

House Bill 441 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Dempsey of the 13th, Hawkins of the 27th, Hatchett of the 155th, Anulewicz of the 42nd, Mathis of the 149th, and others

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 by licensed dentists in this state; to provide for definitions; to provide for exemptions and
4 conditions; to provide for authorized practices; to provide for a referred dentist; to provide
5 for ownership of documents; to provide for a limited number of dental hygienists to perform
6 teledentistry; to require health insurers to cover dental care provided through teledentistry;
7 to prohibit health insurers from requiring covered persons to obtain dental care through
8 teledentistry; to provide for enforcement by the Commissioner of Insurance regarding
9 insurance coverage of teledentistry; to provide for the Georgia Board of Dentistry to
10 promulgate rules and regulations; to provide for related matters; to provide an effective date;
11 to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

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

H. B. 441 (SUB)

17 "43-11-54.

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

19 (1) 'Authorizing dentist' means a licensed dentist in good standing and practicing in the
20 State of Georgia.

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

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

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

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

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

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

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

32 (9) 'Referred dentist' means a licensed dentist practicing in this state who has a written
33 agreement with an authorizing dentist to provide in-person dental treatment to patients
34 receiving dental care through a teledentistry interaction under this Code section.

35 (10) 'Store and forward technologies' means technologies that allow for the electronic
36 transmission of dental and health information, including images, photographs,
37 documents, and health histories, through a secure communication system.

38 (11) 'Synchronous, real-time communication' means a live, two-way interaction between
39 the authorizing dentist and a dental hygienist or patient permitted under this Code section
40 using audiovisual telecommunications technology but shall not constitute direct
41 supervision for the purposes of Code Section 43-11-74 and the practice of dentistry in this
42 state.

43 (12) 'Teledentistry' means the delivery of dental care through the use of synchronous,
44 real-time communication in conjunction with and supported by store and forward
45 technologies under the general supervision of the authorizing dentist when dental care is
46 provided to a patient physically located at a site in this state that is different from the site
47 where the authorizing dentist is physically located. Teledentistry shall not include when
48 a licensed dentist providing dental care to patients in a private dental office receives a
49 digital photograph or audio or video communication from the cellphone of a patient of
50 record for the purpose of evaluating a dental emergency or providing palliative care until
51 the patient can be treated by such dentist. Such dentist shall not charge the patient for
52 such emergency evaluation or palliative care. A teledentistry interaction shall not
53 constitute or be considered the equivalent of an in-person, clinical examination by a
54 licensed dentist.

55 (b) No licensed dentist in this state shall provide dental care through teledentistry except
56 under the conditions specified in this Code section.

57 (c) A licensed dentist who intends to provide dental care through teledentistry pursuant to
58 this Code section shall notify the board of such intent; provide written documentation
59 evidencing that such dentist has established a referral relationship with a referred dentist
60 who practices dentistry and treats patients in a physical and operational dental office
61 located in this state within 50 miles of the setting where the teledentistry interaction shall
62 occur, provided that if no such office is available, then the closest dental office within the
63 state; and provide any other pertinent information as prescribed by the board.

64 (d) Subject to the conditions specified in subsection (e) of this Code section, an
65 authorizing dentist shall only be allowed to:

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

70 (2) Prescribe a medication that is not a controlled substance for a patient receiving dental
71 care through a teledentistry interaction;

72 (3) Authorize the performance of digital scans by a dentist or dental hygienist; and

73 (4) Authorize the use of store and forward technologies to transmit patient records,
74 images, digital scans, X-rays, and other relevant health information between the
75 authorizing dentist and a dental hygienist for the purposes of evaluating a patient's oral
76 health condition and authorizing the performance of dental care permitted under this
77 Code section. The authorizing dentist shall be the custodian of all patient records for the
78 purposes of this Code section unless the patient is treated by a referred dentist. In such
79 instance, the referred dentist shall be the custodian of the patient's records associated with
80 the dental care the referred dentist provides to the patient, and such referred dentist shall
81 furnish copies of these records to the authorizing dentist.

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

84 (1) Teledentistry services shall be consistent with how dental treatment is provided in
85 person and shall adhere to the standards of appropriate patient care required in other
86 dental care settings, including, but not limited to, appropriate patient examination, the
87 taking and review of X-rays, and review of a patient's medical and dental history;

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

93 (B) Except as provided for in subparagraph (C) of this paragraph, prior to practicing
94 and authorizing teledentistry in this state, the authorizing dentist shall perform the
95 initial consultation with the patient in person, which shall include a clinical examination

96 of the patient, and such in-person clinical examination shall be performed at a minimum
97 of every 12 months by the authorizing dentist.

