

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 146
Health Care Committee Substitute Adopted 3/17/21
PROPOSED HOUSE COMMITTEE SUBSTITUTE S146-PCS15317-BC-45

Short Title: Teledentistry/RDH Admin. Local Anesthetic.

(Public)

Sponsors:

Referred to:

February 25, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH STANDARDS FOR THE PRACTICE OF TELEDENTISTRY, TO
3 AUTHORIZE PROPERLY TRAINED DENTAL HYGIENISTS TO ADMINISTER
4 LOCAL DENTAL ANESTHETICS UNDER DIRECT SUPERVISION OF A LICENSED
5 DENTIST, TO ALLOW CERTAIN DENTAL HYGIENISTS GREATER FLEXIBILITY
6 TO PRACTICE WITHOUT SUPERVISION OF A LICENSED DENTIST, TO ALLOW
7 LICENSURE BY CREDENTIAL FOR CERTAIN INSTRUCTORS, AND TO ENABLE
8 REPRESENTATIVES OF THE ECU SCHOOL OF DENTAL MEDICINE TO SERVE ON
9 THE NC CARING DENTAL PROFESSIONALS BOARD.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.(a)** G.S. 90-29(b) reads as rewritten:

12 "(b) A person shall be deemed to be practicing dentistry in this State who does, undertakes
13 or attempts to do, or claims the ability to do any one or more of the following acts or things
14 which, for the purposes of this Article, constitute the practice of dentistry:

15 ...

16 (6) Administers an anesthetic of any kind in the treatment of dental or oral
17 diseases or physical conditions, or in preparation for or incident to any
18 operation within the oral cavity; provided, however, that this subsection shall
19 not apply to a lawfully qualified nurse anesthetist who administers such
20 anesthetic under the supervision and direction of a licensed dentist or
21 ~~physician;~~physician, or to a registered dental hygienist qualified to administer
22 local anesthetics.

23 ...

24 (11) Owns, manages, supervises, controls or conducts, either ~~himself or~~ himself,
25 by and through another person or other persons, or by use of any electronic or
26 other digital means, any enterprise wherein any one or more of the acts or
27 practices set forth in subdivisions (1) through (10) above are done, attempted
28 to be done, or represented to be ~~done;~~ done.

29"

30 **SECTION 1.(b)** Article 2 of Chapter 90 of the General Statutes is amended by
31 adding a new section to read:

32 "**§ 90-30.2. Teledentistry practice; definitions; requirements.**

33 (a) The following definitions apply in this section:

34 (1) Authorized person. – An appropriate person with legal authority to make the
35 health care treatment decision for a patient.



