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South Carolina
Department of Labor, Licensing and Regulation

Board of Dentistry



Henry D. McMaster
Governor

Emily H. Farr
Director

AMENDED PUBLIC HEALTH STATE OF EMERGENCY ORDER 2020-DB-PH-01

**USE OF TELEHEALTH TO PROVIDE DENTAL SERVICES DURING
PUBLIC HEALTH STATE OF EMERGENCY**

WHEREAS, on March 13, 2020, Governor Henry McMaster issued Executive Order No. 2020-08 declaring a public health emergency due to the evolving nature and scope of the public health threat or other risks posed by COVID-19 and the actual and anticipated impacts associated with the same;

WHEREAS, on March 28, 2020, Governor Henry McMaster issued Executive Order No. 2020-15, which states that “[t]he State of South Carolina must take additional proactive action and implement further extraordinary measures to prepare for and respond to the actual, ongoing, and evolving public health threat posed by COVID-19, minimize the resulting strain on healthcare providers, and otherwise respond to and mitigate the significant impacts associated with the same;”

WHEREAS, Governor McMaster has issued subsequent Executive Orders in which he has taken additional action to protect the citizens of South Carolina, including Executive Order No. 2020-10, which “authorize[d] and direct[ed] any agency within the undersigned’s Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or ‘suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency’ [. . .];”

WHEREAS, the Centers for Disease Control and Prevention (CDC) recommends that dental facilities postpone elective procedures, surgeries, and non-urgent dental visits, and prioritize urgent and emergency visits and procedures now and for the coming several weeks;

WHEREAS, on March 16, 2020, the American Dental Association (ADA) recommended that dentists nationwide postpone elective procedures, as well as the Centers for Medicare and Medicaid Services (CMS)’s March 19, 2020, guidance that all non-essential dental exams and procedures be postponed until further notice;

WHEREAS, the purpose of the State Dental Board is to protect the public through regulation of professionals who diagnose or treat diseases or conditions of the oral cavity and associated adjacent structures through the administration and enforcement of South Carolina Code Section 40-15-10 *et seq.*, and any regulations promulgated under the chapter;

WHEREAS, the COVID-19 pandemic has caused a need for social distancing, which could result in South Carolina patients not receiving necessary dental services;

WHEREAS, the Board finds and concludes that many states authorize dentists to engage in the provision of dental services via telehealth, and the provision of services via telehealth will assist both dentists and patients in social distancing, which will protect the public health at large; and

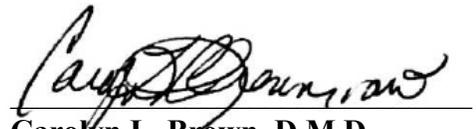
WHEREAS, the Board concludes that it is in the best interests of the citizens of South Carolina to allow South Carolina dentists and those South Carolina-licensed dentists in the bordering states of North Carolina and Georgia to provide dental services to patients via telehealth for the duration of this Order;

NOW, THEREFORE, for the reasons set forth above, effective immediately, the Board hereby suspends enforcement of the prohibition on the practice of dentistry via telehealth pursuant to the emergency rules attached to this Order.

This Order shall remain in effect for the duration of the declared public health state of emergency, unless otherwise modified, amended, or rescinded by subsequent order.

AND IT IS SO ORDERED.

**SOUTH CAROLINA STATE
BOARD OF DENTISTRY**

A handwritten signature in black ink, appearing to read 'Carolyn L. Brown, D.M.D.', is written over a horizontal line.

Carolyn L. Brown, D.M.D.
Board Chair

April 7, 2020

Emergency Rules for the Practice of Teledentistry

(1) “Teledentistry” means the practice of dentistry using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening practitioner regardless of whether a practitioner-patient relationship has been previously established by an in-person encounter.

(2) A licensee authorized by this Order (hereinafter “licensee”) may conduct a limited oral examination and treat a patient via teledentistry. Treatment should not occur for a patient for whom a physical, in-person examination/evaluation of the patient by the licensee dentist is necessary to properly diagnose, evaluate or treat the patient.

(3) The licensee shall adhere to the same standard of care as a traditional in-person dental visit and be evaluated according to the standard of care applicable to the licensee’s area of specialty. A licensee shall not perform teledentistry for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis. A failure to conform to the appropriate standard of care is considered unprofessional conduct under the Dental Practice Act.

(4) A licensee who has conducted a teledentistry appointment during the declared public health emergency must conduct an in-person examination as soon as practicable following conclusion of the public health emergency. If an in-person examination does not occur, the licensee shall not further treat the patient via teledentistry and the dentist-patient relationship is terminated pending completion of an in-person examination.

(5) A licensee who conducts a teledentistry appointment shall generate and maintain dental records in compliance with any applicable state and federal laws, rules, and regulations, including this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). Such records shall be accessible to other practitioners and to the patient in a timely fashion when lawfully requested to do so by the patient or by a lawfully designated representative of the patient.

(6) A licensee who interacts with a patient via teledentistry shall:

(a) adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing such information if requested by the Board;

(b) provide an appropriate evaluation prior to diagnosing and/or treating the patient, which need not be done in-person if the licensee can accurately diagnose and treat the patient in conformity with the applicable standard of care;

(c) establish a diagnosis through the use of accepted dental practices, which may include patient history, mental status evaluation, physical examination, and appropriate diagnostic and laboratory testing in conformity with the applicable standard of care;

(d) ensure the availability of appropriate follow-up care and maintain a complete dental record that is available to the patient and other treating health care practitioners, to be distributed to

other treating health care practitioners only with patient consent and in accordance with applicable law and regulation;

(e) the practitioner may issue prescriptions using any of the methods of prescribing currently available and in the manner set forth in the DEA regulations. Licensees prescribing controlled substances by means of teledentistry must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44. This Order shall not affect the practitioner's obligation to comply with any and all rules, regulations, and statutes administered by other regulatory agencies, including the South Carolina Department of Health and Environmental Control ("DHEC") and the DEA. Likewise, this Order shall not in any manner be construed to alter the standard of care for prescribing any medication.

(f) maintain a complete record of the patient's care according to prevailing dental record standards that reflects an appropriate evaluation of the patient's presenting symptoms; provided that relevant components of the teledentistry interaction be documented as with any other encounter;

(g) maintain the patient's records' confidentiality and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing teledentistry shall be held to the same standards of professionalism concerning dental records transfer and communication with other providers, if necessary, as licensees practicing via traditional means; and

(h) be licensed to practice dentistry in South Carolina and reside in South Carolina or in the border states of North Carolina or Georgia; a licensee residing in South Carolina who intends to practice dentistry via teledentistry to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards.

(7) Notwithstanding any of the above provisions, the practice of teledentistry must be conducted in compliance with the Dental Practice Act and the Board shall retain all authority to discipline licensees with respect to the practice of teledentistry as set forth herein.