

The House Committee on Health offers the following substitute to HB 441:

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 11 of Title 43 of the Official Code of Georgia Annotated, relating to
2 dentists, dental hygienists, and dental assistants, so as to authorize and regulate teledentistry
3 in this state by licensed dentists pursuant to permits issued by the Georgia Board of
4 Dentistry; to provide for definitions; to provide for the issuance and renewal of permits for
5 teledentistry; to provide for an exemption; to provide for conditions for such permit; to
6 provide for authorized practices; to provide for a referred dentist; to provide for ownership
7 of documents; to provide for a limited number of dental auxiliaries to perform teledentistry;
8 to require health insurers to cover dental care provided through teledentistry; to prohibit
9 health insurers from requiring covered persons to obtain dental care through teledentistry;
10 to provide for enforcement by the Commissioner of Insurance regarding insurance coverage
11 of teledentistry; to provide for the Georgia Board of Dentistry to promulgate rules and
12 regulations; to provide for dental assistants to perform coronal polishing under direct
13 supervision; to provide for related matters; to provide an effective date; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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Chapter 11 of Title 43 of the Official Code of Georgia Annotated, relating to dentists, dental hygienists, and dental assistants, is amended in Article 2, relating to licenses for the practice of dentistry, by adding a new Code section to read as follows:

"43-11-54.

(a) As used in this Code section, the term:

(1) 'Authorizing dentist' means a licensed dentist in good standing and practicing in the State of Georgia who holds a current, valid teledentistry permit issued by the board pursuant to this Code section.

(2) 'Care management organization' shall have the same meaning as in Code Section 33-24-59.24.

(3) 'Dental auxiliary' means a licensed dental hygienist or an expanded duties dental assistant.

(4) 'Dental hygienist' means a licensed dental hygienist in good standing who meets the requirements to perform the specific dental hygiene functions permitted under general supervision under Code Section 43-11-74.

(5) 'Digital scan' means a computer generated replica of the hard and soft tissues of the oral cavity created with digital technology and enhanced digital photography.

(6) 'Direct supervision' shall have the same meaning as in Code Section 43-11-74.

(7) 'Expanded duties dental assistant' means a dental assistant who has met the additional education and training requirements established by the board pursuant to subsection (b) of Code Section 43-11-80 to perform such other acts, practices, services, or procedures.

(8) 'General supervision' shall have the same meaning as in Code Section 43-11-74.

(9) 'Health insurance plan' shall have the same meaning as in Code Section 33-24-59.24.

(10) 'Health insurer' shall have the same meaning as in Code Section 33-24-59.24.

41 (11) 'Referred dentist' means a licensed dentist practicing in Georgia who has a written
42 agreement with an authorizing dentist to provide in-person dental treatment to patients
43 receiving dental care through a teledentistry interaction under this Code section.

44 (12) 'Store and forward technologies' means technologies that allow for the electronic
45 transmission of dental and health information, including images, photographs,
46 documents, and health histories, through a secure communication system.

47 (13) 'Synchronous, real-time communication' means a live, two-way interaction between
48 an authorizing dentist and a patient or applicable dental auxiliary permitted under this
49 Code section using audiovisual telecommunications technology but shall not constitute
50 direct supervision for the purposes of Code Section 43-11-74 and the practice of dentistry
51 in this state.

52 (14) 'Teledentistry' means the delivery of dental care through the use of synchronous,
53 real-time communication in conjunction with and supported by store and forward
54 technologies under the general supervision of the authorizing dentist when dental care is
55 provided to a patient physically located at a site in this state that is different from the site
56 where the authorizing dentist is physically located. A teledentistry interaction shall not
57 constitute or be considered the equivalent of an in-person, clinical examination by a
58 licensed dentist.

59 (b)(1) No licensed dentist in this state shall provide dental care through teledentistry
60 unless such dentist has been issued a permit by the board under the conditions specified
61 in this Code section. Such permit shall be subject to biennial renewal at the time the
62 dentist is required to renew his or her license to practice dentistry.

63 (2) Notwithstanding the provisions of paragraph (1) of this subsection, a teledentistry
64 permit shall not be required for a licensed dentist who only provides dental care to
65 patients in a private dental office and does not authorize any dental auxiliaries to perform
66 dental care outside of such private dental office when such dentist receives a digital
67 photograph or audio or video communication from the cellphone of a patient of record

68 for the purpose of evaluating a dental emergency or providing palliative care until the
69 patient can be treated by such dentist. Such dentist shall not charge the patient for such
70 emergency evaluation or palliative care.

71 (c) A licensed dentist who wishes to provide dental care through teledentistry pursuant to
72 this Code section shall apply to the board for a teledentistry permit. No permit shall be
73 issued or renewed under this Code section unless the licensed dentist:

74 (1) Submits an application under oath on a form prescribed by the board;

75 (2) Pays the applicable initial issuance or renewal fee as established by the board;

76 (3) Provides written documentation evidencing that such licensed dentist has established
77 a referral relationship with a referred dentist who practices dentistry and treats patients
78 in a physical and operational dental office located in this state within 50 miles of the
79 setting where the teledentistry interaction will occur; and

80 (4) Provides any other pertinent information as prescribed by the board.