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- 1 (2) Licensed dental hygienist. – An individual who holds a valid license to
2 practice dental hygiene duly issued by the North Carolina Board of Dental
3 Examiners in accordance with Article 16 of this Chapter.
- 4 (3) Licensed dentist. – A person who holds a valid license to practice dentistry
5 duly issued by the North Carolina Board of Dental Examiners in accordance
6 with this Article.
- 7 (4) Licensee. – A person who is a licensed dental hygienist or licensed dentist in
8 this State.
- 9 (5) Practice of teledentistry. – The provision of dental services by use of any
10 electronic or other digital means, as authorized in G.S. 90-29(b)(11) and
11 provided for in subsection (b) of this section.
- 12 (6) Supervision. – Acts are deemed to be under the supervision of a licensed
13 dentist when performed pursuant to the licensed dentist's order, control, and
14 approval and do not require the physical presence of the licensed dentist.
- 15 (b) Practice of Teledentistry Requirements. – For the purposes of this Article, the practice
16 of teledentistry includes any of the following:
- 17 (1) Delivery of service. – Teledentistry services may be delivered by a licensed
18 dentist or a licensed dental hygienist who is under the supervision of a licensed
19 dentist. Licensees shall comply with all rules of professional conduct and
20 applicable State and federal law relevant to licensed dentists and licensed
21 dental hygienists when delivering teledentistry services.
- 22 (2) Encounter location. – The location of service is determined at the time
23 teledentistry services are initiated, as follows:
- 24 a. When the service is between patient and provider, the location of the
25 patient is the originating site, and the location of the provider is the
26 distant site.
- 27 b. When the service is between providers, conducted for the purposes of
28 consultation, the location of the provider initiating the consult is the
29 originating site, and the location of the consulting provider is the
30 distant site.
- 31 (3) Data. – Any licensee, patient, or authorized person may transmit data,
32 electronic images, and related information as appropriate to provide
33 teledentistry services to a patient.
- 34 (4) Patient care. – A licensee using teledentistry services in the provision of dental
35 services to a patient shall take appropriate steps to establish the
36 licensee-patient relationship, conduct all appropriate evaluations and history
37 of the patient, and provide access to comprehensive dental care where
38 clinically indicated.
- 39 (5) Evaluations. – Notwithstanding any provision of law to the contrary, patient
40 evaluations may be conducted by a licensed dentist using teledentistry
41 modalities.
- 42 (c) Informed Consent. – A licensee who provides or facilitates the use of teledentistry
43 shall ensure that the informed consent of the patient or authorized person is obtained before
44 services are provided through teledentistry. All informed consents shall be included in the
45 patient's dental records. To obtain an informed consent, the licensee shall do all of the following:
- 46 (1) Confirm the identity of the requesting patient.
- 47 (2) Verify and authenticate the patient's health history.
- 48 (3) Disclose the licensee's identity, applicable credentials, and contact
49 information, including a current phone number and mailing address of the
50 licensee's practice.

- 1 (4) Obtain an appropriate informed consent from the requesting patient after
2 disclosures have been made regarding the delivery models and treatment
3 methods and limitations, including any special informed consents regarding
4 the use of teledentistry services.
- 5 (5) In addition to other areas that must be discussed in traditional in-person dental
6 encounters with a patient before treatment, the informed consent shall inform
7 the patient or authorized person and document acknowledgment of the risk
8 and limitations of all of the following:
- 9 a. The use of electronic communications in the provision of care.
10 b. The potential for breach of confidentiality, or inadvertent access of
11 protected health information using electronic and digital
12 communication in the use of teledentistry.
13 c. The types of activities permitted using teledentistry services.
- 14 (6) Inform the patient or authorized person that it is the role of the licensed dentist
15 to determine whether the condition being diagnosed or treated is appropriate
16 for a teledentistry encounter.
- 17 (7) Obtain written consent from the patient or authorized person to forward
18 patient-identifiable information to a third party.
- 19 (8) Provide the patient and authorized person with contact information for the
20 North Carolina State Board of Dental Examiners and a description of, or link
21 to, the patient complaint process.

22 (d) Confidentiality. – The licensee shall ensure that any electronic and digital
23 communication used in the practice of teledentistry is secure to maintain confidentiality of the
24 patient's medical information as required by the Health Insurance Portability and Accountability
25 Act of 1996 (HIPAA) and all other applicable laws and administrative regulations. Patients
26 receiving services through teledentistry under this section are entitled to protection of their
27 medical information no less stringent than the requirements that apply to patients receiving
28 in-person services.

29 (e) Patient Dental Records. – Records of teledentistry services provided to a patient or
30 authorized person shall be held to the same record retention standards as records of traditional
31 in-person dental encounters. A patient record established during the use of teledentistry services
32 shall be accessible to both the licensee and the patient or authorized person, consistent with all
33 established State and federal laws and regulations governing patient health care records. In
34 addition to other areas that must be included in traditional in-person dental encounters, the
35 licensee shall document or record in the patient dental record all of the following:

- 36 (1) The patient's presenting problem.
37 (2) The patient's diagnosis.
38 (3) The patient's treatment plan.
39 (4) A description of all services that were provided through teledentistry.

