

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

## **Senate Bill 699**

BY SENATORS MARONEY AND ROMANO

[Introduced February 21, 2022; referred  
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §30-4-1, §30-4-3, §30-4-8a, and §30-4-19 of the Code of West  
 2 Virginia, 1931, as amended; and to amend said code by adding thereto two new sections,  
 3 designated §30-4-25 and §30-4-26, all relating to the practice of dentistry; defining the  
 4 practice of dentistry; specifying specific acts that are deemed the practice of dentistry;  
 5 adding necessary definitions; revising certain definitions and removing unnecessary  
 6 definitions; adding recently recognized dental specialties; adding additional acts or  
 7 omissions subject to disciplinary action; providing for registration to practice dentistry or  
 8 dental hygiene; registrants limited to providing interstate telehealth services; providing that  
 9 registrants are subject to disciplinary action; adding language concerning orthodontic  
 10 treatment; adding required provisions regarding telehealth services; and authorizing  
 11 certain dentists and dental hygienists to perform certain medical practices and procedures  
 12 during a declared public health emergency.

*Be it enacted by the Legislature of West Virginia:*

#### **ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.**

##### **§30-4-1. Unlawful acts.**

1 (a) It is unlawful for any person to practice or offer to practice dentistry or dental hygiene  
 2 in this state without a license, issued under the provisions of this article, or advertise or use any  
 3 title or description tending to convey or give the impression that they are a dentist or dental  
 4 hygienist, unless the person is licensed under the provisions of this article.

5 (b) A business entity may not render any service or engage in any activity which, if  
 6 rendered or engaged in by an individual, would constitute the practice of dentistry, except through  
 7 a licensee.

8 (c) Any person shall be deemed to be practicing dentistry who uses the words "dentist",  
 9 "dental surgeon", "dental hygienist", the letters "D.D.S.", "D.M.D.", "R.D.H.", or other letters or title  
 10 in connection with his or her name, which in any way represents him or her as being engaged in  
 11 the practice of dentistry, or who holds himself or herself out, advertises, or permits to be advertised

12 that he or she can or will perform dental operations of any kind, or who, for a fee, salary, or other  
13 reward paid either to himself or herself or to another person: (1) Performs dental operations of  
14 any kind, including the whitening of natural or manufactured teeth; (2) diagnoses or treats  
15 diseases, disorders, or conditions of the human teeth or jaws, or attempts to correct malpositions  
16 thereof; (3) diagnoses or treats diseases, disorders, or conditions of the oral cavity or adjacent  
17 associated structures; (4) takes or causes to be taken digital scans or impressions of the human  
18 teeth or jaws to be used directly in the fabrication of any intraoral appliance; (5) constructs,  
19 supplies, reproduces or repairs any prosthetic denture, bridge, artificial restoration, or other  
20 structure to be used or worn as a substitute for natural teeth, except upon the written laboratory  
21 procedure work order of a licensed dentist and constructed upon or by the use of casts or models  
22 made from an impression taken by a licensed dentist; (6) advertises, offers, sells, or delivers any  
23 such substitute or the services rendered in the construction, reproduction, supply, or repair thereof  
24 to any person other than a licensed dentist; or (7) places or adjusts such substitute in the oral  
25 cavity of another.

### **§30-4-3. Definitions.**

1 As used in §30-4-1 et seq., §30-4A-1 et seq., and §30-4B-1 et seq. of this code, the  
2 following words and terms have the following meanings:

3 “AAOMS” means the American Association of Oral and Maxillofacial Surgeons;

4 “AAPD” means the American Academy of Pediatric Dentistry;

5 “ACLS” means advanced cardiac life support;

6 “ADA” means the American Dental Association;

7 “AMA” means the American Medical Association;

8 “Appliance” means a removable device used in a plan of dental care;

9 “ASA” means American Society of Anesthesiologists;

10 “Anxiolysis/minimal sedation” means removing, eliminating, or decreasing anxiety by the  
11 use of a single anxiety or analgesia medication that is administered in an amount consistent with

12 the manufacturer's current recommended dosage for the unsupervised treatment of anxiety,  
13 insomnia, or pain, in conjunction with nitrous oxide and oxygen. This does not include multiple  
14 dosing or exceeding current normal dosage limits set by the manufacturer for unsupervised use  
15 by the patient at home for the treatment of anxiety;

