage of teledentistry.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Teledentistry
8 Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Audio-only medium." A prerecorded audio presentation or
14 recording.

15 "Dental care provider." A dentist or dental hygienist who
16 holds a valid license under The Dental Law.

17 "Dental insurance policy." An individual or group health
18 insurance policy, contract or plan that provides coverage for

1 dental services provided by a dental care provider that is
2 offered by a health insurer.

3 "Dental services." The general and usual services rendered
4 and care administered by doctors of dental surgery, as specified
5 in The Dental Law.

6 "Emergency dental condition." A dental condition manifesting
7 itself by acute symptoms of sufficient severity, including
8 severe pain, that the absence of immediate dental attention
9 could reasonably be expected to result in placing the dental
10 health of the individual in serious jeopardy.

11 "Health insurer." An entity that holds a valid license by
12 the insurance department to issue a dental insurance policy and
13 is governed under any of the following:

14 (1) The act of May 17, 1921 (P.L.682, No.284), known as
15 The Insurance Company Law of 1921, including section 630 and
16 Article XXIV.

17 (2) The act of December 29, 1972 (P.L.1701, No.364),
18 known as the Health Maintenance Organization Act.

19 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
20 corporations).

21 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
22 services plan corporations).

23 "Interactive audio and video." Real-time two-way or
24 multiple-way communication between a dental care provider and a
25 patient.

26 "On-call or cross-coverage services." The provision of
27 teledentistry by a dental care provider designated by another
28 dental care provider with a provider-patient relationship to
29 deliver dental services on a temporary basis so long as the
30 designated dental care provider is in the same group or health

1 system, has access to the patient's prior dental records, holds
2 a valid license under The Dental Law, and is in a position to
3 coordinate care.

4 "Out-of-State dental care provider." A dental care provider
5 providing a teledentistry service that holds a valid license,
6 certificate or registration to provide dental services in
7 another jurisdiction and is:

8 (1) discharging official duties in the armed forces of
9 the United States, the United States Public Health Service or
10 the United States Department of Veterans Affairs;

11 (2) providing teledentistry services to a patient
12 through a federally operated facility;

13 (3) providing teledentistry services in response to an
14 emergency dental condition, if the care for the patient is
15 referred to an appropriate dental care provider in this
16 Commonwealth as promptly as possible under the circumstances;

17 (4) providing provider-to-provider consultation
18 services; or

19 (5) providing services which would otherwise be exempt
20 from the licensure requirements under The Dental Law.

21 "Provider-to-provider consultation." The act of seeking
22 advice and recommendations from another dental care provider for
23 dental services that may benefit the patient of the initiating
24 dental care provider.

25 "Store-and-forward." Technology that stores and transmits or
26 grants access to a patient's clinical information for review by
27 a dental care provider who is at a different location. The term
28 does not include the storage, transmission or use of electronic
29 dental records without the concurrent transmission of additional
30 clinical information not already present in the electronic

1 dental records.

2 "Teledentistry." The delivery of dental care services
3 provided through teledentistry technologies to a patient by a
4 dental care provider who is at a different location. The term
5 does not include a provider-to-provider consultation.

6 "Teledentistry technologies." As follows:

7 (1) Electronic information and telecommunications
8 technology, including, but not limited to, interactive audio
9 and video, remote patient monitoring or store-and-forward,
10 that meets the requirements of applicable Federal and State
11 laws.

12 (2) The term does not include the use of:

13 (i) Audio-only medium, voicemail, facsimile, e-mail,
14 instant messaging, text messaging or online questionnaire
15 or any combination thereof.

16 (ii) A telephone call, except as provided under
17 section 5(a)(3).

18 "The Dental Law." The act of May 1, 1933 (P.L.216, No.76),
19 known as The Dental Law.

20 Section 3. Regulation of teledentistry by State Board of
21 Dentistry.

22 (a) Requirements.--

23 (1) A dental care provider shall be authorized to
24 practice teledentistry in accordance with this act and the
25 corresponding regulations promulgated by the State Board of
26 Dentistry.

