

Proposed Revisions to ND HB 1151
(Revisions in red, underlined)

Page 2, Section 2:

2. ~~A dentist practicing telehealth shall establish a bona fide relationship with a patient before the diagnosis or treatment of the patient.~~ No dentist shall practice telehealth unless a bona fide dentist-patient relationship is established in person or through telehealth. A bona fide dentist-patient relationship shall exist if the dentist has (i) obtained or caused to be obtained a health and dental history of the patient; (ii) performed or caused to be performed an appropriate examination of the patient, either physically through use of instrumentation and diagnostic equipment through which digital scans, photographs, images, and dental records are able to be transmitted electronically, or through use of face-to-face interactive two-way real-time communications services or store-and-forward technologies; (iii) provided information to the patient about the services to be performed; and (iv) initiated additional diagnostic tests or referrals as needed. The examination required by clause (ii) shall not be required if the patient has been examined in person by a dentist licensed by the Board within the six months prior to the initiation of telehealth and the patient's dental records of such examination have been reviewed by the dentist providing telehealth. A dentist practicing telehealth shall verify the identity of the patient seeking care and shall disclose ~~and ensure the patient has the ability to verify, to the patient~~ the dentist's identity, physical location, contact information and licensure status.

Page 2-3, Section 3:

3. Before a dentist initially diagnoses or treats a patient for a specific illness, disease, or condition, the dentist shall perform an examination or evaluation. A dentist may perform an examination or evaluation entirely through telehealth if the examination or evaluation ~~is equivalent to an in-person examination.~~ can be performed in accordance with the standard of care required for an in-person dental examination or evaluation. A dentist may not use telehealth to perform an initial examination or evaluation in circumstances where the standard of care necessitates an in-person dental examination.
 - a. Examples of an appropriate telehealth examination or evaluation may include: (i) an examination utilizing secure videoconferencing or along with store-and-forward technology for or appropriate diagnostic testing and use of peripherals that would be deemed necessary in a like required during an in-person person examination or evaluation; meets this standard ; or (ii) as does an examination conducted with an appropriately licensed intervening dental health care provider, practicing within the scope of the dental health care provider's profession, providing necessary physical findings to the dentist during a live, two-way telehealth encounter. An examination or evaluation consisting only of a static online questionnaire or an audio conversation does not meet the standard of care.
 - b. The use of telehealth does not expand the scope of practice for dental health care providers, and may not be used to circumvent the licensure requirements established for dental health care providers in North Dakota.
 - b. c. A dentist who practices telehealth in North Dakota shall have adequate knowledge of the availability and location of local dentists and dental

health providers to provide to a patient following a dental telehealth encounter, including emergent and acute care facilities, in order to enable patients to receive follow up care. Once a dentist conducts an acceptable appropriate examination or evaluation, whether in-person or by telehealth, and establishes a patient - dentist relationship, subsequent follow up care may be provided as deemed appropriate by the treating dentist, or by a provider another dentist licensed in North Dakota designated by the treating dentist to act temporarily in the treating dentist's absence. ~~In certain types of telehealth utilizing asynchronous store and forward technology or electronic monitoring, it is not medically necessary for an independent examination of the patient to be performed.~~ (*This entire sentence should be stricken with no replacement language*)

4. A dentist practicing telehealth is subject to all North Dakota laws governing the adequacy of dental records and the provision of dental records to the patient and other dental providers treating the patient.
5. A dentist ~~may~~ practicing telehealth is required to make immediate, appropriate referrals of patients ~~not amenable to diagnosis or complete treatment through a~~ with documented or suspected oral health conditions that cannot be treated through a telehealth encounter, including a patient in need of emergent care or complementary in-person care.
6. A dentist practicing telehealth is prohibited from requiring a patient to sign any form or statement that waives the patient's right to file a complaint against the dentist with the appropriate state agencies. Further, a dentist practicing telehealth is prohibited from requiring a patient to sign any form or document that shields the dentist from liability for injuries resulting from a dental telehealth encounter.