

**House Health Reported Substitute for HB306**



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to the practice of dentistry; to amend Sections 34-9-1, 34-9-3, 34-9-6, 34-9-13, 34-9-15.1, and 34-9-18, Code of Alabama 1975, and to add Sections 34-9-6.2 and 34-9-19.2 to the Code of Alabama 1975, to provide for the use of teledentistry orthodontia services in the state by licensed dentists; to provide certain requirements for advertisements featuring teledentistry; and to require the Board of Dental Examiners of Alabama to adopt rules relating to teledentistry.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-9-1, 34-9-3, 34-9-6, 34-9-13, 34-9-15.1, and 34-9-18 of the Code of Alabama 1975, are amended to read as follows:

"§34-9-1

For the purposes of this chapter, the following terms shall have the respective meanings ascribed by this section:

(1) ANNUAL REGISTRATION. The documentary evidence that the board has renewed the authority of the licensee to practice dentistry or dental hygiene in this state.



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29           (2) ASYNCHRONOUS TECHNOLOGY. Store-and-forward  
30 technology that allows a licensed dentist to transmit a  
31 patient's health information to another licensed dentist for  
32 viewing at a later time.

33           ~~(2)~~ (3) BOARD. The Board of Dental Examiners of Alabama.

34           ~~(3)~~ (4) COMMERCIAL DENTAL LABORATORY. A technician or  
35 group of technicians available to any or all licensed dentists  
36 for construction or repair of dental appliances.

37           ~~(4)~~ (5) GENERAL ANESTHESIA. A controlled state of  
38 unconsciousness, accompanied by a partial or complete loss of  
39 protective reflexes, including inability to independently  
40 maintain an airway and respond purposefully to physical  
41 stimulation or verbal command, produced by a pharmacologic  
42 method.

43           ~~(5)~~ (6) INFILTRATION ANESTHESIA. A form of local  
44 anesthesia wherein the terminal or peripheral sensory portion  
45 of either the maxillary or mandibular branch of the trigeminal  
46 nerve endings are anesthetized by injecting a solution  
47 submucosally into an intra-oral circumscribed area for the  
48 relief or prevention of pain.

49           ~~(6)~~ (7) LICENSE. The grant of authority by the board to  
50 ~~a person~~ an individual to engage in the practice of dentistry,  
51 teledentistry, or dental hygiene.

52           ~~(7)~~ (8) LICENSE CERTIFICATE. The documentary evidence  
53 under seal of the board that the board has granted authority  
54 to the licensee to practice dentistry, teledentistry, or  
55 dental hygiene in this state.

56           ~~(8)~~ (9) LICENSED DENTIST. A dentist who holds a current



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57 license certificate from the board.

58 ~~(9)~~ (10) LICENSED HYGIENIST. A hygienist who holds a  
59 current license certificate from the board.

60 ~~(10)~~ (11) LOCAL ANESTHESIA. The elimination of  
61 sensations, especially pain in one part of the body, by  
62 topical application or regional injection of a drug.

63 ~~(11)~~ (12) PATIENT ABANDONMENT. The termination of dental  
64 treatment without giving the patient adequate notice of at  
65 least 15 days before the termination of dental treatment.  
66 Adequate notice includes informing the patient of the  
67 availability of emergency treatment and providing the patient  
68 with an opportunity to obtain the services of another dentist  
69 during the notice period. Abandonment may also occur if the  
70 dentist jeopardizes the health of the patient during the  
71 termination process.

72 ~~(12)~~ (13) PRACTICE OF DENTISTRY ACROSS STATE LINES.

73 a. The practice of dentistry as defined in Section  
74 34-9-6 as it applies to the following:

75 1. The rendering of a written or otherwise documented  
76 professional opinion concerning the diagnosis or treatment of  
77 a patient located within this state by a dentist located  
78 outside this state as a result of transmission of individual  
79 patient data by electronic or other means from within this  
80 state to the dentist or his or her agent.

81 2. The rendering of treatment to a patient located  
82 within this state by a dentist located outside this state as a  
83 result of transmission of individual patient data by  
84 electronic or other means from this state to the dentist or



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85 his or her agent.

86 3. The holding of himself or herself out as qualified  
87 to practice dentistry, or use of any title, word, or  
88 abbreviation to indicate or induce others to believe that he  
89 or she is licensed to practice dentistry across state lines.