16 "Approved dental hygiene program" means a program that is approved by the board and  
17 is accredited or its educational standards are deemed by the board to be substantially equivalent  
18 to those required by the Commission on Dental Accreditation of the American Dental Association;

19 "Approved dental school, college, or dental department of a university" means a dental  
20 school, college, or dental department of a university that is approved by the board and is  
21 accredited or its educational standards are deemed by the board to be substantially equivalent to  
22 those required by the Commission on Dental Accreditation of the American Dental Association;

23 "Authorize" means that the dentist is giving permission or approval to dental auxiliary  
24 personnel to perform delegated procedures in accordance with the dentist's diagnosis and  
25 treatment plan;

26 "BLS" means basic life support;

27 "Board" means the West Virginia Board of Dentistry;

28 "Business entity" means any firm, partnership, association, company, corporation, limited  
29 partnership, limited liability company, or other entity;

30 "Central nervous system anesthesia" means an induced, controlled state of  
31 unconsciousness or depressed consciousness produced by a pharmacologic method;

32 "Certificate of qualification" means a certificate authorizing a dentist to practice a specialty;

33 "CPR" means cardiopulmonary resuscitation;

34 "Conscious sedation/moderate sedation" means an induced, controlled state of depressed  
35 consciousness, produced through the administration of nitrous oxide and oxygen and/or the  
36 administration of other agents whether enteral or parenteral, in which the patient retains the ability  
37 to independently and continuously maintain an airway and to respond purposefully to physical

38 stimulation and to verbal command;

39 “CRNA” means certified registered nurse anesthetist;

40 “Defibrillator” means a device used to sustain asthmatic heartbeat in an emergency and  
41 includes an Automatic Electronic Defibrillator (AED);

42 “Delegated procedures” means those procedures specified by law or by rule of the board  
43 and performed by dental auxiliary personnel under the supervision of a licensed dentist;

44 “Dentist anesthesiologist” means a dentist who is trained in the practice of anesthesiology  
45 and has completed an additional approved anesthesia education course;

46 “Dental anesthesiology” is the specialty of dentistry and discipline of anesthesiology  
47 encompassing the art and science of managing pain, anxiety, and overall patient health during  
48 dental, oral, maxillofacial and adjunctive surgical or diagnostic procedures throughout the entire  
49 perioperative period. The specialty is dedicated to promoting patient safety as well as access to  
50 care for all dental patients, including the very young and patients with special health care needs;

51 “Dental assistant” means a person qualified by education, training or experience who aids  
52 or assists a dentist in the delivery of patient care in accordance with delegated procedures as  
53 specified by the board by rule or who may perform nonclinical duties in the dental office;

54 “Dental auxiliary personnel” or “auxiliary” means dental hygienists and dental assistants  
55 who assist the dentist in the practice of dentistry;

56 “Dental hygiene” means the performance of educational, preventive or therapeutic dental  
57 services and as further provided in §30-4-11 of this code and legislative rule;

58 “Dental hygienist” means a person licensed by the board to practice and who provides  
59 dental hygiene and other services as specified by the board by rule to patients in the dental office  
60 and in a public health setting;

61 “Dental laboratory” means a business performing dental laboratory services;

62 “Dental laboratory services” means the fabricating, repairing, or altering of a dental  
63 prosthesis;

64 “Dental laboratory technician” means a person qualified by education, training, or  
65 experience who has completed a dental laboratory technology education program and who  
66 fabricates, repairs, or alters a dental prosthesis in accordance with a dentist’s work authorization;

67 “Dental office” means the place where the licensed dentist and dental auxiliary personnel  
68 are practicing dentistry;

69 “Dental prosthesis” means ~~an artificial appliance~~ a fixed or removable device fabricated to  
70 replace one or more teeth or other oral or peri-oral structure in order to restore or alter function or  
71 aesthetics;

72 “Dental public health” is the science and art of preventing and controlling dental diseases  
73 and promoting dental health through organized community efforts. It is that form of dental practice  
74 which considers the community to be the patient rather than any individual. It is concerned with  
75 the dental health education of the public, with applied dental research, and with the administration  
76 of group dental care programs as well as the prevention and control of dental diseases on a  
77 community basis;

78 “Dentist” means an individual licensed by the board to practice dentistry;

