

HOUSE BILL REPORT

HB 1950

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 and Walen.

Brief History:

Committee Activity:

Health Care & Wellness: 1/24/22, 1/31/22 [DPS].

Brief Summary of Substitute Bill

- Requires a treating dentist to perform a physical examination of the patient and diagnosis and treatment planning in consultation with the patient before the diagnosis and correction of malpositions of human teeth or the initial use of orthodontic appliances.
- Requires that a patient receiving dental services through teledentistry be provided the treating dentist's name, direct telephone number, emergency contact telephone number, physical 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; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske, Davis,

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

Harris, Macri, Maycumber, Riccelli, Rude, Simmons, Stonier, Tharinger and Ybarra.

Staff: Christopher Blake (786-7392).

Background:

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, behavioral health agency, skilled nursing facility, renal dialysis center, or a home.

Summary of Substitute Bill:

Before a diagnosis and correction of malpositions of human teeth or the initial use of orthodontic appliances, the treating dentist must: (1) perform a physical examination of the patient that includes the review of the patient's most recent diagnostic radiographs or other equivalent bone imaging; and (2) perform diagnosis and treatment planning in consultation with the patient.

Patients who receive orthodontia services through teledentistry must be provided the name, direct telephone number, emergency contact telephone number, physical practice address, and Washington license number of the treating dentist providing the teledentistry services. The information must be provided to the patient prior to the provision of services and during treatment.

The standard of care for treatment provided through teledentistry is the same standard of care as treatment provided in person.

Dentists who provide orthodontia services through teledentistry 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 where the patient must be seen by the treating dentist in person.

For a patient's informed consent to be valid and effective, the treating dentist must provide the patient with an opportunity to directly communicate with the treating dentist so the patient may ask the treating dentist questions about the treatment to be provided. The communication may take place in person, by telephone, or through synchronous teledentistry technology.

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 teledentistry 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 "teledentistry" is defined as having two components. The first component defines "teledentistry" as dental services delivered through interactive audio and video technology that allows real-time communication between the patient and the provider to provide health care services within the provider's scope of practice. Under this component, the term includes: assessment, diagnosis, consultation, treatment and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. Under the second component of the definition, "teledentistry" means the asynchronous, store-and-forward technology for the transmission and acquisition of images, diagnostics, data, and medical or dental information. The term excludes internet questionnaires, email messages, or facsimile transmissions.

Substitute Bill Compared to Original Bill:

The substitute bill specifies that the required contact information for dentists involved in the teledentistry services applies only to the treating dentist and excludes dentists providing services related to the interpretation of dental scans, analysis of impressions or digital images, or creation of appliances based on an impression or digital image. The use of asynchronous, store-and-forward technology for the transmission and acquisition of images, diagnostics, data, and medical or dental information is added to the definition of "teledentistry."

Appropriation: None.

Fiscal Note: Requested on January 18, 2022.

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 legislation supports the advancement of telehealth, while also assuring patient health and safety. This bill streamlines teledentistry and provides some of the protections that exist for telemedicine. This bill does not prevent a dentist from providing orthodontia through teledentistry, but implements safeguards to help prevent future incidents of patient harm.

Using telehealth for orthodontic treatment is possible when a treating dentist has had the opportunity to physically examine the patient to look for periodontal disease and root decay and ensuring the patient can receive orthodontic treatment without harm. Without the information from a physical examination, the orthodontist or dentist cannot effectively use telehealth to provide safe care to patients. The bill's requirements will help ensure that the basic standard of care is met by requiring the performance of an in-person examination, as well as a review of recent x-rays prior to the movement of the teeth. This bill provides patients with basic rights and patient-provider interactions that every patient should expect and have access to when undergoing orthodontic or other dental treatment. Mail order orthodontia is a dangerous practice and there must be assurances that patients are taken care of and dentists and companies can be held liable. Consumers need to know the contact information of the dentist authorizing the treatment and they need to be licensed in Washington. Consumers should not be asked to waive their legal rights, including filing a complaint with the Department of Health if quality of care is deficient.

(Opposed) Teledentistry removes transportation barriers, increases access, reduces costs, and encourages social distancing. This bill unnecessarily limits the consumers' choice to access convenient and affordable care by requiring an in-person visit prior to receiving teledentistry services. This bill will increase unnecessary health care costs by forcing patients to get treatment they do not need. It mandates services that will increase the cost of treatment for patients by forcing them to receive in-person testing before all treatment. This bill prioritizes the earnings of practicing doctors over the greater good of Washington residents. It invokes health and safety as a pretext for reducing competition and maintaining the status quo in dental and orthodontic services. This bill will deny consumers from low-income, vulnerable communities access to affordable dental care.

Studies have found that it is unethical to take radiographs for medico-legal reasons if there is no clinical need. Routine x-rays are one of the most common sources of ionizing radiation exposure for healthy persons and are also a source of waste and abuse in health care. Mail order orthodontic services use professionals licensed in Washington to assess patients based on their medical history, dental history, dental impressions, or imaging and

prescribe under the appropriate standard of care. There is no consistent evidence of patient harm that warrants this bill.

Persons Testifying: (In support) Representative Michelle Caldier, prime sponsor; Isaac Fu; Trent House, Washington State Dental Association; Nick Federici and Gianna Nawrocki, American Association of Orthodontists; and Michele Neal, Washington State Society of Orthodontists.

(Opposed) Montana Williams, Chamber of Progress; Marc Ackerman, American Teledentistry Association; and Ray Colas, Smile Direct Club.

Persons Signed In To Testify But Not Testifying: None.