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Senator Judy Lee  
Chair, Senate Human Services Committee

Senator Oley Larsen  
Vice Chair, Senate Human Services Committee

Dear Chairwoman Lee, Vice Chairman Larsen, and Members of the  
Committee:

This letter is sent on behalf of the American Association of  
Orthodontists ("AAO") and its North Dakota members to comment on  
House Bill 1151 relating to telehealth and dentistry.

As a professional organization, the AAO is dedicated to, among other  
goals, improving the health of the public by promoting quality  
orthodontic care, the importance of overall oral healthcare in addition  
to advocating for the public interest and educating the public about the  
benefits of orthodontic treatment and the educational qualifications of  
orthodontic specialists.

The AAO supports legislation that is in the best interest of patient health  
and safety. We applaud the legislature for taking on an important task  
of creating telehealth provisions as they relate to dentistry. However,  
we do not feel that this bill appropriately considers patient health and  
safety, and we oppose this bill as currently written.

We recommend that this bill be amended to allow the North Dakota  
Board of Dental Examiners (NDBDE) to complete its ongoing formulation  
of Administrative Rules to enable effective, appropriate, and safe use of  
telehealth for North Dakota citizens. However, if the legislature still  
feels that this bill is in the best interest of patient health and safety, the  
AAO asks that you consider our feedback.

The AAO believes that this bill, as currently written, will have unintended consequences. First, Section 2, number 1, reads, “Professional ethical standards require a dentist to practice only in areas in which the dentist has demonstrated competence, based on the dentist's training, ability, and experience.” This language should be amended to defer to the requirements of education and licensure as set forth in rules adopted by the NDBDE. The AAO believes these rules should apply equally to a dentist practicing in a traditional dental setting or in a telehealth encounter, and that the language be amended to reflect that. Additionally, the AAO believes provisions should be added to state that the telehealth provider shall practice in a manner consistent with their scope of practice and the standard of care for a dentist providing in-person dental care.

Furthermore, while some routine care may be appropriate for telehealth, complex procedures still require the careful oversight of a licensed professional. Section 2, number 3 reads,

“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.”

The AAO believes this provision is problematic because an in-person examination allows the treating dentist to more fully understand what is going on beneath the gums (impacted teeth, bone loss, periodontal concerns etc.), seek to avoid complications, and in the case of an orthodontist, determine if patients are suitable candidates for orthodontic treatment. The AAO believes there are certain diagnoses and evaluations that can only be performed in-person or are best performed in-person (x-rays, etc.) during an examination, and the AAO believes that dental treatment, especially the movement of teeth via orthodontic treatment, should not be undertaken without sufficient diagnostic information obtained during such an examination. Such evaluation and examination that includes an x-ray, looking for bone loss or periodontal problems, cannot be done via telehealth.

Orthodontists in practice throughout North Dakota embrace new technologies to improve service delivery and access to care. As our reliance on technology has increased during the pandemic, it has also underscored situations where technology is no substitute for in-person experiences. What works for telemedicine does not automatically work for dentistry, and we believe it is important to consider the opinions of dental professionals, including the NDBDE, when creating rules that affect the practice of dentistry. In conclusion, the AAO opposes this bill as written, as it does not include provisions to ensure that telehealth is used in a way that is in the best interest of patient health and safety.

If you have any questions, please reach out to the AAO's Government Affairs Associate, Ms. Gianna Nawrocki, at [ghnawrocki@aaortho.org](mailto:ghnawrocki@aaortho.org). Thank you for your service and dedication to your constituents.

Sincerely,

A handwritten signature in blue ink, appearing to read "Trey Lawrence". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Trey Lawrence  
Vice President, Advocacy and General Counsel  
American Association of Orthodontists