79 “Dentistry” means the evaluation, diagnosis, prevention, and treatment, through surgical,  
80 nonsurgical, or related procedures, of diseases, disorders, and conditions of the oral cavity  
81 ~~maxillofacial area, and the adjacent and associated structures provided by a dentist~~ and the  
82 maxillofacial, adjacent, and associated structures, and their impact on the human body;

83 “Direct supervision” means supervision of dental auxiliary personnel provided by a  
84 licensed dentist who is physically present in the dental office or treatment facility when procedures  
85 are being performed;

86 “Endodontics” is the branch of dentistry which is concerned with the morphology,  
87 physiology, and pathology of the human dental pulp and periradicular tissues. Its study and  
88 practice encompass the basic and clinical sciences including biology of the normal pulp, the  
89 etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp and associated

90 periradicular conditions;

91 “Facility permit” means a permit for a facility where sedation procedures are used that  
92 correspond with the level of anesthesia provided;

93 “General anesthesia” means an induced, controlled state of unconsciousness in which the  
94 patient experiences complete loss of protective reflexes, as evidenced by the inability to  
95 independently maintain an airway, the inability to respond purposefully to physical stimulation or  
96 the inability to respond purposefully to verbal command;

97 “Deep conscious sedation/general anesthesia” includes partial loss of protective reflexes  
98 while the patient retains the ability to independently and continuously maintain an airway;

99 “General supervision” means a dentist is not required to be in the office or treatment facility  
100 when procedures are being performed, ~~by the auxiliary dental personnel, but has personally~~  
101 ~~diagnosed the condition to be treated~~ has personally authorized the procedures to be completed,  
102 and will evaluate the treatment provided ~~by the dental auxiliary personnel~~ at a future appointment;

103 “Good moral character” means a lack of history of dishonesty;

104 “Health care provider BLS/CPR” means health care provider basic life  
105 support/cardiopulmonary resuscitation;

106 “Interstate telehealth services” means the provision of telehealth services to a patient  
107 located in West Virginia by a registered dental professional located in any other state or  
108 commonwealth of the United States;

109 “License” means a license to practice dentistry or dental hygiene;

110 “Licensee” means a person holding a license;

111 “Mobile dental facility” means any self-contained facility in which dentistry or dental  
112 hygiene will be practiced which may be moved, towed, or transported from one location to another;

113 “Portable dental unit” means any nonfacility in which dental equipment, utilized in the  
114 practice of dentistry, is transported to and utilized on a temporary basis in an out-of-office location,  
115 including, but not limited to, patients’ homes, schools, nursing homes, or other institutions;

116 “Oral medicine” is the specialty of dentistry responsible for the oral health care of medically  
117 complex patients and for the diagnosis and management of medically related disorders or  
118 conditions affecting the oral and maxillofacial region;

119 “Oral pathology” is the specialty of dentistry and discipline of pathology that deals with the  
120 nature, identification, and management of diseases affecting the oral and maxillofacial regions. It  
121 is a science that investigates the causes, processes, and effects of these diseases. The practice  
122 of oral pathology includes research and diagnosis of diseases using clinical, radiographic,  
123 microscopic, biochemical, or other examinations;

124 “Oral and maxillofacial radiology” is the specialty of dentistry and discipline of radiology  
125 concerned with the production and interpretation of images and data produced by all modalities  
126 of radiant energy that are used for the diagnosis and management of diseases, disorders, and  
127 conditions of the oral and maxillofacial region;

128 “Orofacial pain” is the specialty of dentistry that encompasses the diagnosis, management  
129 and treatment of pain disorders of the jaw, mouth, face and associated regions, which specialty  
130 is dedicated to the evidenced-based understanding of the underlying pathophysiology, etiology,  
131 prevention, and treatment of these disorders and improving access to interdisciplinary patient  
132 care. These disorders as they relate to orofacial pain include, but are not limited to,  
133 temporomandibular muscle and joint (TMJ) disorders, jaw movement disorders, neuropathic and  
134 neurovascular pain disorders, headache, and sleep disorders;

135 “Oral and maxillofacial surgery” is the specialty of dentistry which includes the diagnosis,  
136 surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional  
137 and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region;

138 “Orthodontics and dentofacial orthopedics” is the dental specialty that includes the  
139 diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and  
140 skeletal abnormalities of the developing or mature orofacial structures;

141 ~~“Other dental practitioner” means those persons excluded from the definition of the~~



