

# HOUSE BILL REPORT

## HB 2531

---

**As Reported by House Committee On:**  
Health Care & Wellness

**Title:** An act relating to protecting patients from certain unsafe dental practices.

**Brief Description:** Protecting patients from certain unsafe dental practices.

**Sponsors:** Representatives Caldier, Leavitt, Harris, Cody and Davis.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 1/24/20, 2/4/20 [DPS].

**Brief Summary of Substitute Bill**

- Requires, prior to the initial diagnosis and correction of malpositions of human teeth or the initial use of orthodontic appliances, that either a dentist perform an examination of a patient or a patient have received dental clearance for orthodontia services.
- Requires that a patient receiving dental services through telemedicine be provided the dentist's name, direct telephone number, emergency contact telephone number, practice address, and Washington license number.
- Prohibits a dental provider from requiring a patient to sign an agreement to limit the ability to file a complaint with the Dental Quality Assurance Commission or a lawsuit for civil damages.

---

### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Chopp, Davis, DeBolt, Harris, Maycumber, Riccelli, Robinson, Stonier, Thai and Tharinger.

**Staff:** Chris Blake (786-7392).

**Background:**

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### Practice of Dentistry.

The Dental Quality Assurance Commission regulates the practice of dentistry by establishing licensing standards, reviewing complaints of unprofessional conduct, and conducting disciplinary proceedings regarding licensed dentists. The practice of dentistry includes offering, undertaking, or representing oneself as able to diagnose, treat, remove stains and concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, alveolar process, gums, or jaw. The practice of dentistry also includes holding oneself out to the public as able to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth. In addition, the practice of dentistry includes any of the practices in the curricula of recognized and approved dental schools or maintaining an office for the practice of dentistry.

### Telemedicine.

Telemedicine is the use of interactive audio, video, or electronic media for the purpose of diagnosis, consultation, or treatment of a patient at an originating site. An originating site for telemedicine includes a hospital, rural health clinic, federally qualified health center, health care provider's office, community mental health center, skilled nursing facility, renal dialysis center, or a home.

---

### **Summary of Substitute Bill:**

Before an initial diagnosis and correction of malpositions of human teeth or the initial use of orthodontic appliances, either: (1) the treating dentist must perform an examination that includes the review of the patient's most recent diagnostic radiographs or other equivalent bone imaging; or (2) the patient must have received dental clearance in the previous six months that finds that the patient is approved for orthodontia services. After an initial examination, the treating dentist must perform diagnosis and treatment planning in consultation with the patient.

Patients who receive orthodontia services through telemedicine must be provided the name, direct telephone number, emergency contact telephone number, practice address, and Washington license number of the dentist providing the services, including interpreting dental scans, analyzing impressions, or creating appliances based on an impression. If there is a change in persons providing dental services, the contact information for any new dentist must be provided to the patient.

Dentists who provide orthodontia services through telemedicine must provide the patient with a timely opportunity for follow-up care and describe to the patient the protocols for emergencies or follow-up care.

A provider of dental services may not require a patient to sign an agreement to limit the patient's ability to file a complaint with the Dental Quality Assurance Commission (Commission) or to file a lawsuit for civil damages.

A violation of any of the established standards is considered unprofessional conduct. Dental services performed through telemedicine according to the bill must be performed by a dentist who is licensed in Washington and subject to the Commission's jurisdiction. The Commission may investigate complaints and issue cease and desist orders related to the practice of dentistry or coordination of dental services that are in violation of the bill.

The term "telemedicine" is defined as dental services delivered through interactive audio and video technology that allows real-time communication between the patient and the provider for the purpose of limited diagnostic services, treatment planning services, or monitoring services.

**Substitute Bill Compared to Original Bill:**

The substitute bill eliminates the requirement that the examination for the initial diagnosis for correction of malpositions of human teeth and use of orthodontic appliances be performed in-person. An alternative to the performance of an initial examination is allowed for patients who have received dental clearance in the previous six months that finds the patient is approved for orthodontia services. Diagnosis and treatment planning must be performed in consultation with the patient.