90 b. This definition is not intended to include an  
91 informal consultation between a licensed dentist located in  
92 this state and a dentist located outside this state, provided  
93 that the consultation is conducted without compensation or the  
94 expectation of compensation to either dentist, and does not  
95 result in the formal rendering of a written or otherwise  
96 documented professional opinion concerning the diagnosis or  
97 treatment of a patient by the dentist located outside the  
98 state.

99 ~~(13)~~ (14) PRIVATE TECHNICIANS. A technician employed by  
100 a dentist or group of dentists for a specified salary.

101 ~~(14)~~ (15) SEDATION. A depressed level of consciousness  
102 that retains the patient's ability to independently and  
103 continuously maintain an airway and respond appropriately to  
104 physical stimulation or verbal command, produced by a  
105 pharmacologic method.

106 (16) SYNCHRONOUS TECHNOLOGY. Two-way audiovisual  
107 technology that allows a licensed dentist to see and  
108 communicate in real time with a patient who is located in a  
109 different physical location.

110 (17) TELEDENTISTRY. a. The practice of dentistry or the  
111 delivery of dental care services through asynchronous or  
112 synchronous technology including any of the following:



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113           1. The use of interactive audio and video technology,  
114 permitting real-time communication between the patient at the  
115 originating site and the provider to provide dental services,  
116 within their scope of practice including, but not limited to,  
117 assessment, diagnosis, consultation, treatment, and monitoring  
118 of a patient; transfer of medical data; patient and  
119 professional dental-related education; public dental services;  
120 and dental administration.

121           2. Asynchronous, store-and-forward technology for the  
122 transmission and acquisition of images, diagnostics, data, and  
123 dental information.

124           b. The term does not include Internet questionnaires,  
125 email messages, or facsimile transmissions."

126           "§34-9-3

127           It shall be unlawful for any ~~person~~ individual to  
128 practice dentistry or teledentistry in the State of Alabama  
129 except the following:

130           (1) Those who are now duly licensed or permitted  
131 dentists, pursuant to law.

132           (2) Those who may be hereafter duly licensed or  
133 permitted and who are currently registered as dentists,  
134 pursuant to this chapter.

135           (3) Those nonresident dentists who have been issued a  
136 special purpose license to practice dentistry across state  
137 lines in accordance with Section 34-9-10. This subdivision  
138 shall not apply to those dentists who hold a full,  
139 unrestricted, and current license or permit issued pursuant to  
140 Section 34-9-8 or Section 34-9-10."



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141 "§34-9-6

142 Any ~~person~~ individual shall be deemed to be practicing  
143 dentistry, including teledentistry, who does any of the  
144 following:

145 (1) Performs, or attempts or professes to perform, any  
146 dental operation or dental service of any kind, gratuitously  
147 or for a salary, fee, money, or other remuneration paid, or to  
148 be paid, directly or indirectly, to himself or herself, or to  
149 any ~~person~~ individual in his or her behalf, or to any agency  
150 which is a proprietor of a place where dental operations or  
151 dental services are performed.

152 (2) Directly or indirectly, by any means or method,  
153 makes impression of the human tooth, teeth, jaws, or adjacent  
154 tissue, or performs any phase of any operation incident to the  
155 replacement of a tooth or any part thereof.

156 (3) Supplies artificial substitutes for the natural  
157 teeth, and who furnishes, supplies, constructs, reproduces, or  
158 repairs any prosthesis (fixed or removable), appliance, or any  
159 other structure to be worn in the human mouth.

160 (4) Places ~~such~~ an appliance or structure in the human  
161 mouth, or adjusts, attempts, or professes to adjust the same,  
162 or delivers the same to any ~~person~~ individual other than the  
163 dentist upon whose prescription the work was performed.

164 (5) Professes to the public by any method to furnish,  
165 supply, construct, reproduce, or repair any prosthesis (fixed  
166 or removable), appliance, or other structure to be worn in the  
167 human mouth, or who diagnoses, or professes to diagnose,  
168 ~~prescribe~~ prescribes for, professes to prescribe for, treats



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169 or professes to treat disease, pain, deformity, deficiency,  
170 injury, or physical condition of the human teeth or jaws, or  
171 adjacent structure, or who extracts or attempts to extract  
172 human teeth, or removes tumors, abnormal growths, or other  
173 lesions from the human gums, jaws, and adjacent structures, or  
174 who operates for cleft lip or palate, or both; or who treats  
175 surgically or mechanically fractures of the human jaw; or who  
176 administers local or general anesthetics in the treatment of  
177 any dental lesion.