81 (d) Subject to the conditions specified in subsection (e) of this Code section, an
82 authorizing dentist possessing a teledentistry permit under this Code section shall only be
83 authorized to:

84 (1) Authorize a licensed dental hygienist to perform the specific dental hygiene functions
85 permitted under general supervision in accordance with the requirements of Code
86 Section 43-11-74, except as otherwise provided in paragraph (1) of subsection (e) of this
87 Code section;

88 (2) Prescribe a medication that is not a controlled substance for a patient receiving dental
89 care through a teledentistry interaction, unless a teledentistry permit is not required
90 pursuant to paragraph (2) of subsection (b) of this Code section;

91 (3) Authorize the performance of digital scans; provided, however, that only a licensed
92 dentist, licensed dental hygienist, or expanded duties dental assistant possessing the
93 requisite education and training prescribed by the board shall be permitted to perform
94 digital scans for use in teledentistry; and

95 (4) Authorize the use of store and forward technologies to transmit patient records,
96 images, digital scans, X-rays, and other relevant health information between the
97 authorizing dentist and dental auxiliary for the purposes of evaluating a patient's oral
98 health condition and authorizing the performance of dental care permitted under this
99 Code section. The authorizing dentist shall be the custodian of all patient records for the
100 purposes of this Code section unless the patient is treated by a referred dentist. In such
101 instance, the referred dentist shall be the custodian of the patient's records associated with
102 the dental care the referred dentist provides to the patient, and such referred dentist shall
103 furnish copies of these records to the authorizing dentist.

104 (e) An authorizing dentist shall be subject to the following conditions when providing
105 dental care through teledentistry as authorized in subsection (d) of this Code section:

106 (1) Teledentistry services shall be consistent with how dental treatment is provided in
107 person and shall adhere to the standards of appropriate patient care required in other
108 dental care settings, including, but not limited to, appropriate patient examination, the
109 taking and review of X-rays, and review of a patient's medical and dental history;
110 provided, however, that X-rays taken for the purpose of a teledentistry interaction under
111 this Code section shall only be taken by a licensed dentist or by a licensed dental
112 hygienist practicing under direct supervision of the authorizing dentist or during a
113 synchronous, real-time communication involving the authorizing dentist, dental hygienist,
114 and patient;

115 (2)(A) As part of the initial consultation with all new patients, the authorizing dentist
116 shall establish a bona fide dentist-patient relationship by reviewing the patient's medical
117 and dental history and verifying the patient's identity and physical location to ensure the
118 patient is physically located in this state when dental care is provided and shall obtain
119 the requisite consent from a parent or guardian if the patient is a minor.

120 (B) Prior to practicing and authorizing teledentistry pursuant to this Code section in
121 board approved dental facilities and offsite locations of the Department of Public

122 Health, county boards of health, or the Department of Corrections; Title I schools under
123 the federal Elementary and Secondary Education Act; schools in which at least
124 65 percent of the student population is eligible for free or reduced price lunch under
125 federal guidelines; Head Start programs; Georgia's Pre-K Program; hospitals; nursing
126 homes; long-term care facilities; rural health clinics; federally qualified health centers;
127 health facilities operated by federal, state, county, or local governments; hospices;
128 family violence shelters as defined in Code Section 19-13-20; and free health clinics
129 as defined in Code Section 51-1-29.4, the authorizing dentist shall perform the initial
130 consultation with the patient through an in-person, clinical examination of the patient
131 or through synchronous, real-time communication or asynchronous communication
132 involving the authorizing dentist, the applicable dental auxiliary permitted under this
133 Code section, and the patient.

134 (C) Prior to practicing and authorizing teledentistry in all other settings in this state
135 under this Code section, the authorizing dentist shall perform the initial consultation
136 with the patient in person, which shall include a clinical examination of the patient, and
137 such in-person clinical examination shall be performed at a minimum of every 12
138 months by the authorizing dentist;

139 (3) The authorizing dentist shall prepare a written authorization, which shall be given to
140 the patient and included in the patient's record, providing the name and license number
141 of the authorizing dentist and the name and license number of any dental auxiliaries
142 treating the patient during the teledentistry interaction, as well as any other information
143 the authorizing dentist or board deem appropriate;

144 (4) Prior to each teledentistry interaction, informed consent shall be obtained from the
145 patient, or from the parent or guardian if the patient is a minor, explaining the alternatives
146 to and the capabilities and limitations of teledentistry, which shall include a written
147 statement advising that a teledentistry interaction is not equivalent to an in-person,
148 clinical examination, and that the authorizing dentist will not be physically present during

149 the delivery of dental care. Such informed consent shall also be documented and
150 included in the patient's record;

151 (5) The authorizing dentist shall provide dental services through teledentistry only if
152 such dental services are appropriate for the patient, as determined by such authorizing
153 dentist;

154 (6)(A) The authorizing dentist shall provide the name, license number, office mailing
155 address, and office phone number of the referred dentist to the patient after each
156 teledentistry interaction.

