



MARYLAND

Department of Health

State Board of Dental Examiners

Bulletin

Maryland State Board of Dental Examiners

Telehealth and Dentistry – Senate Bill 402 and House Bill 448

Now in Effect

During the 2020 session, the Maryland General Assembly passed Senate Bill 402 and House Bill 448 titled “Health Care Practitioners – Telehealth and Shortage” as emergency measures. These bills were cross-filed bills which mean that their language is precisely the same. Therefore, if you wish, you need only read one of the bills. SB 402 is attached to this Bulletin.

Governor Hogan signed the bills on April 3, 2020 (Laws of Maryland, Chapters 15 and 16 respectively). As emergency measures, the bills take effect immediately. The bills authorize telehealth interactions between a patient and a health care provider. This Bulletin will explain how the bills affect the practice of dentistry and dental hygiene.

First, the Board will provide the definitions found in the bills:

Definitions

“Asynchronous telehealth interaction” means an exchange of information between a patient and a health care practitioner that does not occur in real time, including the secure collection and transmission of a patient’s medical information, clinical data, clinical images, laboratory results, and self-reported medical history.

“Health care facility” includes a hospital, limited service hospital, an ambulatory care facility, an inpatient facility organized primarily to help in the rehabilitation of disabled individuals, a home health agency, a hospice, a freestanding medical



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facility, or any other health institution, service, or program which requires a certificate of need.

“Health care practitioner” means an individual who is licensed, certified, or otherwise authorized by law to provide health care services under this Article. [The referenced Article is the Annotated Code of Maryland, Health Occupations Article].

“Synchronous telehealth interaction” means an exchange of information between a patient and a health care practitioner that occurs in real time.

“Telehealth” means a mode of delivering health care services through the use of telecommunications technologies by a health care practitioner to a patient at a different physical location than the health care practitioner. Telehealth does not include the provision of health care services solely through audio-only calls, e-mail messages, or facsimile transmissions.

Summary of the Law as it Relates to Dentistry

- Dentists and dental hygienists providing telehealth services through telehealth must be licensed in Maryland if the dental services are provided to a patient located in Maryland.
- A dentist may establish a dentist-patient relationship through either a synchronous or asynchronous interaction if the dentist verifies the identity of the patient, identifies himself or herself by name and the license held by the dentist, and obtains either oral or written consent from the patient or the patient’s guardian. Note that in public health settings, nursing homes, assisted living programs, and long-term care settings, a dental hygienist, may establish a dental hygienist – patient relationship subject to the supervision of a dentist as that supervision is provided for in existing law.



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- A dentist, or a dental hygienist in the settings provided above must perform a clinical evaluation that is appropriate for the patient and the patient's condition before providing treatment. The clinical evaluation may be performed by either a synchronous or asynchronous means.
- If appropriate, dentists should refer to other health care practitioners, or another type of telehealth service.
- Dentists and dental hygienists must maintain complete dental records of all interactions and treatment, and maintain confidentiality as required for in-person examinations and treatment.

Dentists Prescribing Through Telehealth

- A dentist may not prescribe an opiate described in in the list of Schedule II substances under Section 5-403 of the criminal law article for the treatment of pain through telehealth, unless the individual receiving the prescription is a patient in a health care facility, or the Governor has declared a State of Emergency due to a catastrophic health emergency. **Note that the Governor has declared a State of Emergency and a catastrophic health emergency.**

A partial list of opiates includes but is not limited to: raw opium, opium extracts, codeine, hydrocodone, morphine, and oxycodone.

- A dentist who through telehealth prescribes a controlled dangerous substance is subject to all applicable regulations, limitations, and prohibitions in federal and state law relating to the prescription of controlled dangerous substances.



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Reminders and General Information

Note that HB 448/SB 402 provides for an exchange of information between a patient and a dentist or dental hygienist, and the provision of dental services to a patient at a different physical location. It does not expand upon the allowable duties that may be performed by dental hygienists or auxiliary personnel in a private dental office, a clinic, a nursing home, assisted living program, or a long-term care facility. Those duties, if expanded, must come by Executive Order.

In addition, dentists and dental hygienists are urged to base their clinical telehealth decisions on sound medical information and documentation. Use sound judgment especially in asynchronous situations where you are not in direct contact with the patient. If radiographs or other information are not of diagnostic quality, or if additional information is necessary, get that information.

The bills specifically provide that “[A] health care practitioner providing telehealth services shall be held to the same standards of practice that are applicable to in-person health care settings.

In the near future, the Dental Board will promulgate regulations regarding telehealth.

Dentists must continue to abide by the March 23, 2020, Directive and Order Regarding Various Healthcare Matters from Secretary Robert R. Neall. Secretary Neall’s order #6 titled Elective and Non-urgent Medical Procedures – All Health Care Practitioners states in relevant part:

“[A]ll providers of health care licensed, certified, or otherwise authorized under the Health Occupations Article shall perform only medical procedures that are critically necessary for the maintenance of health for a patient. All elective and non-urgent medical procedures and appointments shall cease



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effective at 5 p.m., Tuesday, March 24, 2020 and shall not be performed for the duration of the catastrophic health emergency.” Future Executive Orders may have an effect upon this Bulletin.

Any questions that you have regarding insurance coverage, coding, or payment should be directed to your insurance carrier, not the Dental Board.

If you wish to read the telehealth law, SB 402 or HB 448 on the General Assembly’s website, go to: mgaleg.maryland.gov > “Search” (located top right) enter either SB 402, or HB 448 > Click the bill (located top left). The emergency bill will appear.

As always, thank you for your continued cooperation. Please understand that this is a fluid situation and the Board will keep you apprised of new developments.