178 (6) Repairs or fills cavities in the human teeth.

179 (7) Uses a roentgen, radiograph, or digital imaging  
180 machine for the purpose of making dental roentgenograms,  
181 radiographs, or digital images, or who gives, or professes to  
182 give, interpretations or readings of dental roentgenograms,  
183 radiographs, or digital images, or radiographic or roentgen  
184 therapy.

185 (8) Administers an anesthetic of any nature in  
186 connection with a dental procedure.

187 (9) Uses the words "dentist," "dental surgeon," "oral  
188 surgeon," or the letters "D.D.S.," "D.M.D." or any other  
189 words, letters, title, or descriptive matter which in any way  
190 represents him or her as being able to diagnose, treat,  
191 prescribe, or operate for any disease, pain, deformity,  
192 deficiency, injury, or physical condition of the teeth or  
193 jaws, or adjacent structures.

194 (10) States, or professes, or permits to be stated or  
195 professed by any means or method whatsoever that he or she can  
196 perform or will attempt to perform dental procedures, or



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197 render a diagnosis connected therewith.

198 (11) Performs any clinical operation included in the  
199 curricula of recognized dental colleges; provided, that  
200 members of the faculty, teachers, instructors, fellows,  
201 interns, residents, dental students, and student dental  
202 hygienists who are employed by or who are taking courses or  
203 instructions at the University of Alabama School of Dentistry  
204 or ~~such~~ other dental colleges, hospitals, or institutions in  
205 Alabama, as may be approved by the board; and provided, that  
206 the work of fellows, interns, residents, dental students, and  
207 student dental hygienists is performed within the facilities  
208 of ~~such~~ the dental colleges, hospitals, and institutions under  
209 the supervision of an instructor and as an adjunct to his or  
210 her course of study or training, shall not be required to take  
211 examination or obtain a license certificate and renewal  
212 license certificate when all of ~~such~~ the work, dental  
213 procedures, and activities are confined to his or her work in  
214 the college, hospital, or other institution and the work is  
215 done without remuneration other than the regular salary or  
216 compensation paid by ~~such~~ the colleges, hospitals, or other  
217 institutions.

218 (12) Professes to the public by any method to bleach  
219 human teeth, performs bleaching of the human teeth alone or  
220 within his or her business, or instructs the public within his  
221 or her business, or through any agent or employee of his or  
222 her business, in the use of any tooth bleaching product."

223 "§34-9-13

224 (a) Every practitioner of dentistry and dental hygiene





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225 within the meaning of this chapter shall have in his or her  
226 possession and posted in a visible location a license  
227 certificate and an annual registration certificate in the  
228 office wherein he or she practices. A licensed practitioner  
229 who practices in more than one location may reproduce the  
230 annual registration certificate as needed; however, the  
231 practitioner may not reproduce the license certificate. Copies  
232 of the license certificate may be requested by the  
233 practitioner from the board as necessary.

234 (b) Every patient who is receiving dental services  
235 shall be provided with the name, contact telephone number,  
236 after hours contact information for emergencies and, upon the  
237 patient's request, the license information for any licensed  
238 dentist who is providing dental services to a patient."

239 "§34-9-15.1

240 (a) Upon the request of a patient or authorized agent  
241 of a patient, a dentist shall promptly release to the patient  
242 or his or her authorized agent legible and accurate copies of  
243 all records of the patient regardless of how they are  
244 generated or maintained. The reasonable costs of reproducing  
245 copies shall not be more than the amounts authorized by  
246 statute and in the absence of any statutory authority no more  
247 than the actual cost of the reproduction.

248 (b) The release of records under this section shall not  
249 be made contingent upon the payment of any fee or charge owed  
250 by the patient.

251 (c) The provisions of the section shall survive the  
252 closing of a dental office or practice for any reason<sup>7</sup>



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253 including, but not limited to, sale of practice, any  
254 disciplinary action, retirement, disability, or death.

255 (d) (1) The dentist-patient relationship shall terminate  
256 when either the dentist of record or the patient, or both,  
257 provides express notice that he or she intends to terminate  
258 the dentist-patient relationship. If no express notification  
259 is provided, the relationship is considered terminated, and  
260 the dentist of record is relieved of responsibility, when  
261 there is no longer a reasonable expectation from either the  
262 dentist or the patient of continuing treatment with that  
263 dentist.