The substitute bill specifies that the requirement to provide contact information of a dentist performing dentistry through telemedicine only applies to orthodontia services and that the information must include the dentist's direct telephone number and emergency contact telephone number. It is specified that the contact information requirement applies to dentists interpreting dental scans, analyzing impressions, or creating appliances based on impressions. Contact information must be provided if there is a change in persons providing services to the patient. A dentist who provides orthodontia services through telemedicine must provide a patient an opportunity for follow-up care and describe to the patient the protocols for emergencies or follow-up care.

The substitute bill requires that dental services performed through telemedicine be performed by a dentist who is licensed in Washington and subject to the jurisdiction of the Dental Quality Assurance Commission (Commission). The Commission may investigate complaints and issue cease and desist orders related to the practice of dentistry or coordination in violation of the bill's provisions.

The substitute bill prohibits a provider of dental services from requiring a patient to sign an agreement to limit the patient's ability to file a civil lawsuit.

The substitute bill limits the definition of "telemedicine" in the context of the bill's additional requirements for orthodontia services, to limited diagnostic service, treatment planning services, or monitoring services for a patient of record.

---

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill allows telemedicine, but requires there be at least one in-person visit to make sure the teeth are sound for treatment. This bill promotes telehealth while maintaining the health and safety of patients. There are companies that sell impression material that a person can take at home, return through the mail, and receive a dental appliance without ever seeing a dentist or orthodontist. It is illegal to have impressions taken for treatment without having a dentist in the building with a dental assistant. It is important to establish a patient-doctor relationship and perform an in-person physical examination, especially in advance of orthodontic treatment. This bill requires that all dentists performing orthodontic treatment meet the basic standard of care by performing an in-person examination and reviewing recent radiographs. There are certain conditions that a dentist looks for during an in-person examination at the outset of treatment, including oral cancer, dental decay, gum disease, and problems with jaw-joint function.

This is a simple consumer protection bill. When people have tried to file complaints against certain out-of-state dentists, state agencies claimed to not have jurisdiction. If people want to get their money back from a company, they must agree to neither file a complaint with the Dental Quality Assurance Commission (Commission) nor speak negatively about the company. If the patient has a problem with the company, it is difficult to get resolution. This bill preserves the patient's ability to submit complaints about dentists to the Commission. Private companies should not be allowed to circumvent quality oversight.

If a person has not had an in-person dental examination at a dental office before using telemedicine services, it makes sense to provide the contact information of the dentist. This bill empowers patients with basic information about their treating dentist including their full name and license number prior to the provision of services. The contact information requirement should only apply when there has not been an in-person visit. If patients do not have a place to go or someone to call if they have complications, they can end up in the emergency department.

The definition of telemedicine is broader than it needs to be to protect consumers. Once a person has had an actual dental examination and had a personal dental care plan established, follow-up examinations may be appropriate via telemedicine.

(Opposed) Teledentistry significantly reduces the cost of care and increases access for consumers, particularly where accessing orthodontic care is cost prohibitive. Telehealth solutions are giving people who otherwise could not afford expensive corrective dental procedures the opportunity to live better, more confident, and healthier lives. Many studies show the safety and efficacy of teledentistry and telehealth. This bill is a barrier that will stop the growth of teledentistry and prevent Washington residents from improving their smiles and their health. This bill would create an unnecessary standard of care that will discriminate against technology solutions.

Companies providing orthodontia services through telemedicine provide care through Washington licensed dentists and care is prescribed, managed, and directed from the beginning of care until the end of care. The standard of care should be debated at the Commission, not in the Legislature. The prescription of X-rays must be based on the patient need and patient clinical presentation. All of the same elements of an initial examination are performed in the same manner through a teledentistry environment. Mandating an in-person exam before teledentistry is bad public policy and creates barriers to care and significantly reduces access to care in a state that has access issues. Orthodontists are typically located in high-income areas, so the poor do not have access to them.

**Persons Testifying:** (In support) Representative Caldier, prime sponsor; Nick Federici, American Association of Orthodontists; Bryan Williams, Washington State Society of Orthodontists; Darin Vierra; and Devin Connor-Green, Kaiser Permanente Northwest.

(Opposed) Samantha Kersul, TechNet; and Jeffrey Sulitzer, Smile Direct Club.

**Persons Signed In To Testify But Not Testifying:** None.