

By the Committee on Banking and Insurance; and 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 terms "dental
4 laboratory technician" and "digital scanning";
5 amending s. 466.016, F.S.; requiring dentists to
6 provide each patient with specified information;
7 requiring individuals and entities that provide dental
8 services through telehealth to provide each patient
9 with specified information regarding the dentists
10 treating such patient; amending s. 466.018, F.S.;
11 requiring that there be a dentist of record for each
12 patient treated through telehealth; subjecting such
13 dentists to certain requirements; requiring
14 individuals and entities that provide dental services
15 through telehealth to make specified information
16 available to each patient before rendering such
17 services and at any time upon patient request;
18 providing construction; amending s. 466.019, F.S.;
19 defining the term "advertisement"; requiring that
20 advertisements of specified dental services provided
21 through telehealth contain a specified disclaimer;
22 amending s. 466.024, F.S.; specifying that only
23 certain dental practitioners may perform specified
24 functions of dentistry; amending s. 466.028, F.S.;
25 providing additional grounds for disciplinary action
26 against dental practitioners; amending s. 409.906,
27 F.S.; conforming a cross-reference; providing an
28 effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Present subsections (7) through (15) of section
33 466.003, Florida Statutes, are redesignated as subsections (9)
34 through (17), respectively, new subsections (7) and (8) are
35 added to that section, and present subsection (15) of that
36 section is amended, to read:

37 466.003 Definitions.—As used in this chapter:

38 (7) "Dental laboratory technician" means a person, other
39 than a dental hygienist or dental assistant, who is under the
40 direct supervision of a dentist, and pursuant to a prescription
41 from a dentist, designs, makes, repairs, or alters artificial
42 dental restorations for the correction of disease, loss,
43 deformity, malposition, dislocation, fracture, or injury to the
44 jaws, teeth, lips, gums, cheeks, palate, or associated tissues
45 or parts.

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

50 (17)~~(15)~~ "School-based prevention program" means preventive
51 oral health services offered at a school by one of the entities
52 defined in subsection (16) ~~(14)~~ or by a nonprofit organization
53 that is exempt from federal income taxation under s. 501(a) of
54 the Internal Revenue Code, and described in s. 501(c)(3) of the
55 Internal Revenue Code.

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

58 466.016 License to be displayed.—

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

66 (2) Every dentist shall provide each of her or his patients
67 with the dentist's name, contact telephone number, after-hours
68 contact information for emergencies, and, upon the patient's
69 request, license information.

70 (3) Any individual, partnership, corporation, or other
71 entity that provides dental services through telehealth as
72 defined in s. 456.47 shall provide each patient with the name,
73 contact telephone number, after-hours contact information for
74 emergencies, and, upon the patient's request, license
75 information of each dentist who provides dental services to the
76 patient through telehealth.

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

79 466.018 Dentist of record; patient records.-

80 (6) For any patient treated through telehealth as defined
81 in s. 456.47, there must be a dentist of record who remains
82 primarily responsible for all dental treatment on the patient
83 regardless of whether the treatment is rendered by the dentist
84 of record or by another dentist, dental hygienist, or dental
85 assistant rendering such treatment in conjunction with, at the
86 direction or request of, or under the supervision of such
87 dentist of record. A dentist of record for a patient treated

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88 through telehealth is subject to all of the requirements of this
89 section applicable to dentists of record.

90 (a) Any individual, partnership, corporation, or other
91 entity that provides dental services through telehealth shall
92 make available the name, telephone number, practice address, and
93 state license number for the dentist of record and any other
94 dentist who will be involved in the provision of services to a
95 patient before the rendering of such services and at any time
96 requested by a patient.

97 (b) This subsection may not be construed to assign any
98 responsibility to a dentist of record for treatment rendered
99 pursuant to a proper referral to another dentist who is not in
100 the same practice with the dentist of record or to prohibit a
101 patient from voluntarily selecting a new dentist without
102 permission of the dentist of record.

103 Section 4. Section 466.019, Florida Statutes, is amended to
104 read:

105 466.019 Advertising by dentists.—

106 (1) As used in this section, the term "advertisement" means
107 a representation disseminated in any manner or by any means to
108 solicit patients and includes, but is not limited to, business
109 cards, circulars, pamphlets, newspapers, websites, and social
110 media.

111 (2) The purpose of this section is to ensure that the
112 public has access to information which provides a sufficient
113 basis upon which to make an informed selection of dentists while
114 also ensuring that the public is protected from false or
115 misleading advertisements which would detract from a fair and
116 rational selection process. The board shall adopt rules to carry

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117 out the intent of this section, the purpose of which shall be to
118 regulate the manner of such advertising in keeping with the
119 provisions hereof.

120 (3)~~(2)~~ An ~~No~~ advertisement by a licensed dentist may not
121 ~~shall~~ contain any false, fraudulent, misleading, or deceptive
122 statement or claim or any statement or claim which:

123 (a) Contains misrepresentations of fact;

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

126 (c) Contains laudatory statements about the dentist or
127 group of dentists;

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

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

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

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

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

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

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

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

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

154 (d) Correcting or attempting to correct malformations of
155 teeth or jaws.

156 (5)~~(3)~~ For purposes of this section, D.D.S. or D.M.D. are
157 synonymous and may be used interchangeably by licensed dentists
158 who have graduated from an accredited American dental school
159 with a D.D.S. or D.M.D. degree, when advertising dental
160 services.