264 (2) For a patient being treated utilizing  
265 teledentistry, the licensed dentist of record is primarily  
266 responsible for all dental treatment on a patient regardless  
267 of whether the treatment is rendered by the licensed dentist  
268 of record or by another licensed dentist or dental hygienist  
269 rendering treatment in conjunction with, at the direction or  
270 request of, or under the supervision of the licensed dentist  
271 of record.

272 a. Any individual, partnership, corporation, or other  
273 entity that provides dental services through teledentistry  
274 shall make available the name, telephone number, practice  
275 address, and state license number of any licensed dentist who  
276 will be involved in providing services to a patient before the  
277 rendering of services and when requested by the patient.

278 b. This section shall not be construed to assign any  
279 responsibility to a licensed dentist of record for treatment  
280 rendered pursuant to a proper referral to another licensed



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281 dentist not in practice with the licensed dentist of record or  
282 to prohibit a patient from voluntarily selecting a new  
283 licensed dentist without permission of the licensed dentist of  
284 record."

285 "§34-9-18

286 (a) The board may invoke disciplinary action as  
287 outlined in subsection (b) whenever it shall be established to  
288 the satisfaction of the board, after a hearing as hereinafter  
289 provided, that any dentist or dental hygienist ~~has been guilty~~  
290 ~~of~~ is, or has been, any of the following:

291 (1) ~~Fraud~~ Guilty of fraud, deceit, or misrepresentation  
292 in obtaining any license, license certificate, annual  
293 registration certificate, money, or other thing of value.

294 (2) ~~Gross~~ Guilty of gross immorality.

295 (3) ~~Is a~~ A menace to the public health or to patients  
296 or others by reason of a disease.

297 (4) ~~Is an~~ An habitual user of intoxicants or drugs  
298 rendering him or her unfit for the practice of dentistry or  
299 dental hygiene.

300 (5) ~~Has been convicted for violation of~~ Convicted of  
301 violating federal or state narcotics or barbiturate laws.

302 (6) ~~Is guilty~~ Guilty of negligence or gross negligence.

303 a. For the purposes of this subdivision, negligence is  
304 defined as the failure to do what a reasonably prudent dentist  
305 or dental hygienist would have done under the same or similar  
306 circumstances or the doing of that which a reasonably prudent  
307 practitioner would not have done under the same or similar  
308 circumstances.



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309           b. For the purposes of this subdivision, gross  
310 negligence is defined as willful or wanton conduct with  
311 reckless, malicious, or conscious disregard for the rights or  
312 safety of others, or conduct that is so deliberate,  
313 outrageous, and callous as to display total indifference to  
314 the health or safety of a patient, that could result in  
315 serious bodily injury or death.

316           (7) ~~Is guilty~~ Guilty of employing, allowing, or  
317 permitting any unlicensed ~~person or persons~~ individual to  
318 perform any work in his or her office which, under this  
319 chapter, can only be legally done by ~~a person or persons~~ an  
320 individual holding a license to practice dentistry or dental  
321 hygiene.

322           (8) ~~Willfully~~ Guilty of willfully or negligently  
323 ~~violates~~ violating the rules of the ~~State~~ Alabama Department  
324 of Public Health or of the board regarding sanitation.

325           (9) ~~Is guilty~~ Guilty of division of fees, or agreeing  
326 to split or divide the fee received for dental service with  
327 any ~~person~~ individual for bringing or referring a patient  
328 without the knowledge of the patient or his or her legal  
329 representative, except the division of fees between dentists  
330 practicing in a partnership and sharing professional fees, or  
331 in case of one licensed dentist employing another.

332           (10) ~~Is guilty~~ Guilty of professional connection or  
333 association with or lending his or her name to anyone who is  
334 engaged in the illegal practice of dentistry or dental  
335 hygiene.

336           (11) ~~Conviction~~ Convicted in any court of competent



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337 jurisdiction of a felony or a misdemeanor involving moral  
338 turpitude.

339 (12)a. A dental hygienist using or attempting to use in  
340 any manner whatsoever any prophylactic list, call list,  
341 records, reprints, or copies of same, or information gathered  
342 therefrom, of the names of patients whom the dental hygienist  
343 served in the office of a prior employer, unless the names  
344 appear upon the bona fide call or prophylactic list of his or  
345 her present employer and were caused to appear through the  
346 legitimate practice of dentistry or dental hygiene as provided  
347 for in this chapter.

