

## ANALYSIS OF POTENTIAL AMENDMENTS (21.0623.01003m)

### HB 1151/TELEDENTISTRY

**Overview:** About half of the proposed amendments are enhancements to the bill, about half of the amendments aren't necessary or are otherwise overly prescriptive, and a couple of the proposed amendments should be further amended to provide additional clarity.

**Section 1 of the Bill:** This section incorporates the definition of telehealth from the insurance code into the dental practice act. It should be retained.

**Sections 2, 3, 4, 6, and 7 of the Bill:** These sections seeks to reform the board of dental examiners.

**Section 5 of the Bill:** This is the heart of teledentistry policy, which, as introduced, mirrored almost word for word the standards of care due to patients by physicians. The proposed amendments justifiably do not require an in-person visit in all circumstances, but rather rely on the ND-licensed dentist to exercise competence and judgment for the benefit of the patient.

- The amendments (page 4, lines 12-28) defining a bona-fide dentist-patient relationship in part simply restates what was in the original bill and in part is overly prescriptive and not necessary given the bill's broad requirements to be held to the same standard of care in teledentistry as in-person dentistry as well as the broad requirement for a dentist to practice in areas only in which the dentist has competence, based on the dentist's training, ability, and experience.
- The amendments (page 4, lines 29-30) clarifying the dentist's responsibility to verify patient information and to share the status of the dentist with the patient are good changes and should be retained.
- The amendments (page 5, lines 6-10) regarding initial diagnoses are not necessary as they essentially duplicate language from an earlier section of the bill that require a dentist practicing teledentistry to be held to the same standard of care as a dentist practicing in person.
- The amendments (page 5, lines 11-21) regarding a telehealth examination seem to be more appropriate for regulatory guidance than for a statute.
- The amendments (page 5, lines 22-24) stating that telehealth does not expand a practitioner's scope of practice are good amendments and should be retained.

- The amendments (page 5, lines 25-28) requiring a dentist practicing telehealth to have knowledge of local dentists and medical providers are good amendments and should be retained.
- The amendments (page 5, line 29 to page 6, line 3) regarding follow up care are the functional equivalent of describing “competence” and should be retained.
- The amendments (page 6, lines 9-13) relating to referrals should be rejected. The amendments require any dentist practicing telehealth to refer patients, even those for whom he or she has not accepted as a patient. An example is if a patient approaches a dentist remotely to get a tooth extraction, in which case the dentist informs the patient that remote care is inappropriate for an extraction and cannot accept the patient for such care. In this case, the dentist would now have to make an “immediate” referral and be required to “document” a condition for which he or she has not examined the patient. Additionally, the term “immediate” is not defined.
- The amendments (page 6, lines 14-18) relating to the prohibition of a patient signing a form that limits the filing of a complaint is good policy as long as it is further amended to apply not only to teledentistry but all of dentistry. What should be good for the goose, should be good for the gander.