

By Senator Boyd

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1 A bill to be entitled
2 An act relating to the practice of dentistry; amending
3 s. 466.003, F.S.; defining the term "digital
4 scanning"; amending s. 466.016, F.S.; requiring
5 dentists to provide each patient with specified
6 information; requiring individuals and entities that
7 provide dental services through telehealth to provide
8 each patient with specified information regarding the
9 dentists treating such patient; amending s. 466.018,
10 F.S.; requiring that there be a dentist of record for
11 each patient treated through telehealth; subjecting
12 such dentists to certain requirements; requiring
13 individuals and entities that provide dental services
14 through telehealth to make specified information
15 available to each patient before rendering such
16 services and at any time upon patient request;
17 providing construction; amending s. 466.019, F.S.;
18 defining the term "advertisement"; requiring that
19 advertisements of specified dental services provided
20 through telehealth contain a specified disclaimer;
21 amending s. 466.024, F.S.; specifying that only
22 certain dental practitioners may perform specified
23 functions of dentistry; amending s. 466.028, F.S.;
24 providing additional grounds for disciplinary action
25 against dental practitioners; amending s. 409.906,
26 F.S.; conforming a cross-reference; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Present subsections (8) through (15) of section 466.003, Florida Statutes, are redesignated as subsections (9) through (16), respectively, a new subsection (8) is added to that section, and present subsection (15) of that section is amended, to read:

466.003 Definitions.—As used in this chapter:

(8) "Digital scanning" means the use of digital technology that creates a computer-generated replica of the hard and soft tissue of the oral cavity using enhanced digital photography, lasers, or other optical scanning devices.

(16)~~(15)~~ "School-based prevention program" means preventive oral health services offered at a school by one of the entities defined in subsection (15) ~~(14)~~ or by a nonprofit organization that is exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c)(3) of the Internal Revenue Code.

Section 2. Section 466.016, Florida Statutes, is amended to read:

466.016 License to be displayed.—

(1) Every practitioner of dentistry or dental hygiene within the meaning of this chapter shall post and keep conspicuously displayed her or his license in the office wherein she or he practices, in plain sight of the practitioner's patients. Any dentist or dental hygienist who practices at more than one location must ~~shall be required to~~ display a copy of her or his license in each office where she or he practices.

(2) Every dentist shall provide each of her or his patients with the dentist's name, contact telephone number, after-hours

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59 contact information for emergencies, and, upon the patient's
60 request, license information.

61 (3) Any individual, partnership, corporation, or other
62 entity that provides dental services through telehealth as
63 defined in s. 456.47 shall provide each patient with the name,
64 contact telephone number, after-hours contact information for
65 emergencies, and, upon the patient's request, license
66 information of each dentist who provides dental services to the
67 patient through telehealth.

68 Section 3. Subsection (6) is added to section 466.018,
69 Florida Statutes, to read:

70 466.018 Dentist of record; patient records.—

71 (6) For any patient treated through telehealth as defined
72 in s. 456.47, there must be a dentist of record who remains
73 primarily responsible for all dental treatment on the patient
74 regardless of whether the treatment is rendered by the dentist
75 of record or by another dentist, dental hygienist, or dental
76 assistant rendering such treatment in conjunction with, at the
77 direction or request of, or under the supervision of such
78 dentist of record. A dentist of record for a patient treated
79 through telehealth is subject to all of the requirements of this
80 section applicable to dentists of record.

81 (a) Any individual, partnership, corporation, or other
82 entity that provides dental services through telehealth shall
83 make available the name, telephone number, practice address, and
84 state license number for the dentist of record and any other
85 dentist who will be involved in the provision of services to a
86 patient before the rendering of such services and at any time
87 requested by a patient.

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88 (b) This subsection may not be construed to assign any
89 responsibility to a dentist of record for treatment rendered
90 pursuant to a proper referral to another dentist who is not in
91 the same practice with the dentist of record or to prohibit a
92 patient from voluntarily selecting a new dentist without
93 permission of the dentist of record.

94 Section 4. Section 466.019, Florida Statutes, is amended to
95 read:

96 466.019 Advertising by dentists.—

97 (1) As used in this section, the term "advertisement" means
98 a representation disseminated in any manner or by any means to
99 solicit patients and includes, but is not limited to, business
100 cards, circulars, pamphlets, newspapers, websites, and social
101 media.