348 b. A licensed dentist who aids or abets or encourages a  
349 dental hygienist employed by him or her to make use of a  
350 prophylactic list or the calling by telephone or by the use of  
351 letters transmitted through the mails to solicit patronage  
352 from patients formerly served in the office of any dentist  
353 employing the hygienist.

354 (13) Pertaining to licensed dentists only, ~~the~~ guilty  
355 of prescribing, administering, or dispensing ~~of~~ any controlled  
356 substances enumerated in Schedules I through V contained in  
357 the Alabama Uniform Controlled Substances Act, Chapter 2 of  
358 Title 20, or any amendment or successor thereto, or any drug  
359 not prescribed for any dentally or facially related condition,  
360 ~~and/or~~ or for any necessary medication during the course of  
361 treatment rendered directly by the dentist, for any ~~person~~  
362 individual not under his or her treatment in the regular  
363 practice of his or her profession.

364 (14) ~~Irregularities~~ Guilty of irregularities in billing



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365 an insurance company or other third party payer for services  
366 rendered to a patient. For the purposes of this ~~section~~  
367 subsection, irregularities in billing shall include any of the  
368 following: Reporting charges for the purpose of obtaining a  
369 total payment in excess of that usually received by the  
370 dentist for the services rendered; falsely reporting treatment  
371 dates for the purpose of obtaining payment; falsely reporting  
372 charges for services not rendered; falsely reporting services  
373 rendered for the purpose of obtaining payment; or failing to  
374 advise any third party payer that the copayment provisions of  
375 a contract have been abrogated by accepting the payment  
376 received from the third party payer as full payment.

377 (15) Pertaining to licensed dentists only, guilty of  
378 patient abandonment.

379 (16) ~~Violating~~ Guilty of violating any rule adopted by  
380 the board.

381 (17) ~~Has had~~ Guilty of having his or her license or  
382 permit to practice dentistry or dental hygiene from another  
383 state suspended or revoked based upon acts similar to those  
384 described in this section. A certified copy of the record of  
385 suspension or revocation of the state making the suspension or  
386 revocation shall be conclusive evidence thereof.

387 (18) As the licensed dentist of record, and before the  
388 initial diagnosis and correction of malpositions of human  
389 teeth or initial use of orthodontic appliances, is guilty of  
390 failing to perform an examination of the patient, which  
391 includes a physical examination of the patient as well as a  
392 review of the most recent diagnostic digital or conventional



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393 radiographs of the patient, or other equivalent bone imaging  
394 suitable for orthodontia.

395 ~~(18) Violating~~ (19) Is guilty of violating any provision  
396 of this chapter.

397 (b) When the board finds any dentist or dental  
398 hygienist guilty of any of the grounds set forth in subsection  
399 (a), ~~it~~ the board may enter an order imposing one or more of  
400 the following penalties:

401 (1) Refuse to issue the dentist or dental hygienist any  
402 license or permit provided for in this chapter.

403 (2) With the exception of negligence, as defined in  
404 paragraph (a) (6) a., revoke the license or permit of any  
405 dentist or dental hygienist.

406 (3) Suspend the license or permit of any dentist or  
407 dental hygienist.

408 (4) Enter a censure.

409 (5) Issue an order fixing a period and terms of  
410 probation best adapted to protect the public health and safety  
411 and to rehabilitate the dentist or dental hygienist.

412 (6) Impose an administrative fine not to exceed five  
413 thousand dollars (\$5,000) for each count or separate offense.

414 (7) Impose restrictions on the scope of practice.

415 (8) Impose peer review or professional education  
416 requirements.

417 (9) Assess the costs of the disciplinary proceedings.

418 (c) Failure to comply with any order of the board, ~~r~~  
419 including, but not limited to, an order of censure or  
420 probation, is cause for suspension or revocation of a license.



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421 (d) (1) No disciplinary action as outlined in subsection  
422 (b) or (c) shall be invoked or entered except after a hearing  
423 by the board as provided in this chapter, and ~~such~~ any order  
424 is subject to judicial review as provided by this chapter.

425 (2) No order of suspension or revocation provided in  
426 this section shall be made or entered except after a hearing  
427 by the board as provided in this chapter, and the order shall  
428 be subject to judicial review as provided by this chapter.