142 ~~practice of dentistry under the provisions of §30-4-24(3), §30-4-24(4), and §30-4-24(5) of this~~  
143 ~~code and also those persons who hold teaching permits which have been issued to them under~~  
144 ~~the provisions of §30-4-14 of this code~~

145 "PALS" means pediatric advanced life support;

146 "Pediatric dentistry" is an age-defined specialty that provides both primary and  
147 comprehensive preventive and therapeutic oral health care for infants and children through  
148 adolescence, including those with special health care needs;

149 "Pediatric patient" means infants and children;

150 "Periodontics" is that specialty of dentistry which encompasses the prevention, diagnosis,  
151 and treatment of diseases of the supporting and surrounding tissues of the teeth or their  
152 substitutes and the maintenance of the health, function, and aesthetics of these structures and  
153 tissues;

154 "Physician anesthesiologist" means a physician, medical doctor, or doctor of osteopathy  
155 who is specialized in the practice of anesthesiology;

156 "Prosthodontics" is the dental specialty pertaining to the diagnosis, treatment planning,  
157 rehabilitation and maintenance of the oral function, comfort, appearance and health of patients  
158 with clinical conditions associated with missing or deficient teeth and/or oral and maxillofacial  
159 tissues using biocompatible substitutes;

160 "Public health practice" means treatment or procedures in a public health setting which  
161 shall be designated by a rule promulgated by the board to require direct, general, or no  
162 supervision of a dental hygienist by a dentist;

163 "Public health setting" means hospitals, schools, correctional facilities, jails, community  
164 clinics, long-term care facilities, nursing homes, home health agencies, group homes, state  
165 institutions under the West Virginia Department of Health and Human Resources, public health  
166 facilities, homebound settings, accredited dental hygiene education programs, and any other  
167 place designated by the board by rule;

168 “Qualified monitor” means an individual who by virtue of credentialing and/or training is  
169 qualified to check closely and document the status of a patient undergoing anesthesia and  
170 observe utilized equipment;

171 “Relative analgesia/minimal sedation” means an induced, controlled state of minimally  
172 depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide  
173 and oxygen or single oral premedication without the addition of nitrous oxide and oxygen in which  
174 the patient retains the ability to independently and continuously maintain an airway and to respond  
175 purposefully to physical stimulation and to verbal command;

176 “Registrant” means an individual who has been issued a registration from the Board;

177 “Registration” means an authorization to practice dentistry or dental hygiene, which is  
178 limited to providing interstate telehealth services within the registrant’s scope of practice;

179 “Specialty” means the practice of a certain branch of dentistry;

180 “Subcommittee” means West Virginia Board of Dentistry Subcommittee on Anesthesia;  
181 and

182 “Teledentistry” or “Teledentistry services” means the use of synchronous or asynchronous  
183 telecommunications technology or audio only telephone calls by a dentist or dental hygienist to  
184 provide health care services, within their scope of practice, including, but not limited to,  
185 assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical  
186 data; patient and professional health-related education; public health services; and health  
187 administration. The term does not include internet questionnaires, e-mail messages, or facsimile  
188 transmissions; and

189 “Work authorization” means a written order for dental laboratory services which has been  
190 issued by a licensed dentist ~~or other dental practitioner.~~

### **§30-4-8a. Dental specialties.**

1 (a) The Board of Dentistry may issue a dental specialty license authorizing a dentist to  
2 represent himself or herself to the public as a specialist, and to practice as a specialist, upon

3 proper application and fee for each specialty and as provided pursuant to the provisions of this  
4 article.

5 (b) A dentist may not represent himself or herself to the public as a specialist, nor practice  
6 as a specialist, unless the individual:

7 (1) Has successfully completed a board-recognized dental specialty/advanced education  
8 program accredited by the Commission on Dental Accreditation;

9 (2) Holds a general dental license in this state; and

10 (3) Has completed any additional requirements set forth in state law or rules and has been  
11 issued a dental specialty license by the board.

12 (c) Specialties recognized by the board and the educational requirements for obtaining a  
13 specialty license shall include:

14 (1) Dental public health. — In order to qualify for this specialty, the licensee shall have  
15 successfully completed a minimum of one full-time academic year of at least eight calendar  
16 months each of graduate or post-graduate education, internship, or residency.