27 (2) A dental care provider who engages in teledentistry
28 in a manner that does not comply with the standards of care
29 or rules of practice shall be subject to discipline by the
30 State Board of Dentistry under The Dental Law.

1 (b) Regulations.--The State Board of Dentistry shall, within
2 24 months of the effective date of this section, promulgate
3 final regulations that are consistent with this act to provide
4 for and regulate teledentistry within the scope of practice and
5 standard of care regulated by the State Board of Dentistry. The
6 regulations shall not establish a separate standard of care for
7 teledentistry. The standard of care applicable to an in-person
8 encounter shall apply to a teledentistry encounter. The
9 regulations shall:

10 (1) Consider model policies and clinical guidelines for
11 the appropriate use of teledentistry technologies.

12 (2) Include patient privacy and data security standards
13 that are in compliance with applicable Federal and State
14 laws.

15 (c) Temporary regulations.--In order to facilitate the
16 prompt implementation of this act, the State Board of Dentistry
17 shall transmit notice of temporary regulations regarding
18 implementation of this act to the Legislative Reference Bureau
19 for publication in the Pennsylvania Bulletin within 120 days of
20 the effective date of this section. Temporary regulations are
21 not subject to:

22 (1) Section 612 of the act of April 9, 1929 (P.L.177,
23 No.175), known as The Administrative Code of 1929.

24 (2) Sections 201, 202, 203, 204 and 205 of the act of
25 July 31, 1968 (P.L.769, No.240), referred to as the
26 Commonwealth Documents Law.

27 (3) Sections 204(b) and 301(10) of the act of October
28 15, 1980 (P.L.950, No.164), known as the Commonwealth
29 Attorneys Act.

30 (4) The act of June 25, 1982 (P.L.633, No.181), known as

1 the Regulatory Review Act.

2 (d) Expiration.--Temporary regulations shall expire no later
3 than 24 months following publication of temporary regulations.
4 Regulations adopted after this period shall be promulgated as
5 provided by law.

6 (e) Construction.--The provisions of this act shall be in
7 full force and effect even if the State Board of Dentistry has
8 not yet published temporary regulations or implemented the
9 regulations required under this section.

10 Section 4. Compliance.

11 A dental care provider providing teledentistry services to an
12 individual located within this Commonwealth shall comply with
13 all applicable Federal and State laws and regulations, and shall
14 hold a valid license by the State Board of Dentistry. Failure to
15 hold a valid license shall subject the dental care provider to
16 discipline by the State Board of Dentistry for unlicensed
17 practice under The Dental Law.

18 Section 5. Evaluation and treatment.

19 (a) Requirements.--Except as provided under subsection (c),
20 a dental care provider who provides teledentistry to an
21 individual located in this Commonwealth shall comply with the
22 following:

23 (1) For a teledentistry encounter in which the provider
24 does not have an established provider-patient relationship,
25 the dental care provider shall:

26 (i) verify the location and identity of the
27 individual receiving dental care; and

28 (ii) disclose the dental care provider's identity,
29 geographic location and dental specialty or applicable
30 credentials.

1 (2) Obtain informed consent regarding the use of
2 teledentistry technologies from the individual or other
3 person acting in a dental care decision-making capacity for
4 the individual. The individual or other person acting in a
5 dental care decision-making capacity, including the parent or
6 legal guardian of a child in accordance with the act of
7 February 13, 1970 (P.L.19, No.10), entitled "An act enabling
8 certain minors to consent to medical, dental and health
9 services, declaring consent unnecessary under certain
10 circumstances," has the right to choose the form of service
11 delivery, which includes the right to refuse teledentistry
12 services without jeopardizing the individual's access to
13 other available services.

14 (3) Provide an appropriate examination or assessment
15 using teledentistry technologies. The dental care provider
16 may utilize interactive audio without the requirement of
17 interactive video if it is used in conjunction with store-
18 and-forward technology and, after access and review of the
19 patient's medical records, the dental care provider
20 determines that the dental care provider is able to meet the
21 same standards of care as if the dental care services were
22 provided in person. When the dental care provider utilizes
23 interactive audio without interactive video, the dental care
24 provider shall inform the patient that the patient has the
25 option to request interactive audio and video.