429 (e) (1) The board may temporarily suspend a special  
430 purpose license to practice dentistry across state lines  
431 without a hearing on either of the following grounds:

432 a. The failure of the licensee to appear or produce  
433 records or materials as requested by the board.

434 b. The initiation of a disciplinary action against the  
435 licensee by any state or territorial licensing jurisdiction in  
436 which the licensee holds a license to practice dentistry.

437 (2) Notwithstanding any other provision of law,  
438 including the Alabama Administrative Procedure Act, the  
439 temporary suspension provided ~~herein~~ by this subsection shall  
440 remain in effect until either the licensee has complied with  
441 the request of the board or the disciplinary action pending  
442 against the licensee has been terminated in favor of the  
443 licensee and the temporary suspension has been terminated by a  
444 written order of the board. A special purpose license to  
445 practice dentistry across state lines is subject to each of  
446 the grounds for disciplinary action provided in this ~~section~~  
447 subsection in accordance with the procedures of Section  
448 34-9-24 and the Alabama Administrative Procedure Act.





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449 (f) Members of the board, any agent, employee,  
450 consultant, or attorney for the board, and the members of any  
451 committee of dentists or dental hygienists impaneled by the  
452 board, shall be immune from suits for any conduct in the  
453 course of their official duties with respect to investigations  
454 or hearings; provided, that the ~~persons~~ individuals act  
455 without malice and in good faith that ~~such~~ any investigations  
456 or hearings are warranted by the facts, known to them after  
457 diligent effort to obtain the facts of the matter relative to  
458 the investigations or hearings.

459 (g) Nothing in this chapter shall be interpreted to  
460 limit or restrict the authority of the board to discipline any  
461 dentist licensed to practice in this state who violates this  
462 chapter while engaging in the practice of dentistry within  
463 this or any other state.

464 (h) The board ~~shall have the authority to~~ may adopt  
465 rules imposing a non-disciplinary administrative penalty for  
466 designated violations of this chapter."

467 Section 2. Sections 34-9-6.2 and 34-9-19.2 are added to  
468 the Code of Alabama 1975, to read as follows:

469 §34-9-6.2

470 (a) The standard of dental care a licensed dentist  
471 provides through teledentistry shall be the same as the  
472 standard of dental care a licensed dentist provides in a  
473 traditional physical setting.

474 (b) (1) A treating licensed dentist may use  
475 teledentistry to collaborate with a licensed hygienist within  
476 the relevant applicable scopes of practice and under the



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477 appropriate level of dentist supervision, in accordance with  
478 this chapter.

479 (2) A licensed hygienist or any other teledentistry  
480 provider may not carry out any duties through teledentistry  
481 that require the in-person supervision of a licensed dentist.

482 (c) A licensed dentist may not conduct a dental  
483 examination using teledentistry if the standard of care  
484 necessitates a traditional physical dental examination.

485 (d) A licensed dentist may provide dental services  
486 using teledentistry, including any of the following:

487 (1) Collaborating with a licensed dentist in the  
488 completion of any of the following at a public health setting,  
489 generally with a written collaborative agreement, directly or  
490 indirectly, in accordance with this chapter:

491 a. Gathering diagnostic information to be used by the  
492 licensed dentist at a remote location to form a tentative  
493 basic treatment plan and provide appropriate preventive or  
494 urgent prescriptions.

495 b. Perform preventive dental procedures.

496 c. Provide oral health education.

497 d. Perform any palliative or interim treatment or  
498 caries arresting treatment outlined in the treatment plan and  
499 authorized by the licensed dentist, in accordance with this  
500 chapter and rules adopted pursuant to this chapter.

501 (2) At a remote location, using records and diagnostic  
502 information that a licensed hygienist provides to form a  
503 tentative treatment plan for basic dental procedures.

504 (e) (1) Prior to the diagnosis and correction of



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505 malpositions of human teeth or initial use of orthodontic  
506 appliances, a treating dentist shall do all of the following:

507       a. Perform a physical examination of the patient that  
508 includes the review of the most recent diagnostic digital or  
509 conventional radiographs of the patient, or other equivalent  
510 bone imaging suitable for orthodontia and that meets the  
511 standard of care. New radiographs or other equivalent bone  
512 imaging shall be ordered if deemed appropriate by the treating  
513 dentist.

514       b. Perform diagnosis and treatment planning in  
515 consultation with the patient.

