

Senate Bill 540

By: Senators James of the 35th and Seay of the 34th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated,
2 relating to insurance generally, so as to provide for coverage of dental care provided by
3 means of teledentistry; to provide for definitions; to provide for legislative intent; to provide
4 that dental care delivered through teledentistry services is reimbursed on the same basis and
5 at least at the rate that the insurer is responsible for coverage for the provision of the same
6 service through in-person consultation or contact; to amend Article 2 of Chapter 11 of
7 Title 43 of the Official Code of Georgia Annotated, relating to licenses for the practice of
8 dentistry, so as to authorize licensed dentists to provide oral healthcare by means of
9 teledentistry; to provide for definitions; to provide for requirements and conditions; to
10 provide for standard of care; to provide for legislative findings and intent; to provide for
11 related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 (a) The General Assembly finds that:

(1) Disparities in access to care include significant gaps in oral health, especially low-income groups, people in racial and ethnic minorities, people living in rural areas, and people with complex medical problems and disabilities;

(2) Teledentistry offers potential benefits in the provision of dental care by helping providers of dental care expand the reach of their services to populations of people who face barriers receiving dental care in traditional office and clinic-based systems;

(3) Teledentistry saves providers and patients time and transportation expenses, facilitates monitoring of chronic or pre- or post-care conditions, and lowers the overall cost of providing dental care;

(4) Teledentistry enhances prevention and early intervention strategies to reduce the burden of oral diseases; and

(5) Teledentistry is a communication tool to enhance care and education delivery.

(b) It is the intent of the General Assembly to increase access to care for underserved and needy populations through secure electronic means. It is further the intent of the General Assembly that the rules and regulations promulgated by the Georgia Board of Dentistry pursuant to this Act effectuate this purpose to the greatest extent allowable.

SECTION 2.

Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance generally, is amended by adding a new Code section to read as follows:

"33-24-56.6.

(a) As used in this Code section, the term:

(1) 'Dental benefits policy' means any individual or group plan, policy, or contract for dental care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, any health insurance plan established under Article 1 of Chapter 18 of Title 45 or under Article 7 of Chapter 4 of Title 49.

(2) 'Distant site' means a site at which a healthcare provider legally allowed to practice in this state is located while providing healthcare services by means of teledentistry.

(3) 'Healthcare provider' means a licensed dentist, dental hygienist, physician or surgeon, osteopathic physician or surgeon, advanced practice registered nurse, registered professional nurse, licensed practical nurse, or physician assistant licensed to practice in this state.

(4) 'In-person' means an interaction between a healthcare provider and a patient that occurs in the same physical space.

(5) 'Insurer' means an accident and sickness insurer, fraternal benefit society, hospital service corporation, medical service corporation, healthcare corporation, health maintenance organization, provider sponsored healthcare corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide dental benefit policies.

(6) 'Originating site' means a site at which a patient is located at the time healthcare services are provided to him or her by means of teledentistry.

(7) 'Teledentistry' means the use of telehealth technologies or methodologies in the delivery of oral health services which can be performed using either synchronous interactions or asynchronous store and forward transfers.

(8) 'Telehealth' means the mode of delivering healthcare services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's healthcare while the patient is at the originating site and the healthcare provider is at a distant site.

(b) It is the intent of the General Assembly to mitigate geographic discrimination in the delivery of healthcare by recognizing the application of and payment for covered dental care provided by means of teledentistry provided that such services are provided by a dentist licensed in this state or another healthcare provider acting pursuant to paragraph (3) of subsection (c) of Code Section 43-11-54.

(c) Each insurer providing a dental benefits policy shall provide coverage for the cost of dental care services provided through teledentistry as directed through regulations promulgated by the department.

(d) An insurer shall not exclude a service for coverage solely because the service is provided through teledentistry and is not provided through in-person consultation or contact between a licensed dentist and a patient for services appropriately provided through teledentistry.

(e) No insurer shall require an in-person consultation or contact before a patient may receive teledentistry services from a licensed dentist, except for the purposes of initial installation, setup, or delivery of in-home teledentistry devices or services, or as otherwise required by state or federal law, rule, or regulation.

(f) An insurer shall reimburse the treating dentist for the dental diagnosis, consultation, or treatment of the insured delivered through teledentistry services on the same basis and at least at the rate that the insurer is responsible for coverage for the provision of the same service through in-person consultation or contact."

SECTION 3.

Article 2 of Chapter 11 of Title 43 of the Official Code of Georgia Annotated, relating to licenses for the practice of dentistry, is amended by adding a new Code section to read as follows:

"43-11-54.

(a) As used in this Code section, the term:

(1) 'Asynchronous store and forward transfer' means the transmission of a patient's health information from an originating site to the healthcare provider at a distant site without the presence of the patient.

(2) 'Dentist-patient relationship' means the relationship between a dentist and a patient receiving oral healthcare services based on mutual understanding of their shared

responsibility for the patient's oral healthcare established when a dentist agrees to undertake diagnosis and treatment of the patient and the patient agrees to such diagnosis and treatment, whether or not there has been or is an in-person interaction between the dentist and the patient.