26 (4) Establish a diagnosis and treatment plan or execute
27 a treatment plan.

28 (5) Create and maintain an electronic dental record or
29 update an existing electronic dental record for the patient
30 within 24 hours. An electronic dental record shall be

1 maintained in accordance with applicable Federal or State
2 laws.

3 (6) Provide a visit summary to the individual if
4 requested.

5 (7) Have an emergency action plan in place for dental
6 emergencies and referrals.

7 (8) The standard of care applicable to an in-person
8 encounter shall apply to a teledentistry encounter. If the
9 use of teledentistry would be inconsistent with the standard
10 of care, the dental care provider shall direct the patient to
11 seek in-person care.

12 (b) Applicability.--

13 (1) Subsection (a)(1) shall not apply to on-call or
14 cross-coverage services.

15 (2) Subsection (a)(1) and (2) shall not apply to an
16 emergency dental condition.

17 (c) Limitations on treatment.--Teledentistry services or
18 technologies shall not be permitted to be utilized or employed
19 for the delivery or administration of any dental care services
20 that are required to be delivered or administered in a dentist's
21 office.

22 Section 6. Insurance coverage of teledentistry.

23 (a) Insurance coverage and reimbursement.--

24 (1) A dental insurance policy issued, delivered,
25 executed or renewed in this Commonwealth after the effective
26 date of this section shall provide coverage for medically
27 necessary teledentistry delivered by a dental care provider
28 who provides a covered service via teledentistry consistent
29 with the health insurer's dental policies. A dental insurance
30 policy may not exclude a dental care service for coverage

1 solely because the service is provided through teledentistry.

2 (2) Subject to paragraph (1), a health insurer shall
3 reimburse a dental care provider for both in-person and
4 teledentistry services in accordance with the terms and
5 conditions of the participation agreement between the health
6 insurer and the dental care provider. Reimbursement shall not
7 be conditioned upon the use of an exclusive teledentistry
8 platform or teledentistry vendor.

9 (3) Payment for a covered service provided via
10 teledentistry by any dental care provider shall be
11 established between the dental care provider and health
12 insurer.

13 (b) Applicability.--This section shall apply as follows:

14 (1) Subsection (a)(1) and (2) shall not apply if the
15 teledentistry service is facilitated via a dental device or
16 other technology that provides clinical data or information,
17 excluding existing information in an electronic dental
18 records system, other than that independently provided
19 through interactive audio and video with, or store-and-
20 forward imaging provided by, the patient.

21 (2) For a dental insurance policy for which either rates
22 or forms are required to be filed with the Federal Government
23 or the insurance department, this section shall apply to a
24 policy for which a form or rate is first filed on or after
25 180 days after the effective date of this section.

26 (3) For a dental insurance policy for which neither
27 rates nor forms are required to be filed with the Federal
28 Government or the insurance department, this section shall
29 apply to a policy issued or renewed on or after 180 days
30 after the effective date of this section.

1 (c) Construction.--Nothing under this section shall be
2 construed to:

3 (1) Prohibit a health insurer from reimbursing other
4 dental providers for covered services provided via
5 teledentistry.

6 (2) Require a health insurer to reimburse an out-of-
7 network dental care provider for teledentistry.

8 Section 7. Medicaid program reimbursement.

9 (a) Medical assistance payment.--Medical assistance payments
10 shall be made on behalf of eligible individuals for
11 teledentistry, consistent with Federal law, as specified under
12 this act if the service would be covered through an in-person
13 encounter.

14 (b) Applicability.--Subsection (a) does not apply if:

15 (1) the teledentistry-enabling device, technology or
16 service fails to comply with applicable law and regulatory
17 guidance regarding the secure transmission and maintenance of
18 patient information; or

19 (2) the provision of the service using teledentistry
20 would be inconsistent with the standard of care.

21 Section 8. Effective date.

22 This act shall take effect as follows:

23 (1) Section 6 shall take effect upon publication in the
24 Pennsylvania Bulletin of the temporary regulations required
25 in section 3(c).

26 (2) Section 7 shall take effect in 90 days.

27 (3) The remainder of this act shall take effect
28 immediately.