17 (2) Endodontics. — In order to qualify for this specialty, the licensee shall have  
18 successfully completed a minimum of two full-time academic years of at least eight calendar  
19 months each of graduate or post-graduate education, internship, or residency.

20 (3) Oral and maxillofacial surgery. — In order to qualify for this specialty, the licensee shall  
21 have successfully completed a minimum of three full-time academic years of at least eight  
22 calendar months each of graduate or post-graduate education, internship, or residency.

23 (4) Oral and maxillofacial radiology. — In order to qualify for this specialty, the licensee  
24 shall have successfully completed a minimum of two full-time years of at least eight calendar  
25 months each of graduate or post-graduate education, internship, or residency.

26 (5) Orthodontics and dentofacial orthopedics. — In order to qualify for this specialty, the  
27 licensee shall have successfully completed a minimum of two full-time academic years of at least  
28 eight calendar months each of graduate or post-graduate education, internship, or residency. In

29 addition, any applicant for an orthodontic and dentofacial orthopedic specialty certificate  
30 ~~commencing on July 1, 2019,~~ shall submit verification of successful completion of the American  
31 Board of Orthodontics written examination.

32 (6) Pediatric dentistry. — In order to qualify for this specialty, the licensee shall have  
33 successfully completed a minimum of two full-time academic years of at least eight calendar  
34 months each of graduate or post-graduate education, internship, or residency.

35 (7) Periodontics. — In order to qualify for this specialty, the licensee shall have  
36 successfully completed a minimum of two full-time academic years of at least eight calendar  
37 months each of graduate or post-graduate education, internship, or residency.

38 (8) Prosthodontics. — In order to qualify for this specialty, the licensee shall have  
39 successfully completed a minimum of two full-time academic years of at least eight calendar  
40 months each of graduate or post-graduate education, internship, or residency.

41 (9) Oral pathology. — In order to qualify for this specialty, the licensee shall have  
42 successfully completed a minimum of two full-time academic years of at least eight calendar  
43 months each of graduate or post-graduate education, internship, or residency.

44 (10) Dental anesthesiology. — In order to qualify for this specialty, the licensee shall have  
45 successfully completed a minimum of two full-time academic years of at least eight calendar  
46 months each of graduate or post-graduate education, internship, or residency.

47 (11) Oral medicine. — In order to qualify for this specialty, the licensee shall have  
48 successfully completed a minimum of two full-time academic years of at least eight calendar  
49 months each of graduate or post-graduate education, internship, or residency.

50 (12) Orofacial pain. — In order to qualify for this specialty, the licensee shall have  
51 successfully completed a minimum of two full-time academic years of at least eight calendar  
52 months each of graduate or post-graduate education, internship, or residency.

53 (d) The licensee shall limit his or her practice of dentistry only to the specialty or specialties  
54 in which he or she is licensed and in which he or she holds himself or herself out to the public as

55 a specialist.

56 (e) The licensee shall limit his or her listing in the telephone directory or on the internet to  
57 the specialties in which he or she has an office or offices.

58 (f) The limitation of practice is removed for purposes of volunteering services in organized  
59 health clinics and at charitable events.

**§30-4-19. Complaints; investigations; due process procedure; grounds for disciplinary  
action.**

1 (a) The board may initiate a complaint upon receipt of the quarterly report from the Board  
2 of Pharmacy as required by §60A-9-1 *et seq.* of this code or upon receipt of credible information  
3 and shall, upon the receipt of a written complaint of any person, cause an investigation to be  
4 made to determine whether grounds exist for disciplinary action under this article or the legislative  
5 rules promulgated pursuant to this article.

6 (b) After reviewing any information obtained through an investigation, the board shall  
7 determine if probable cause exists that the licensee, certificate holder, registrant, or permittee has  
8 violated §30-4-19 (g) of this code or rules promulgated pursuant to this article.

9 (c) Upon a finding of probable cause to go forward with a complaint, the board shall provide  
10 a copy of the complaint to the licensee, certificate holder, registrant, or permittee.

11 (d) Upon a finding that probable cause exists that the licensee, certificate holder, or  
12 permittee has violated §30-4-19(g) of this code or rules promulgated pursuant to this article, the  
13 board may enter into a consent decree or hold a hearing for disciplinary action against the  
14 licensee, certificate holder, registrant, or permittee. Any hearing shall be held in accordance with  
15 the provisions of this article and shall require a violation to be proven by a preponderance of the  
16 evidence.