(3) 'Distant site' means a site at which a healthcare provider legally allowed to practice in this state is located while providing healthcare services by means of teledentistry.

(4) 'Healthcare provider' means a licensed dentist, dental hygienist, physician or surgeon, osteopathic physician or surgeon, advanced practice registered nurse, registered professional nurse, licensed practical nurse, or physician assistant licensed to practice in this state.

(5) 'In-person' means an interaction between a healthcare provider and a patient that occurs in the same physical space.

(6) 'Originating site' means a site at which a patient is located at the time healthcare services are provided to him or her by means of teledentistry.

(7) 'Synchronous interaction' means a real time interaction between a patient at an originating site and a healthcare provider located at a distant site.

(8) 'Teledentistry' means the use of telehealth technologies or methodologies in the delivery of oral health services which can be performed using either synchronous interactions or asynchronous store and forward transfers.

(9) 'Telehealth' means the mode of delivering healthcare services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's healthcare while the patient is at the originating site and the healthcare provider is at a distant site.

(b) A licensed dentist using teledentistry in this state:

(1) Shall provide in-person care to patients located in this state;

(2) Shall be authorized to provide comprehensive new patient, periodic, or limited dental examinations using telehealth technologies in the same manner as with in-person care;

(3) Shall ensure that the information needed to perform a comprehensive, periodic, or limited examination by means of teledentistry is available, determine if additional information is needed to evaluate the patient's condition, and develop a diagnosis and treatment plan;

(4) May authorize the collection of records and data, including radiographic and photographic images, charting of oral health findings, collection of demographic and health history information, and patient consent, by dental hygienists working under their general supervision in accordance with board rules. The use of asynchronous store and forward transfer may be used to submit the patient's records to the supervising dentist for subsequent review; and

(5) May supervise a licensed dental hygienist working in a mobile dental vehicle or in a place of residency for the homebound due to physical or cognitive impairment through written standing orders, direct real-time video interaction, or asynchronous pre-procedure instructions followed by a post-visit review of records.

(c) A licensed dentist using teledentistry shall be held to the same standard of care as is applicable to in-person care, including the requirement to meet all technical, clinical, confidentiality, and ethical standards required by law. Failure to conform to such standard of care, whether rendered in-person or by means of teledentistry, may subject a dentist to potential discipline by the board. Some elements of such standard of care as applied to teledentistry include:

(1) Establishing a dentist-patient relationship by means of teledentistry in the same manner as established for in-person care. Patient completion of a questionnaire shall not, by itself, establish a dentist-patient relationship, and, further treatment, including prescriptions, based solely on a questionnaire shall not constitute an acceptable standard of care. A licensed dentist using teledentistry shall:

(A) Provide proof of identity, jurisdiction, and licensure status to the patient;

(B) Take appropriate steps to confirm the patient's identity, or if the patient is a minor, take appropriate steps to confirm that the parent or legal guardian of the patient is present when required; and

(C) Confirm and document that the patient is physically located in this state or is a patient of record of a Georgia licensed dentist;

(2) Obtaining and documenting appropriate informed consent for teledentistry encounters in the same manner as in-person care. Such informed consent shall include:

(A) The manner in which the dentist and patient will use particular enabling technologies, the boundaries that will be established and observed, and procedures for responding to electronic communications from patients;

(B) Discussion of the issues and potential risks surrounding confidentiality and security of patient information when particular enabling technologies are used, and whether there is the potential for decreased expectation of confidentiality if certain technologies are used; and

(C) Discussion of the limitations on the availability and appropriateness of specific services that may be rendered as a result of services being offered through teledentistry;

(3) Obtaining an appropriate patient history and evaluation of the patient preceding the rendering of any care, including issuance of prescriptions and determining whether the use of teledentistry is appropriate under the circumstances involved. If a licensed dentist determines that circumstances require in-person contact, a credentialed healthcare provider may be utilized to perform certain services if the following conditions are met:

(A) The credentialed healthcare provider is authorized to perform such tasks within their specific scope of practice;

(B) The credentialed healthcare provider is approved by both the dentist and the patient; and

(C) If a credentialed healthcare provider is unable to perform a specific task, the dentist shall advise the patient to see a dentist in-person;

(4) Providing any treatment deemed appropriate for the patient, including prescriptions, if the evaluation performed is adequate to justify the action taken. The dentist shall be responsible for knowing the limitations of the care he or she can provide, no matter how the care is delivered. Just as in a traditional setting, dentists should recognize situations that are beyond their expertise, their ability, or the limits of available technology to adequately evaluate or manage in the existing circumstances, and refer such patients for appropriate care;

(5) Documenting and maintaining patient records in accordance with applicable laws and regulations related to patient records in the same manner as in-person care; and

(6) Issuing prescriptions, based on assessing necessary and relevant information about the patient, the decision-making process, and cautionary practices relating to controlled substances in the same manner as in-person care."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.