40 (f) Prescribing. – The indication, appropriateness, and safety considerations for each
41 prescription for medication, laboratory services, or dental laboratory services provided through
42 the use of teledentistry shall be evaluated by the licensed dentist in accordance with applicable
43 law and current standards of care, including those for appropriate documentation. A licensed
44 dentist's use of teledentistry carries the same professional accountability as a prescription issued
45 in connection with an in-person encounter. A licensed dentist who prescribes any type of
46 analgesic or pain medication as part of the provision of teledentistry services shall comply with
47 all applicable North Carolina Controlled Substance Reporting System requirements."

48 **SECTION 1.(c)** G.S. 90-41 reads as rewritten:

49 **"§ 90-41. Disciplinary action.**

50 (a) The North Carolina State Board of Dental Examiners shall have the power and
51 authority to (i) Refuse to issue a license to practice dentistry; (ii) Refuse to issue a certificate of

1 renewal of a license to practice dentistry; (iii) Revoke or suspend a license to practice dentistry;
 2 and (iv) Invoke such other disciplinary measures, censure, or probative terms against a licensee
 3 as it deems fit and proper;
 4 in any instance or instances in which the Board is satisfied that such applicant or licensee:

5 ...

6 (25) Has distributed or caused to be distributed any intoxicant, drug or narcotic for
 7 any other than a lawful purpose; ~~or~~

8 (26) Has engaged in any unprofessional conduct as the same may be, from time to
 9 time, defined by the rules and regulations of the ~~Board~~ Board;

10 (27) Has allowed fee-splitting for the use of teledentistry services; or

11 (28) Has limited, in any way, a patient's right or ability to raise grievances or file
 12 complaints with any appropriate oversight body, including the North Carolina
 13 State Board of Dental Examiners, the North Carolina Department of Justice,
 14 Division of Medicaid Investigations, and the North Carolina Department of
 15 Health and Human Services, Division of Health Benefits, Office of
 16 Compliance and Program Integrity.

17"

18 **SECTION 2.(a)** G.S. 90-221(a) reads as rewritten:

19 "(a) "Dental hygiene" as used in this Article shall mean the performance of the following
 20 functions: Complete oral prophylaxis, application of preventive agents to oral structures,
 21 exposure and processing of radiographs, administration of medicaments prescribed by a licensed
 22 dentist, preparation of diagnostic aids, and written records of oral conditions for interpretation
 23 by the dentist, together with such other and further functions as may be permitted by rules and
 24 regulations of the Board not inconsistent herewith. Notwithstanding the provisions of
 25 G.S. 90-29(b)(6), dental hygiene shall include the administration of local anesthetics by
 26 infiltration and block techniques by dental hygienists certified pursuant to G.S. 90-225.2, if a
 27 dental hygienist conducts administration of local anesthetics under the direct supervision of a
 28 dentist licensed to practice dentistry under Article 2 of this Chapter."

29 **SECTION 2.(b)** G.S. 90-221 is amended by adding a new subsection to read:

30 "(b1) "Direct supervision" as used in this Article shall mean that acts are deemed to be under
 31 required supervision only when performed in a locale where the supervising licensed dentist is
 32 physically present and shall not include supervision under G.S. 90-233(a) and (a1)."

33 **SECTION 2.(c)** Article 16 of Chapter 90 of the General Statutes is amended by
 34 adding a new section to read:

35 **"§ 90-225.2. Current hygiene students in CODA-approved curriculum programs.**

36 Programs required for dental hygienists licensed in this State to qualify to administer local
 37 anesthetics pursuant to G.S. 90-221(a) shall be taught using lecture and laboratory or clinical
 38 formats at the University of North Carolina Adams School of Dentistry, the East Carolina
 39 University School of Dental Medicine, or a dental hygiene program accredited by the
 40 Commission on Dental Accreditation (CODA), or a similar organization approved by the United
 41 States Department of Education. The training program will include, at a minimum, a 30-hour
 42 session composed of 16 didactic hours and 14 clinical hours. Clinical instruction shall be
 43 provided by a dentist holding a DDS or DMD degree, and the faculty-to-student ratio shall be no
 44 greater than 1:5 for the laboratory and clinical instruction. Courses must be taught to a minimum
 45 score of eighty percent (80%) in the parenteral administration of local anesthesia, and successful
 46 students shall be awarded a certificate of completion."