17 (e) A member of the complaint committee or the executive director of the board may issue  
18 subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the  
19 investigation of allegations against any person regulated by this article.

20 (f) Any member of the board or its executive director may sign a consent decree or other  
21 legal document on behalf of the board.

22 (g) The board may, after notice and opportunity for hearing, deny or refuse to renew,  
23 suspend, restrict, or revoke the license, certificate, registration, or permit of, or impose  
24 probationary conditions upon, or take disciplinary action against, any licensee, certificate holder,  
25 registrant, or permittee for any of the following reasons:

26 (1) Obtaining a board authorization by fraud, misrepresentation, or concealment of  
27 material facts;

28 (2) Being convicted of a felony crime, or being convicted of a misdemeanor crime related  
29 to the practice of dentistry or dental hygiene;

30 (3) Being guilty of malpractice or neglect in the practice of dentistry or dental hygiene;

31 (4) Violation of a lawful order or legislative rule of the board;

32 (5) Having had a board authorization revoked or suspended, other disciplinary action  
33 taken, or an application for a board authorization denied by the proper authorities of another  
34 jurisdiction;

35 (6) Aiding, abetting, or supervising the practice of dentistry or dental hygiene by an  
36 unlicensed person;

37 (7) Engaging in conduct, while acting in a professional capacity, which has endangered or  
38 is likely to endanger the health, welfare, or safety of the public;

39 (8) Having an incapacity that prevents one from engaging in the practice of dentistry or  
40 dental hygiene, with reasonable skill, competence, and safety to the public;

41 (9) Committing fraud in connection with the practice of dentistry or dental hygiene;

42 (10) Failing to report to the board one's surrender of a license or authorization to practice  
43 dentistry or dental hygiene in another jurisdiction while under disciplinary investigation by any of  
44 those authorities or bodies for conduct that would constitute grounds for action as defined in this  
45 section;

46 (11) Failing to report to the board any adverse judgment, settlement, or award arising from  
47 a malpractice claim related to conduct that would constitute grounds for action as defined in this  
48 section;

49 (12) Being guilty of unprofessional conduct as contained in the American Dental  
50 Association principles of ethics and code of professional conduct. The following acts are  
51 conclusively presumed to be unprofessional conduct:

52 (A) Being guilty of any fraud or deception;

53 (B) Abusing alcohol or drugs;

54 (C) Violating or improperly disclosing any professional confidence;

55 (D) Harassing, abusing, intimidating, insulting, degrading, or humiliating a patient  
56 physically, verbally, or through another form of communication;

57 (E) Obtaining any fee by fraud or misrepresentation;

58 (F) Employing directly or indirectly, or directing or permitting any suspended or unlicensed  
59 person, to perform operations of any kind or to treat lesions of the human teeth or jaws, or correct  
60 malimposed formations thereof;

61 (G) Practicing or offering or undertaking to practice dentistry under any firm name or trade  
62 name not approved by the board;

63 (H) Having a professional connection or association with, or lending his or her name to,  
64 another for the illegal practice of dentistry, or having a professional connection or association with  
65 any person, firm, or corporation holding himself or herself, themselves, or itself out in any manner  
66 contrary to this article;

67 (I) Making use of any advertising relating to the use of any drug or medicine of unknown  
68 formula;

69 (J) Advertising to practice dentistry or perform any operation thereunder without causing  
70 pain;

71 (K) Advertising professional superiority or the performance of professional services in a

72 superior manner;

73 (L) Advertising to guarantee any dental service;

74 (M) Advertising in any manner that is false or misleading in any material respect; ~~or~~

75 (N) Engaging in any action or conduct which would have warranted the denial of the  
76 license; or

77 (O) The failure by the treating dentist, prior to the initial diagnosis and correction of  
78 malpositions of human teeth or initial use of orthodontic appliances or aligners, to review the  
79 patient's most recent diagnostic digital or conventional radiographs or other equivalent bone  
80 imaging suitable for orthodontia. New radiographs or other equivalent bone imaging shall be  
81 offered if deemed appropriate by the treating dentist.