102 (2) The purpose of this section is to ensure that the
103 public has access to information which provides a sufficient
104 basis upon which to make an informed selection of dentists while
105 also ensuring that the public is protected from false or
106 misleading advertisements which would detract from a fair and
107 rational selection process. The board shall adopt rules to carry
108 out the intent of this section, the purpose of which shall be to
109 regulate the manner of such advertising in keeping with the
110 provisions hereof.

111 (3) ~~(2)~~ An ~~no~~ advertisement by a licensed dentist may not
112 ~~shall~~ contain any false, fraudulent, misleading, or deceptive
113 statement or claim or any statement or claim which:

114 (a) Contains misrepresentations of fact;

115 (b) Is likely to mislead or deceive because in context it
116 makes only a partial disclosure of relevant facts;

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117 (c) Contains laudatory statements about the dentist or
118 group of dentists;

119 (d) Is intended or is likely to create false, unjustified
120 expectations of favorable results;

121 (e) Relates to the quality of dental services provided as
122 compared to other available dental services;

123 (f) Is intended or is likely to appeal primarily to a
124 layperson's fears;

125 (g) Contains fee information without a disclaimer that such
126 is a minimum fee only; or

127 (h) Contains other representations or implications that in
128 reasonable probability will cause an ordinary, prudent person to
129 misunderstand or to be deceived.

130 (4) An advertisement of dental services provided through
131 telehealth as defined in s. 456.47 must include a disclaimer
132 that reads, in a clearly legible font and size, "An in-person
133 examination with a dentist licensed under chapter 466, Florida
134 Statutes, is recommended before beginning telehealth treatment
135 in order to prevent injury or harm" for each of the following
136 services, if advertised:

137 (a) The taking of an impression or the digital scanning of
138 the human tooth, teeth, or jaws by any means or method, directly
139 or indirectly.

140 (b) Furnishing, supplying, constructing, reproducing, or
141 repairing any prosthetic denture, bridge, or appliance or any
142 other structure designed to be worn in the human mouth.

143 (c) Placing an appliance or a structure in the human mouth
144 or adjusting or attempting to adjust the appliance or structure.

145 (d) Correcting or attempting to correct malformations of

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146 teeth or jaws.

147 (5)~~(3)~~ For purposes of this section, D.D.S. or D.M.D. are
148 synonymous and may be used interchangeably by licensed dentists
149 who have graduated from an accredited American dental school
150 with a D.D.S. or D.M.D. degree, when advertising dental
151 services.

152 Section 5. Present subsections (2) through (10) of section
153 466.024, Florida Statutes, are redesignated as subsections (3)
154 through (11), respectively, a new subsection (2) is added to
155 that section, and present subsections (3), (5), (6), and (8) are
156 amended, to read:

157 466.024 Delegation of duties; expanded functions.—

158 (2) Only a licensed dentist, a dental hygienist under
159 general supervision, or a dental assistant under direct
160 supervision may take an impression or perform digital scanning
161 of the human tooth, teeth, or jaws, directly or indirectly and
162 by any means or method, for the purpose of the practice of
163 dentistry.

164 (4)~~(3)~~ For all remediable tasks listed in subsection (3)
165 ~~(2)~~, the following disclaimer must be provided to the patient in
166 writing before any procedure is performed:

167 (a) The services being offered are not a substitute for a
168 comprehensive dental exam by a dentist.

169 (b) The diagnosis of caries, soft tissue disease, oral
170 cancer, temporomandibular joint disease (TMJ), and dentofacial
171 malocclusions will be completed only by a dentist in the context
172 of delivering a comprehensive dental exam.

173 (6)~~(5)~~ A dental hygienist who performs, without
174 supervision, the remediable tasks listed in subsection (3) ~~(2)~~

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175 shall:

176 (a) Provide a dental referral in strict compliance with
177 federal and state patient referral, anti-kickback, and patient
178 brokering laws.

179 (b) Encourage the establishment of a dental home.

180 (c) Maintain professional malpractice insurance coverage
181 that has minimum limits of \$100,000 per occurrence and \$300,000
182 in the aggregate through the employing health access setting or
183 individual policy.

184 (7)~~(6)~~ Notwithstanding subsection (1) or subsection (3)
185 ~~(2)~~, a dentist may delegate the tasks of gingival curettage and
186 root planing to a dental hygienist but not to a dental
187 assistant.