157 (B) The referred dentist shall accept a referral to treat all dental emergencies and
158 provide all necessary dental care, as determined by and in consultation with the
159 authorizing dentist.

160 (C) The authorizing dentist shall submit updated documentation to the board regarding
161 any changes to the referral relationship within 30 days of any such changes.

162 (D) Documentation of a referral relationship shall not be required for the issuance of
163 a teledentistry permit if the authorizing dentist will also be providing in-person dental
164 care;

165 (7)(A) An authorizing dentist may only authorize up to four licensed dental hygienists
166 and up to four expanded duties dental assistants to perform the functions permitted in
167 subsection (d) of this Code section at any one time.

168 (B) Any licensed dental hygienist performing the functions permitted in subsection (d)
169 of this Code section via teledentistry shall have at least two years of experience in the
170 practice of dental hygiene, shall be in compliance with continuing education
171 requirements pursuant to Code Section 43-11-73.1 and cardiopulmonary resuscitation
172 certification requirements contained in Code Section 43-11-73, and shall be licensed
173 in good standing.

174 (C) Licensed dental hygienists practicing under general supervision via teledentistry
175 pursuant to this Code section shall maintain professional liability insurance in

176 accordance with board rules and regulations; provided, however, that this subparagraph
177 shall not apply to an entity covered under sovereign immunity;

178 (8) No authorizing dentist or dental auxiliary shall attempt to waive liability for
179 teledentistry services in advance of delivering such services, and no authorizing dentist
180 or dental auxiliary shall attempt to prevent a patient from filing any complaint with any
181 governmental agency or authority relating to the provision of dental care through
182 teledentistry; and

183 (9) The authorizing dentist shall ensure that the use of teledentistry complies with the
184 privacy and security requirements of the federal Health Insurance Portability and
185 Accountability Act of 1996, as well as those of Chapter 33 of Title 31.

186 (f) A permit issued under this Code section may be revoked or not renewed if the board
187 determines that the dentist holding such permit is not in compliance with any requirement
188 of this Code section. The board shall provide notice and opportunity for hearing under
189 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' in any case in which
190 it revokes or refuses to renew a permit, provided that summary action regarding such
191 permit shall be authorized under Code Section 50-13-18.

192 (g) Nothing in this Code section shall be construed to:

193 (1) Require a licensed dentist in this state to practice teledentistry;

194 (2) Require a licensed dentist to authorize a licensed dental hygienist or expanded duties
195 dental assistant to perform the functions permitted in this Code section via teledentistry;

196 (3) Require a school or facility receiving dental hygiene services provided pursuant to
197 subsection (h) or (i) of Code Section 43-11-74 to purchase any equipment to provide
198 dental care through teledentistry; or

199 (4) Expand the scope of practice for dental hygienists or establish independent dental
200 hygiene practice.

201 (h)(1) Any health insurance plan issued, amended, or renewed on or after January 1,
202 2024, between a health insurer, contracted vendor thereof, or a care management

203 organization and a healthcare provider for the provision of healthcare services to a plan
204 enrollee shall provide coverage for the cost of dental care provided through teledentistry
205 as directed through regulations promulgated by the Department of Insurance.

206 (2) A health insurer, contracted vendor thereof, or care management organization shall
207 not exclude a service appropriately provided through teledentistry from coverage solely
208 because the service is provided through teledentistry and is not provided through
209 in-person consultation or contact between an authorizing dentist and a patient.

210 (3) No health insurer, contracted vendor thereof, or care management organization shall
211 impose any annual or lifetime dollar maximum on coverage for teledentistry services,
212 other than an annual or lifetime dollar maximum that applies in the aggregate to all items
213 and services covered under the patient's policy, or impose upon any patient receiving
214 benefits pursuant to this Code section any copayment, coinsurance, or deductible
215 amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation
216 or maximum for benefits or services, that is not equally imposed upon all terms and
217 services covered under the patient's health insurance policy.

218 (4) No health insurer, contracted vendor thereof, or care management organization shall
219 require its insureds to receive dental care through teledentistry in lieu of an in-person,
220 clinical examination.

221 (5) The Commissioner of Insurance shall have all powers of enforcement and sanction
222 with respect to violations of this subsection by any health insurer, contracted vendor
223 thereof, or care management organization as provided in Title 33.

224 (i) The board shall promulgate rules and regulations that are reasonably necessary to
225 implement the provisions of this Code section."

226 **SECTION 2.**

227 Said chapter is further amended in Code Section 43-11-74, relating to required direct
228 supervision, scope of duties, and exceptions to required supervision for dental screenings,
229 by revising subsection (n) as follows:

230 "(n) Dental assistants may ~~use rubber cup prophylaxis to~~ perform coronal polishing on a patient
231 ~~with primary dentition~~ under the direct supervision of a licensed dentist in accordance with
232 any guidelines or rules established by the board. Dental assistants shall meet any
233 education, training, or other requirements as established by the board."

234 **SECTION 3.**

235 This Act shall become effective on January 1, 2024.

236 **SECTION 4.**

237 All laws and parts of laws in conflict with this Act are repealed.