

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 54.1-2700, 54.1-2711, and 54.1-2719 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.5, relating to teledentistry.

[S 122]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2700, 54.1-2711, and 54.1-2719 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.5 as follows:

§ 54.1-2700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Appliance" means a permanent or removable device used in a plan of dental care, including crowns, fillings, bridges, braces, dentures, orthodontic aligners, and sleep apnea devices.

"Board" means the Board of Dentistry.

"Dental hygiene" means duties related to patient assessment and the rendering of educational, preventive, and therapeutic dental services specified in regulations of the Board and not otherwise restricted to the practice of dentistry.

"Dental hygienist" means a person who is licensed by the Board to practice dental hygiene.

"Dentist" means a person who has been awarded a degree in and is licensed by the Board to practice dentistry.

"Dentistry" means the evaluation, diagnosis, prevention, and treatment, through surgical, nonsurgical, or related procedures, of diseases, disorders, and conditions of the oral cavity and the maxillofacial, adjacent, and associated structures and their impact on the human body.

"Digital scan" means digital technology that creates a computer-generated replica of the hard and soft tissues of the oral cavity using enhanced digital photography.

"Digital scan technician" means a person who has completed a training program approved by the Board to take digital scans of intraoral and extraoral hard and soft tissues for use in teledentistry.

"Digital work order" means the digital equivalent of a written dental laboratory work order used in the construction or repair of an appliance.

"License" means the document issued to an applicant upon completion of requirements for admission to practice dentistry or dental hygiene in the Commonwealth or upon registration for renewal of license to continue the practice of dentistry or dental hygiene in the Commonwealth.

"License to practice dentistry" means any license to practice dentistry issued by the Board.

"Maxillofacial" means pertaining to the jaws and face, particularly with reference to specialized surgery of this region.

"Oral and maxillofacial surgeon" means a person who has successfully completed an oral and maxillofacial residency program, approved by the Commission on Dental Accreditation of the American Dental Association, and who holds a valid license from the Board.

"Store-and-forward technologies" means the technologies that allow for the electronic transmission of dental and health information, including images, photographs, documents, and health histories, through a secure communication system.

"Teledentistry" means the delivery of dentistry between a patient and a dentist who holds a license to practice dentistry issued by the Board through the use of telehealth systems and electronic technologies or media, including interactive, two-way audio or video.

§ 54.1-2708.5. Digital scans for use in the practice of dentistry; practice of digital scan technicians.

A. No person other than a dentist, dental hygienist, dental assistant I, dental assistant II, digital scan technician, or other person under the direction of a dentist shall obtain dental scans for use in the practice of dentistry.

B. A digital scan technician who obtains dental scans for use in the practice of teledentistry shall work under the direction of a dentist who is (i) licensed by the Board to practice dentistry in the Commonwealth, (ii) accessible and available for communication and consultation with the digital scan technician at all times during the patient interaction, and (iii) responsible for ensuring that the digital scan technician has a program of training approved by the Board for such purpose. All protocols and procedures for the performance of digital scans by digital scan technicians and evidence that a digital scan technician has complied with the training requirements of the Board shall be made available to the

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57 *Board upon request.*

58 **§ 54.1-2711. Practice of dentistry.**

59 A. Any person shall be deemed to be practicing dentistry who (i) uses the words dentist, or dental
60 surgeon, the letters D.D.S., D.M.D., or any letters or title in connection with his name, which in any
61 way represents him as engaged in the practice of dentistry; (ii) holds himself out, advertises, or permits
62 to be advertised that he can or will perform dental operations of any kind; (iii) diagnoses, treats, or
63 professes to diagnose or treat any of the diseases or lesions of the oral cavity, its contents, or contiguous
64 structures; or (iv) extracts teeth, corrects malpositions of the teeth or jaws, takes or causes to be taken
65 digital scans or impressions for the fabrication of appliances or dental prosthesis, supplies or repairs
66 artificial teeth as substitutes for natural teeth, or places in the mouth and adjusts such substitutes. *Taking*
67 *impressions for mouth guards that may be self-fabricated or obtained over-the-counter does not*
68 *constitute the practice of dentistry.*

69 B. No person shall practice dentistry unless a bona fide dentist-patient relationship is established in
70 person or through teledentistry. A bona fide dentist-patient relationship shall exist if the dentist has (i)
71 obtained or caused to be obtained a health and dental history of the patient; (ii) performed or caused to
72 be performed an appropriate examination of the patient, either physically, through use of
73 instrumentation and diagnostic equipment through which digital scans, photographs, images, and dental
74 records are able to be transmitted electronically, or through use of face-to-face interactive two-way
75 real-time communications services or store-and-forward technologies; (iii) provided information to the
76 patient about the services to be performed; and (iv) initiated additional diagnostic tests or referrals as
77 needed. In cases in which a dentist is providing teledentistry, the examination required by clause (ii)
78 shall not be required if the patient has been examined in person by a dentist licensed by the Board
79 within the six months prior to the initiation of teledentistry and the patient's dental records of such
80 examination have been reviewed by the dentist providing teledentistry.