188 (9)~~(8)~~ Notwithstanding subsection (1) or subsection (3)
189 ~~(2)~~, a dentist may not delegate to anyone other than another
190 licensed dentist:

191 (a) Any prescription of drugs or medications requiring the
192 written order or prescription of a licensed dentist or
193 physician.

194 (b) Any diagnosis for treatment or treatment planning.

195 Section 6. Present paragraph (mm) of subsection (1) of
196 section 466.028, Florida Statutes, is redesignated as paragraph
197 (pp), and a new paragraph (mm) and paragraphs (nn) and (oo) are
198 added to that subsection, to read:

199 466.028 Grounds for disciplinary action; action by the
200 board.—

201 (1) The following acts constitute grounds for denial of a
202 license or disciplinary action, as specified in s. 456.072(2):

203 (mm) Failure by the dentist of record, before the initial

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204 diagnosis and correction of a malposition of human teeth or
205 initial use of an orthodontic appliance, to perform an in-person
206 examination of the patient or obtain records from an in-person
207 examination within the last 6 months and to perform a review of
208 the patient's most recent diagnostic digital or conventional
209 radiographs or other equivalent bone imaging suitable for
210 orthodontia.

211 (nn) For dental services provided in-person or through
212 telehealth by an individual, a partnership, a corporation, or
213 any other entity, failing to provide each patient with the name,
214 contact telephone number, after-hours contact information for
215 emergencies, and, upon the patient's request, the license
216 information of each dentist who is providing dental services to
217 the patient.

218 (oo) For dental services provided through telehealth by an
219 individual, a partnership, a corporation, or any other entity,
220 failing to designate a dentist of record and make available,
221 before the rendering of such services and upon the patient's
222 request, the name, telephone number, practice address, and state
223 license number for the dentist of record and any other dentist
224 who will be involved in the provision of dental services to the
225 patient through telehealth.

226 Section 7. Subsection (6) of section 409.906, Florida
227 Statutes, is amended to read:

228 409.906 Optional Medicaid services.—Subject to specific
229 appropriations, the agency may make payments for services which
230 are optional to the state under Title XIX of the Social Security
231 Act and are furnished by Medicaid providers to recipients who
232 are determined to be eligible on the dates on which the services

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233 were provided. Any optional service that is provided shall be
234 provided only when medically necessary and in accordance with
235 state and federal law. Optional services rendered by providers
236 in mobile units to Medicaid recipients may be restricted or
237 prohibited by the agency. Nothing in this section shall be
238 construed to prevent or limit the agency from adjusting fees,
239 reimbursement rates, lengths of stay, number of visits, or
240 number of services, or making any other adjustments necessary to
241 comply with the availability of moneys and any limitations or
242 directions provided for in the General Appropriations Act or
243 chapter 216. If necessary to safeguard the state's systems of
244 providing services to elderly and disabled persons and subject
245 to the notice and review provisions of s. 216.177, the Governor
246 may direct the Agency for Health Care Administration to amend
247 the Medicaid state plan to delete the optional Medicaid service
248 known as "Intermediate Care Facilities for the Developmentally
249 Disabled." Optional services may include:

250 (6) CHILDREN'S DENTAL SERVICES.—The agency may pay for
251 diagnostic, preventive, or corrective procedures, including
252 orthodontia in severe cases, provided to a recipient under age
253 21, by or under the supervision of a licensed dentist. The
254 agency may also reimburse a health access setting as defined in
255 s. 466.003 for the remediable tasks that a licensed dental
256 hygienist is authorized to perform under s. 466.024(3) ~~s.~~
257 ~~466.024(2)~~. Services provided under this program include
258 treatment of the teeth and associated structures of the oral
259 cavity, as well as treatment of disease, injury, or impairment
260 that may affect the oral or general health of the individual.
261 However, Medicaid will not provide reimbursement for dental

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262 services provided in a mobile dental unit, except for a mobile
263 dental unit:

264 (a) Owned by, operated by, or having a contractual
265 agreement with the Department of Health and complying with
266 Medicaid's county health department clinic services program
267 specifications as a county health department clinic services
268 provider.

269 (b) Owned by, operated by, or having a contractual
270 arrangement with a federally qualified health center and
271 complying with Medicaid's federally qualified health center
272 specifications as a federally qualified health center provider.

273 (c) Rendering dental services to Medicaid recipients, 21
274 years of age and older, at nursing facilities.

275 (d) Owned by, operated by, or having a contractual
276 agreement with a state-approved dental educational institution.

277 Section 8. This act shall take effect July 1, 2023.