161 Section 5. Present subsections (2) through (10) of section
162 466.024, Florida Statutes, are redesignated as subsections (4)
163 through (12), respectively, new subsections (2) and (3) are
164 added to that section, and present subsections (3), (5), (6),
165 and (8) are amended, to read:

166 466.024 Delegation of duties; expanded functions.—

167 (2) Only a licensed dentist, a dental hygienist under
168 general supervision, or a dental assistant under direct
169 supervision may take an impression of the human tooth, teeth, or
170 jaws, directly or indirectly and by any means or method, for the
171 purpose of the practice of dentistry.

172 (3) Only a licensed dentist, a dental hygienist under
173 general supervision, or a dental assistant or dental laboratory
174 technician under direct supervision may perform digital scanning

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175 of the human tooth, teeth, or jaws, directly or indirectly and
176 by any means or method, for the purpose of the practice of
177 dentistry.

178 (5)~~(3)~~ For all remediable tasks listed in subsection (4)
179 ~~(2)~~, the following disclaimer must be provided to the patient in
180 writing before any procedure is performed:

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

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

187 (7)~~(5)~~ A dental hygienist who performs, without
188 supervision, the remediable tasks listed in subsection (4) ~~(2)~~
189 shall:

190 (a) Provide a dental referral in strict compliance with
191 federal and state patient referral, anti-kickback, and patient
192 brokering laws.

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

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

198 (8)~~(6)~~ Notwithstanding subsection (1) or subsection (4)
199 ~~(2)~~, a dentist may delegate the tasks of gingival curettage and
200 root planing to a dental hygienist but not to a dental
201 assistant.

202 (10)~~(8)~~ Notwithstanding subsection (1) or subsection (4)
203 ~~(2)~~, a dentist may not delegate to anyone other than another

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204 licensed dentist:

205 (a) Any prescription of drugs or medications requiring the
206 written order or prescription of a licensed dentist or
207 physician.

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

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

213 466.028 Grounds for disciplinary action; action by the
214 board.—

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

217 (mm) Failure by the dentist of record, before the initial
218 diagnosis and correction of a malposition of human teeth or
219 initial use of an orthodontic appliance, to perform an in-person
220 examination of the patient or obtain records from an in-person
221 examination within the last 6 months and to perform a review of
222 the patient's most recent diagnostic digital or conventional
223 radiographs or other equivalent bone imaging suitable for
224 orthodontia.

225 (nn) For dental services provided in-person or through
226 telehealth by an individual, a partnership, a corporation, or
227 any other entity, failing to provide each patient with the name,
228 contact telephone number, after-hours contact information for
229 emergencies, and, upon the patient's request, the license
230 information of each dentist who is providing dental services to
231 the patient.

232 (oo) For dental services provided through telehealth by an

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233 individual, a partnership, a corporation, or any other entity,
234 failing to designate a dentist of record and make available,
235 before the rendering of such services and upon the patient's
236 request, the name, telephone number, practice address, and state
237 license number for the dentist of record and any other dentist
238 who will be involved in the provision of dental services to the
239 patient through telehealth.

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

242 409.906 Optional Medicaid services.—Subject to specific
243 appropriations, the agency may make payments for services which
244 are optional to the state under Title XIX of the Social Security
245 Act and are furnished by Medicaid providers to recipients who
246 are determined to be eligible on the dates on which the services
247 were provided. Any optional service that is provided shall be
248 provided only when medically necessary and in accordance with
249 state and federal law. Optional services rendered by providers
250 in mobile units to Medicaid recipients may be restricted or
251 prohibited by the agency. Nothing in this section shall be
252 construed to prevent or limit the agency from adjusting fees,
253 reimbursement rates, lengths of stay, number of visits, or
254 number of services, or making any other adjustments necessary to
255 comply with the availability of moneys and any limitations or
256 directions provided for in the General Appropriations Act or
257 chapter 216. If necessary to safeguard the state's systems of
258 providing services to elderly and disabled persons and subject
259 to the notice and review provisions of s. 216.177, the Governor
260 may direct the Agency for Health Care Administration to amend
261 the Medicaid state plan to delete the optional Medicaid service

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262 known as "Intermediate Care Facilities for the Developmentally
263 Disabled." Optional services may include:

264 (6) CHILDREN'S DENTAL SERVICES.—The agency may pay for
265 diagnostic, preventive, or corrective procedures, including
266 orthodontia in severe cases, provided to a recipient under age
267 21, by or under the supervision of a licensed dentist. The
268 agency may also reimburse a health access setting as defined in
269 s. 466.003 for the remediable tasks that a licensed dental
270 hygienist is authorized to perform under s. 466.024(4) ~~s.~~
271 ~~466.024(2)~~. Services provided under this program include
272 treatment of the teeth and associated structures of the oral
273 cavity, as well as treatment of disease, injury, or impairment
274 that may affect the oral or general health of the individual.
275 However, Medicaid will not provide reimbursement for dental
276 services provided in a mobile dental unit, except for a mobile
277 dental unit:

278 (a) Owned by, operated by, or having a contractual
279 agreement with the Department of Health and complying with
280 Medicaid's county health department clinic services program
281 specifications as a county health department clinic services
282 provider.

283 (b) Owned by, operated by, or having a contractual
284 arrangement with a federally qualified health center and
285 complying with Medicaid's federally qualified health center
286 specifications as a federally qualified health center provider.

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

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

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