98 (C) In board approved dental facilities and offsite locations of the Department of Public
99 Health, county boards of health, or the Department of Corrections; Title I schools under
100 the federal Elementary and Secondary Education Act; schools in which at least
101 65 percent of the student population is eligible for free or reduced price lunch under
102 federal guidelines; Head Start programs; Georgia's Pre-K Program; hospitals; nursing
103 homes; long-term care facilities; rural health clinics; federally qualified health centers;
104 health facilities operated by federal, state, county, or local governments; hospices;
105 family violence shelters as defined in Code Section 19-13-20; and free health clinics
106 as defined in Code Section 51-1-29.4, the authorizing dentist may perform the initial
107 consultation with the patient either through an in-person, clinical examination of the
108 patient or through synchronous, real-time communication or asynchronous
109 communication involving the authorizing dentist, dental hygienist, and patient as
110 permitted under this Code section;

111 (3) The authorizing dentist shall prepare a written authorization, which shall be given to
112 the patient and included in the patient's record, providing the name and license number
113 of the authorizing dentist and the name and license number of the dental hygienist
114 treating the patient during the teledentistry interaction, as well as any other information
115 the authorizing dentist or board deems appropriate;

116 (4) Prior to each teledentistry interaction, informed consent shall be obtained from the
117 patient, or from the parent or guardian if the patient is a minor, explaining the alternatives
118 to and the capabilities and limitations of teledentistry, which shall include a written
119 statement advising that a teledentistry interaction is not equivalent to an in-person,
120 clinical examination, and that the authorizing dentist shall not be physically present
121 during the delivery of dental care. Such informed consent shall also be documented and
122 included in the patient's record;

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

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

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

132 (C) The authorizing dentist shall submit updated documentation to the board regarding
133 any changes to the referral relationship within 30 days of any such changes; provided,
134 however, that documentation of a referral relationship shall not be required if the
135 authorizing dentist shall also be providing in-person dental care;

136 (7)(A) An authorizing dentist may only authorize up to four dental hygienists to
137 perform the functions permitted in subsection (d) of this Code section at any one time.

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

144 (C) Any dental hygienist practicing under general supervision via teledentistry
145 pursuant to this Code section shall maintain professional liability insurance in
146 accordance with board rules and regulations; provided, however, that this subparagraph
147 shall not apply to an entity covered under sovereign immunity;

148 (8) No authorizing dentist or dental hygienist shall attempt to waive liability for
149 teledentistry services in advance of delivering such services, and no authorizing dentist

150 or dental hygienist shall attempt to prevent a patient from filing any complaint with any
151 governmental agency or authority relating to the provision of dental care through
152 teledentistry; and

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

156 (f) Nothing in this Code section shall be construed to:

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

158 (2) Require a licensed dentist to authorize a dental hygienist to perform the functions
159 permitted in this Code section via teledentistry;

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

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

165 (g)(1) Any health insurance plan issued, amended, or renewed on or after January 1,
166 2024, between a health insurer, contracted vendor thereof, or a care management
167 organization and a healthcare provider for the provision of healthcare services to a plan
168 enrollee shall provide coverage for the cost of dental care provided through teledentistry
169 as directed through regulations promulgated by the Department of Insurance.

170 (2) A health insurer, contracted vendor thereof, or care management organization shall
171 not:

172 (A) Exclude a service appropriately provided through teledentistry from coverage
173 solely because the service is provided through teledentistry and is not provided through
174 in-person consultation or contact between an authorizing dentist and a patient;

175 (B) Impose any annual or lifetime dollar maximum on coverage for teledentistry
176 services, other than an annual or lifetime dollar maximum that applies in the aggregate

177 to all items and services covered under the patient's policy, or impose upon any patient
178 receiving benefits pursuant to this Code section any copayment, coinsurance, or
179 deductible amounts, or any policy year, calendar year, lifetime, or other durational
180 benefit limitation or maximum for benefits or services, that is not equally imposed upon
181 all terms and services covered under the patient's health insurance policy; or
182 (C) Require its insureds to receive dental care through teledentistry in lieu of an
183 in-person, clinical examination.
184 (3) The Commissioner of Insurance shall have all powers of enforcement and sanction
185 with respect to violations of this subsection by any health insurer, contracted vendor
186 thereof, or care management organization as provided in Title 33.
187 (h) The board shall promulgate rules and regulations that are reasonably necessary to
188 implement the provisions of this Code section."

189 **SECTION 2.**

190 This Act shall become effective on January 1, 2025.

191 **SECTION 3.**

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