516       (2) A patient receiving orthodontia services through  
517 teledentistry shall be provided with the name, direct  
518 telephone number, emergency contact telephone number, physical  
519 practice address, and state license number of the treating  
520 dentist who will be involved in the teledentistry services.  
521 The information shall be provided to the patient both before  
522 services are provided and during treatment.

523       (3) A dentist who provides orthodontia services to a  
524 patient through teledentistry must provide the patient with a  
525 timely opportunity to have follow-up care to address any  
526 concerns regarding the services provided and describe to the  
527 patient the protocols for emergencies or follow-up care where  
528 the patient needs to be seen by the treating dentist in  
529 person.

530       (f) A licensed dentist or any entity employing a  
531 licensed dentist may not require a patient to sign an  
532 agreement that limits the ability of the patient to file a



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533 complaint with the board, subjects the patient to a  
534 nondisclosure agreement concerning the outcome of his or her  
535 treatment, forfeits his or her right to participate in a class  
536 action lawsuit, limits the liability of a licensed dentist to  
537 the patient, or waives his or her right to a trial by jury.

538 (g) When a licensed dentist uses teledentistry, the  
539 licensed dentist shall ensure informed consent covers all of  
540 the following additional information:

541 (1) A description of the types of dental care services  
542 provided through teledentistry, including limitations on  
543 services.

544 (2) The name, contact information, licensure,  
545 credentials, and qualifications of all licensed dentists and  
546 licensed hygienists involved in the dental care of the patient  
547 and opportunities for the patient to directly communicate with  
548 those individuals, whether in person, by telephone, or through  
549 synchronous teledentistry technology, so that the patient may  
550 ask questions about the treatment to be provided.

551 (3) Precautions and protocols for technological  
552 failures or emergency situations.

553 (h) To be eligible to participate in and receive  
554 teledentistry services, a patient shall complete at least one  
555 in-person visit with a licensed dentist annually.

556 (i) The board, by rule, shall establish additional  
557 requirements and parameters regarding teledentistry to ensure  
558 the safe use of teledentistry including, but not limited to,  
559 all of the following:

560 (1) Transparency, disclosure, and informed consent.



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561 (2) Standard of care.

562 (3) Proper documentation.

563 (4) Supervision and scope of practice.

564 (5) Patient complaints.

565 (6) Protocols for referrals.

566 §34-9-19.2

567 (a) For the purposes of this section, an advertisement  
568 is information communicated in a manner designed to attract  
569 public attention to the practice of a licensed dentist.

570 (b) In addition to complying with all applicable  
571 advertising requirements provided in Sections 34-9-19 and  
572 34-9-19.1, an advertisement for dental services provided  
573 through teledentistry shall include the following conspicuous  
574 disclaimer:

575 "An in-person examination with a licensed dentist is  
576 recommended in order to prevent injury or harm before  
577 beginning treatment for the following services:

578 (1) The taking of an impression or digital scanning of  
579 the human tooth, teeth, or jaws directly or indirectly and by  
580 any means or method.

581 (2) Furnishing, supplying, constructing, reproducing,  
582 or repairing any prosthetic denture, bridge, appliance, or any  
583 structure designed to be worn in the human mouth.

584 (3) The placing of an appliance or structure in the  
585 human mouth or the adjusting or attempting to adjust the same.

586 (4) Correcting or attempting to correct malformations  
587 of teeth or of jaws."

588 Section 3. **Nothing in Chapter 9 of Title 34, Code of**



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589 Alabama 1975, shall be construed to create a requirement that  
590 any dental benefit plan, health benefit plan, group insurance  
591 plan, policy, or contract for health care services that covers  
592 hospital, medical, or surgical expenses, health maintenance  
593 organizations, preferred provider organizations, medical  
594 service organizations, physician-hospital organizations, or  
595 any other individual, firm, corporation, joint venture, or  
596 other similar business entity that pays for, purchases, or  
597 furnishes group health care services to patients, insureds, or  
598 beneficiaries in this state, including entities created  
599 pursuant to Article 6, commencing with Section 10A-20-6.01 of  
600 Chapter 20, Title 10A, Code of Alabama 1975, provide coverage  
601 or reimbursement for the services described or authorized in  
602 Chapter 9 of Title 34, Code of Alabama 1975.

603 **Section 4.** This act shall become effective on the first  
604 day of the third month following its passage and approval by  
605 the Governor, or its otherwise becoming law.