82 (13) Knowing or suspecting that a licensee is incapable of engaging in the practice of  
83 dentistry or dental hygiene, with reasonable skill, competence, and safety to the public, and failing  
84 to report that information to the board;

85 (14) Using or disclosing protected health information in an unauthorized or unlawful  
86 manner;

87 (15) Engaging in any conduct that subverts or attempts to subvert any licensing  
88 examination or the administration of any licensing examination;

89 (16) Failing to furnish to the board or its representatives any information legally requested  
90 by the board or failing to cooperate with or engaging in any conduct which obstructs an  
91 investigation being conducted by the board;

92 (17) Announcing or otherwise holding himself or herself out to the public as a specialist or  
93 as being specially qualified in any particular branch of dentistry or as giving special attention to  
94 any branch of dentistry or as limiting his or her practice to any branch of dentistry without first  
95 complying with the requirements established by the board for the specialty and having been  
96 issued a certificate of qualification in the specialty by the board;

97 (18) Failing to report to the board within 72 hours of becoming aware of any life threatening



98 occurrence, serious injury, or death of a patient resulting from the licensee's registrant's, or  
99 permittee's dental treatment;

100 (19) Administering sedation anesthesia without a valid permit, or other violation of §30-  
101 4A-1 *et seq.* of this code;

102 (20) Failing to observe or adhere to regulations, standards, or guidelines regarding  
103 infection control, disinfection, or sterilization, or otherwise applicable to dental care settings;

104 (21) Failing to report to the board any driving under the influence and/or driving while  
105 intoxicated offense; or

106 (22) Violation of any of the terms or conditions of any order entered in any disciplinary  
107 action.

108 (h) For the purposes of §30-4-19(g) of this code, disciplinary action may include:

109 (1) Reprimand;

110 (2) Probation;

111 (3) Restrictions;

112 (4) Suspension;

113 (5) Revocation;

114 (6) Administrative fine, not to exceed \$1,000 per day per violation;

115 (7) Mandatory attendance at continuing education seminars or other training;

116 (8) Practicing under supervision or other restriction; or

117 (9) Requiring the licensee, registrant, or permittee to report to the board for periodic  
118 interviews for a specified period of time.

119 (i) In addition to any other sanction imposed, the board may require a licensee or permittee  
120 to pay the board's costs incurred in investigating and adjudicating a disciplinary matter, including  
121 the board's legal fees.

122 (j) The board may defer disciplinary action with regard to an impaired licensee, registrant,  
123 or permittee who voluntarily signs an agreement, in a form satisfactory to the board, agreeing not

124 to practice dental care and to enter an approved treatment and monitoring program in accordance  
125 with the board's legislative rules: *Provided*, That this subsection does not apply to a licensee,  
126 registrant, or permittee who has been convicted of, pleads guilty to, or enters a plea of nolo  
127 contendere to an offense relating to a controlled substance in any jurisdiction.

128 (k) A person authorized to practice under this article who reports or otherwise provides  
129 evidence of the negligence, impairment, or incompetence of another member of this profession  
130 to the board or to any peer review organization is not liable to any person for making the report if  
131 the report is made without actual malice and in the reasonable belief that the report is warranted  
132 by the facts known to him or her at the time.

**§30-4-25. Teledentistry.**

1 (a) To deliver teledentistry services in this state, one must hold a current, valid dental or  
2 dental hygiene license or registration issued by the board. The practice of dentistry occurs where  
3 the patient is located at the time teledentistry services are provided.

4 (b) The board may propose rules for legislative approval in accordance with the provisions  
5 of §29A-3-1 et seq. of this code to implement standards for registration to provide teledentistry  
6 services via interstate telehealth services and for the utilization of teledentistry in this state.

7 (c) The board may propose rules for legislative approval in accordance with the provisions  
8 of §29A-3-1 et seq. of this code to implement standards for a registrant to provide teledentistry  
9 through interstate telehealth services and the utilization of teledentistry in this state.

**§30-4-26. Declared Public Health Emergencies.**

1 During a declared public health emergency, dentists and dental hygienists with a local  
2 anesthesia certificate, may administer vaccines, perform FDA-authorized diagnostic tests to  
3 screen patients for infectious diseases, triage medical patients, and perform other ancillary  
4 medical procedures and activities as requested by medical personnel.

NOTE: The purpose of this bill is to define the practice of dentistry, to add necessary

definitions, to revise certain definitions, and to remove unnecessary definitions, add recently recognized dental specialties, to add registrants to disciplinary section and language concerning orthodontic treatment, to add the statutorily required provisions regarding telehealth services, and add a section concerning a declared public health emergency.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.