81 C. No person shall deliver dental services through teledentistry unless he holds a license to practice
82 dentistry in the Commonwealth issued by the Board and has established written or electronic protocols
83 for the practice of teledentistry that include (i) methods to ensure that patients are fully informed about
84 services provided through the use of teledentistry, including obtaining informed consent; (ii) safeguards
85 to ensure compliance with all state and federal laws and regulations related to the privacy of health
86 information; (iii) documentation of all dental services provided to a patient through teledentistry,
87 including the full name, address, telephone number, and Virginia license number of the dentist providing
88 such dental services; (iv) procedures for providing in-person services or for the referral of patients
89 requiring dental services that cannot be provided by teledentistry to another dentist licensed to practice
90 dentistry in the Commonwealth who actually practices dentistry in an area of the Commonwealth the
91 patient can readily access; (v) provisions for the use of appropriate encryption when transmitting patient
92 health information via teledentistry; and (vi) any other provisions required by the Board. A dentist who
93 delivers dental services using teledentistry shall, upon request of the patient, provide health records to
94 the patient or a dentist of record in a timely manner in accordance with § 32.1-127.1:03 and any other
95 applicable federal or state laws or regulations. All patients receiving dental services through
96 teledentistry shall have the right to speak or communicate with the dentist providing such services upon
97 request.

98 D. Dental services delivered through use of teledentistry shall (i) be consistent with the standard of
99 care as set forth in § 8.01-581.20, including when the standard of care requires the use of diagnostic
100 testing or performance of a physical examination, and (ii) comply with the requirements of this chapter
101 and the regulations of the Board.

102 E. In cases in which teledentistry is provided to a patient who has a dentist of record but has not
103 had a dental wellness examination in the six months prior to the initiation of teledentistry, the dentist
104 providing teledentistry shall recommend that the patient schedule a dental wellness examination. If a
105 patient to whom teledentistry is provided does not have a dentist of record, the dentist shall provide or
106 cause to be provided to the patient options for referrals for obtaining a dental wellness examination.

107 F. No dentist shall be supervised within the scope of the practice of dentistry by any person who is
108 not a licensed dentist.

109 **§ 54.1-2719. Persons engaged in construction and repair of appliances.**

110 A. Licensed dentists may employ or engage the services of any person, firm, or corporation to
111 construct or repair an appliance, extraorally, ~~prosthetic dentures, bridges, or other replacements for a~~
112 ~~part of a tooth, a tooth, or teeth~~ in accordance with a written or digital work order. Any appliance
113 constructed or repaired by a person, firm, or corporation pursuant to this section shall be evaluated and
114 reviewed by the licensed dentist who submitted the written or digital work order, or a licensed dentist in
115 the same dental practice. A person, firm, or corporation so employed or engaged shall not be considered
116 to be practicing dentistry. No such person, firm, or corporation shall perform any direct dental service
117 for a patient, but they may assist a dentist in the selection of shades for the matching of prosthetic

118 devices when the dentist sends the patient to them with a written *or digital* work order.

119 B. Any licensed dentist who employs the services of any person, firm, or corporation not working in
 120 a dental office under ~~his~~ *the dentist's* direct supervision to construct or repair, *an appliance* extraorally;
 121 ~~prosthetic dentures, bridges, replacements, or orthodontic appliances for a part of a tooth, a tooth, or~~
 122 ~~teeth,~~ shall furnish such person, firm, or corporation with a written *or digital* work order on forms
 123 prescribed by the Board, which shall, at minimum, contain: (i) the name and address of the person, firm,
 124 or corporation; (ii) the patient's name or initials or an identification number; (iii) the date the work order
 125 was written; (iv) a description of the work to be done, including diagrams, if necessary; (v) specification
 126 of the type and quality of materials to be used; and (vi) the signature and address of the dentist.

127 The person, firm, or corporation shall retain the original *written* work order *or an electronic copy of*
 128 *a digital work order*, and the dentist shall retain a duplicate *of the written work order or an electronic*
 129 *copy of a digital work order*, for three years.

130 C. If the person, firm, or corporation ~~receiving~~ *receives* a written *or digital* work order from a
 131 licensed dentist ~~engages a subcontractor to perform services relative to the work order~~, a written
 132 *disclosure and subwork order* shall be furnished *to the dentist* on forms prescribed by the Board, which
 133 shall, at minimum, contain: (i) the name and address of the *person, firm, or corporation and*
 134 *subcontractor*; (ii) a number identifying the subwork order with the original work order; (iii) the date ~~the~~
 135 *any* subwork order was written; (iv) a description of the work to be done *and the work to be done* by
 136 the subcontractor, including diagrams *or digital files*, if necessary; (v) a specification of the type and
 137 quality of materials to be used; and (vi) the signature of the person issuing the *disclosure and* subwork
 138 order.

139 The subcontractor shall retain the subwork order, and the issuer shall retain a duplicate *of the*
 140 *subwork order, which shall be* attached to the work order received from the licensed dentist, for three
 141 years.

142 D. No person, firm, or corporation engaged in the construction or repair of appliances shall refuse to
 143 allow the Board or its agents to inspect the files of work orders or subwork orders during ordinary
 144 business hours.

145 The provisions of this section shall not apply to a work order for the construction, reproduction, or
 146 repair, extraorally, of prosthetic dentures, bridges, or other replacements for a part of a tooth, a tooth, or
 147 teeth, done by a person, firm or corporation pursuant to a written work order received from a licensed
 148 dentist who is residing and practicing in another state.