

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1151

Page 1, line 1, replace "two" with "a"

Page 1, line 1, replace "sections" with "section"

Page 1, line 2, remove the second "and"

Page 1, line 3, replace "section" with "sections"

Page 1, line 3, after "43-28-01" insert ", 43-28-03, and 43-28-04, and subsection 5 of section 43-28-06"

Page 1, line 3, after the second "the" insert "membership and duties of the state board of dental examiners and the"

Page 1, line 3, after "telehealth" insert "; to provide for application; and to declare an emergency"

Page 2, after line 4, insert:

**"SECTION 2. AMENDMENT.** Section 43-28-03 of the North Dakota Century Code is amended and reenacted as follows:

**43-28-03. State board of dental examiners - Members - Appointment - Terms of office - Oath - Vacancies.**

The state board of dental examiners consists of ~~seven~~nine members appointed by the governor. The membership of the board must include ~~five~~six dentist members, at least one of whom is a board-eligible or board-certified oral and maxillofacial surgeon; one dental hygienist member; one dental assistant member; and one independent consumer member. Appointment to the board is for a term of five years, with terms of office arranged so ~~that one term expires~~no more than two terms expire on March sixteenth of each year, ~~except that each fifth year there must be two new board members appointed, one of whom is a dentist and the other a dental hygienist and two years later two new board members must be appointed, one of whom is a dentist, and one of whom is a consumer member. The first five year term of the consumer member commences on July 1, 1993, and continues through March 15, 1998. Each member of the board shall hold office until a successor is appointed and qualified. Persons~~An individual appointed to the board ~~shall qualify~~qualifies by taking the oath required of civil officers. ~~No~~A member may not serve more than ten years or two 5-year terms of office. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy to exist. All vacancies on the board must be filled by the governor by appointment.

**SECTION 3. AMENDMENT.** Section 43-28-04 of the North Dakota Century Code is amended and reenacted as follows:

**43-28-04. Qualifications and appointment of members of the board - Limited vote.**

1. An individual may not be appointed as a dentist member of the board unless that individual:
  - a. Is a dentist licensed and registered under this chapter; and
  - b. Is actively engaged in the practice of dentistry and has been so engaged in this state for at least five years immediately preceding the appointment.
2. An individual may not be appointed as the dental hygienist member of the board unless that individual:
  - a. Is a licensed and registered dental hygienist in accordance with chapter 43-20; and
  - b. Is actively engaged in the practice of dental hygiene and has been so engaged in this state for at least five years immediately preceding the dental hygienist's appointment.
3. An individual may not be appointed as the dental assistant member of the board unless that individual:
  - a. Is a registered dental assistant in accordance with chapter 43-20; and
  - b. Is actively practicing as a registered dental assistant and has been so practicing in this state for at least five years immediately preceding the dental assistant's appointment.
4. An individual may not be appointed as the independent consumer member of the board unless that individual:
  - a. Has been a resident of North Dakota for five years immediately preceding appointment;
  - b. Has no personal or family, or financial relationship with the dental profession; and
  - c. Is not a dentist, a dental hygienist, a dental assistant, a physician, a nurse, or the spouse of an individual engaged in any of those occupations.
- 4.5. The dental hygienist, dental assistant, and independent consumer member of the board shall exercise full voting privileges in all areas except that the dental hygienist may not participate in the clinical examination of dentists for licensure and the dental assistant and independent consumer member may not participate in the clinical examination of dentists or hygienists for licensure.

**SECTION 4. AMENDMENT.** Subsection 5 of section 43-28-06 of the North Dakota Century Code is amended and reenacted as follows:

5. Employ and compensate an executive director, who must be an attorney or a dentist, attorneys, investigative staff, and clerical assistants and may perform any other duties imposed upon the board by this chapter."

Page 2, line 13, remove "practicing telehealth shall establish a bona fide relationship with a patient"

Page 2, line 14, replace "before the diagnosis or treatment of the patient." with "may not practice telehealth unless a bona fide dentist-patient relationship is established in person or through telehealth."

- a. A bona fide dentist-patient relationship exists if the dentist has:
  - (1) Obtained or caused to be obtained a health and dental history of the patient;
  - (2) 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;
  - (3) Provided information to the patient about the services to be performed; and
  - (4) Initiated additional diagnostic tests or referrals as needed.
- b. The examination required by paragraph 2 of subdivision a is not required if the patient has been examined in person by a dentist licensed by the board within the six months before the initiation of telehealth and the patient's dental records of the examination have been reviewed by the dentist providing telehealth.

c."

Page 2, line 15, replace "and ensure" with "to"

Page 2, line 16, remove "has the ability to verify."

Page 2, line 16, after the second "the" insert "dentist's"

Page 2, line 16, after "identity" insert ", physical location, contact information,"

Page 2, line 16, remove "of a dentist providing dental"

Page 2, line 17, remove "services to the patient"

Page 2, line 21, replace "is equivalent to an in-person examination" with "may 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 in which the standard of care necessitates an in-person dental examination"

Page 2, line 22, after "An" insert "example of an appropriate telehealth examination or evaluation may include an"

Page 2, line 22, replace "or" with "in conjunction with"

Page 2, line 23, replace "for" with "or"

Page 2, line 23, remove "and use of peripherals"



Page 2, line 24, replace "deemed necessary in a like" with "required during an"

Page 2, line 24, remove "meets this"

Page 2, line 25, replace "standard, as does" with "or"

Page 2, line 26, after "intervening" insert "dental"

Page 2, line 26, after the second "the" insert "dental health care"

Page 2, line 27, after "dentist" insert "during a live, two-way telehealth encounter"

Page 2, line 30, after "b." insert "The use of telehealth does not expand the scope of practice for a dental health care provider, and may not be used to circumvent the licensure requirements established for dental health care providers in this state."

- c. A dentist who practices telehealth in this state must have adequate knowledge of the availability and location of local dentists and dental health care providers to provide followup care to a patient following a dental telehealth encounter, including emergent and acute care facilities, in order to enable a patient to receive followup care.

Page 2, line 30, replace "acceptable" with "appropriate"

Page 3, line 1, after "the" insert "treating"

Page 3, line 2, replace "a provider" with "another dentist licensed by the board"

Page 3, line 2, after the first "the" insert "treating"

Page 3, line 2, after the second "the" insert "treating"

Page 3, line 3, remove "In certain types of telehealth utilizing asynchronous"

Page 3, remove lines 4 and 5

Page 3, line 8, after "dental" insert "health care"

Page 3, line 9, replace "may" with "practicing telehealth shall"

Page 3, line 9, after "make" insert "immediate,"

Page 3, line 9, remove "not amenable to diagnosis or"

Page 3, line 10, replace "complete treatment through a" with "with documented or suspected oral health conditions that may not be treated through a"

Page 3, line 11, after "care" insert "."

- 6. A dentist practicing telehealth may not require a patient to sign a form or statement:

- a. Waiving the patient's right to file a complaint against the dentist with an appropriate state entity; or
- b. Shielding the dentist from liability for injury resulting from a dental telehealth encounter

Page 3, replace lines 12 through 23 with:

**"SECTION 6. APPLICATION.** Notwithstanding section 43-28-03, on the effective date of this Act, the term of every member of the state board of dental examiners expires. In making the new appointments, the governor shall appoint the members of the board for staggered terms so no more than two members' terms expire each year. A member appointed under this section may not serve more than two full five-year terms but may serve more than ten years.

**SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