47 **SECTION 2.(d)** Article 16 of Chapter 90 of the General Statutes is amended by
 48 adding a new section to read:

49 **"§ 90-225.3. Requirements to administer local anesthetics for licensed dental hygienists;**
 50 **reciprocity.**

1 (a) The Board may approve a dental hygienist licensed in this State or any other state or
2 territory to provide local anesthesia upon the dental hygienist meeting all of the following criteria:

3 (1) Produces satisfactory evidence of the required education, training, and clinical
4 qualifications to provide local anesthesia.

5 (2) Has been practicing dental hygiene, as defined in G.S. 90-221, under the
6 supervision of a licensed dentist for a minimum of two years immediately
7 preceding the date of the application.

8 (3) Has successfully completed a course of study on local anesthetics offered
9 through a school or college approved by the United States Department of
10 Education or a Board-approved continuing education provider that includes
11 all of the following:

12 a. A minimum of 16 lecture hours on pharmacology, physiology,
13 equipment, block and infiltration techniques, legal issues, and medical
14 emergencies, including systemic complications.

15 b. A minimum of eight clinical hours of instruction and experience in
16 administering local anesthesia injections.

17 c. Completion of at least 12 block and 12 infiltration injections under the
18 direct supervision of a licensed dentist who must certify the applicant's
19 competency.

20 (b) If an applicant cannot satisfy the requirements as set forth in subsection (a) of this
21 section, the Board may require the licensed dentist hygienist to complete all or parts of the
22 requirements specified in subsection (a) of this section before the applicant can be qualified to
23 administer intraoral, local dental anesthetics in this State.

24 (c) Dental hygienists who administer local anesthetics must maintain current CPR
25 training and annually complete two hours of approved continuing education which shall include
26 a review of local anesthetic technique, contraindications, systemic complications, medical
27 emergencies related to local anesthesia, and a general overview of dental office emergencies.
28 These hours may be among those chosen to satisfy the hours of continuing education otherwise
29 required of licensed dental hygienists in this Article."

30 **SECTION 3.** G.S. 90-233 reads as rewritten:

31 **"§ 90-233. Practice of dental hygiene.**

32 (a) A dental hygienist may practice only under the supervision of one or more licensed
33 dentists. This subsection shall be deemed to be complied with in the case of dental hygienists
34 employed by or under contract with a local health ~~department or department~~, a State government
35 dental public health ~~program-program~~, or a federally qualified health center, and especially
36 trained by the ~~Dental-Oral Health Section of the Department of Health and Human Services~~ as
37 public health hygienists, while performing their duties for the persons officially served by the
38 local health ~~department or department~~, State government ~~program-program~~, or federally qualified
39 health center under the direction of a duly licensed dentist employed by that program or by the
40 ~~Dental-Oral Health Section of the Department of Health and Human Services.~~

41 (a1) A dental hygienist who has three years of experience in clinical dental hygiene or a
42 minimum of 2,000 hours performing primarily prophylaxis or periodontal debridement under the
43 supervision of a licensed dentist, who completes annual CPR certification, who completes six
44 hours each year of Board-approved continuing education in medical emergencies in addition to
45 the requirements of G.S. 90-225.1, and who is designated by the employing dentist as being
46 capable of performing clinical hygiene procedures without the direct supervision of the dentist,
47 may perform one or more dental hygiene functions as described in G.S. 90-221(a) under the
48 direction of a dentist based on a written standing order, rather than an in-person evaluation by
49 the dentist and without a licensed dentist being physically present if all of the following
50 conditions are met:

- 1 (1) A licensed dentist directs in writing the hygienist to perform the dental
2 hygiene functions.
- 3 (2) ~~The licensed dentist has personally conducted an evaluation of the patient
4 which shall include a complete oral examination of the patient, a thorough
5 analysis of the patient's health history, a diagnosis of the patient's condition,
6 and a specific written plan for treatment.~~
- 7 (3) The dental hygiene functions directed to be performed in accordance with this
8 subsection ~~shall be~~ are conducted within ~~120-270~~ days of the dentist's
9 ~~evaluation standing order.~~
- 10 (4) The services are performed in nursing homes; rest homes; long-term care
11 facilities; schools; rural and community clinics operated by Board-approved
12 nonprofits; rural and community clinics operated by federal, State, county, or
13 local governments; federally qualified health centers; and any other facilities
14 identified by the Office of Rural Health and approved by the Board as serving
15 dental access shortage areas.
- 16 (5) A licensed dentist is available to provide appropriate follow-up care as
17 necessary.

18 ...

19 (a6) Dental hygienists performing procedures in accordance with subsection (a1) of this
20 section may supervise a Dental Assistant who assists the hygienist in clinical procedures and is
21 classified as a Dental Assistant II or permitted to perform functions of a Dental Assistant II
22 pursuant to 21 NCAC 16H .0104(a) or (b).

23"

24 **SECTION 4.** G.S. 90-36 reads as rewritten:

25 "**§ 90-36. Licensing practitioners of other states.**

26 ...

27 (b1) The North Carolina State Board of Dental Examiners shall issue a license by
28 credentials to any dentist who applies for a license by credentials, who possesses good moral
29 character, and who meets either of the following criteria:

- 30 (1) Holds a current Instructor's License pursuant to G.S. 90-29.5.
- 31 (2) Has graduated with a general dental degree from any school or college and
32 has graduated from an advanced dental education program with either a
33 certificate or a degree from a school or college accredited by the Commission
34 on Dental Accreditation of the American Dental Association and approved by
35 the Board.

36 Any applicant who applies for a license by credentials in accordance with subdivision (b1)(2)
37 of this section shall meet the requirements of subsections (c) and (d) of this section and shall have
38 passed satisfactory examinations of proficiency in the knowledge and practice of dentistry as set
39 out in subsection (a) of this section.

40"

41 **SECTION 5.** G.S. 90-48.2 reads as rewritten:

42 "**§ 90-48.2. Board agreements with special peer review organizations for impaired dentists.**

43 (a) The State Board of Dental Examiners may, under rules adopted by the Board in
44 compliance with Chapter 150B of the General Statutes, enter into agreements with special
45 impaired dentist peer review organizations formed by the North Carolina Dental Society. The
46 organizations shall be made up of Dental Society members designated by the Society, the Board,
47 ~~and the Dental School of the University of North Carolina. Carolina Adams School of Dentistry,
48 and the East Carolina University School of Dental Medicine.~~ Peer review activities to be covered
49 by such agreements shall include investigation, review and evaluation of records, reports,
50 complaints, litigation, and other information about the practices and practice patterns of dentists
51 licensed by the Board, as such matters may relate to impaired dentists. Special impaired dentist

1 peer review organizations may include a statewide supervisory committee and various regional
2 and local components or subgroups. The statewide supervisory committee shall consist of
3 representatives from the North Carolina Dental Society, the ~~UNC~~ University of North Carolina
4 Adams School of Dentistry, the East Carolina University School of Dental Medicine, and the
5 Board. When the statewide supervisory committee considers activities and programs that relate
6 to impaired dental hygienists pursuant to G.S. 90-48.3, its membership shall be expanded to
7 include two dental hygienists appointed upon the recommendation of the dental hygienist
8 member of the Board.

9"

10 **SECTION 6.** The North Carolina State Board of Dental Examiners may adopt
11 temporary rules to implement the provisions of this act.

12 **SECTION 7.** Section 2 of this act becomes effective October 1, 2021, and applies to
13 licenses granted or renewed on or after that date. The remainder of this act is effective when it
14 becomes law.