

**INTERPRETIVE STATEMENT REGARDING
TELEDENTISTRY STATUTE AND SUPERVISION OF DENTAL HYGIENISTS
Date Issued: July 12, 2024**

To protect the public interest, the North Carolina Board of Dental Examiners (“Board”) provides interpretation and guidance regarding acceptable standards of care, consistent with the NC Teledentistry statute and the Dental Hygiene Act, for a dentist’s supervision of a dental hygienist while the dentist is practicing remotely via teledentistry.

The Board received an inquiry about whether the following scenario was permissible: A proposed model for a dental practice involving a combination of remote and onsite services, in which an NC-licensed dentist would provide dental services remotely via teledentistry, and an NC-licensed dental hygienist would provide hygiene services onsite with the patient, pursuant to the remote dentist’s order, control, and approval (the “Proposed Model”). The Proposed Model did not involve a dental hygienist who was qualified as a public health hygienist or a limited supervision hygienist.

For the reasons explained herein, the Proposed Model does not comply with the NC Teledentistry statute or the Dental Hygiene Act. A dentist must be physically present in the same location to supervise the performance of all dental hygiene functions provided to a patient unless the dental hygienist qualifies as a limited supervision or public health hygienist. The NC Teledentistry statute did not modify or eliminate the existing statutory and regulatory requirements for dentists to be physically present to supervise dental hygienists and other ancillary personnel in person.

The Dental Hygiene Act

The Dental Hygiene Act requires that a dentist be physically present to supervise a dental hygienist performing dental hygiene functions. *See* GS 90-221(f) and 90-233(a). The Act defines “dental hygiene” as the performance of the following functions:

Complete oral prophylaxis, application of preventive agents to oral structures, exposure and processing of radiographs, administration of medicaments prescribed by a licensed dentist, preparation of diagnostic aids, and written records of oral conditions for interpretation by the dentist, together with such other and further functions as may be permitted by rules and regulations of the Board not inconsistent herewith. Notwithstanding the provisions of G.S. 90-29(b)(6), dental hygiene shall include the administration of local anesthetics by infiltration and block techniques by dental hygienists certified pursuant to G.S. 90-225.2, if a dental hygienist conducts administration of local anesthetics under the direct supervision of a dentist licensed to practice dentistry under Article 2 of this Chapter.

GS 90-221(a). Under the Act, a dentist must be physically present to supervise a dental hygienist performing any and all functions defined as dental hygiene.

The Act further establishes narrow exceptions to the supervision requirement for public health hygienists and limited supervision hygienists who satisfy the specific requirements set out in the Act. *See* GS 90-223(a)-(a1). Unless a hygienist meets one of those narrow exceptions, the

hygienist may not perform dental hygiene functions without the physical presence of their supervising dentist at the same physical location.

The NC Teledentistry Statute

1. The Teledentistry Statute Applies Only to Services Provided to Patients Remotely

The Teledentistry statute does not alter the requirement for a dentist to be physically present to supervise a hygienist performing dental hygiene functions. Under the Teledentistry statute, GS 90-30.2(b), “Teledentistry services may be delivered by a licensed dentist or a licensed dental hygienist who is under the supervision of a licensed dentist.”

This provision is a narrow authorization for dental hygienists to provide teledentistry services, as long as they are supervised within the meaning of the Teledentistry statute. GS 90-30.2(a) contains the definitions that apply to the Teledentistry statute, and it defines “supervision” to mean acts performed pursuant to the licensed dentist’s order, control, and approval, without requiring the physical presence of the dentist. Thus, a hygienist may provide teledentistry services to a patient as long as they are supervised by a dentist, who may be in a different location than the hygienist.

Teledentistry services are not provided to patients in person. Teledentistry is defined as the “provision of dental services by use of any electronic or other digital means.” GS 90-30.2(a)(5). A defining feature of teledentistry involves the patient at one site and dental provider—the dentist or dental hygienist—at another site. With respect to determining the location of a teledentistry encounter between patient and provider, the Teledentistry statute provides that the “location of the patient is the originating site, and the location of the provider is the distant site.” GS 90-30.2(b)(2). Significantly, this provision uses “provider” rather than “dentist,” which indicates that dental hygienists are included as being at a site distant from the patient.

Nothing in the Teledentistry statute addresses or governs an encounter in which the patient and provider are in the same location for dental services. Thus, the Teledentistry statute does not apply to a dental hygienist’s performance of dental hygiene functions onsite with a patient, nor does it authorize a hygienist to perform dental hygiene functions onsite with a patient while the supervising dentist is in a remote location.

2. The Teledentistry Statute Mandates Compliance with All Laws Concerning Supervision

Moreover, under GS 90-30.2(b), the Teledentistry statute states that “Licensees shall comply with all rules of professional conduct and applicable State and federal law relevant to licensed dentists and licensed dental hygienists when delivering teledentistry services.” It does not add “except to the extent that such rules or laws directly conflict with the provisions of this section,” or any other qualifying language. This is an unqualified statement indicating that the Teledentistry statute does not supersede or modify the requirements of the Dental Hygiene Act (or any other applicable statute or rule).

The Teledentistry statute became law in July 2021 in the middle of North Carolina’s COVID-19 state of emergency. It increased access to dental care by creating a new way for dentists and dental

hygienists to practice—via electronic or other digital means. The statute permitted providing dental services to patients who were not in the same location as the provider to the extent that it was feasible to provide such services “by use of any electronic or other digital means.” It did not, however, modify the pre-existing supervision requirements set out in the Dental Hygiene Act. In accordance with the Dental Hygiene Act, public health hygienists and limited supervision hygienists are the only exceptions to the requirement that a dentist must be physically present to supervise a dental hygienist performing functions defined as dental hygiene.

Therefore, for a dentist and dental hygienist to comply with the Teledentistry statute, they must comply with the Dental Hygiene Act’s requirement for the dentist to be physically present to supervise the dental hygienist performing any and all functions defined as dental hygiene (unless the dental hygienist qualifies as a public health hygienist [PHH] or limited supervision hygienist [LSH]). A dental hygienist being remotely supervised by a dentist may provide teledentistry services to a patient who is in a different location, but a dental hygienist may not perform dental hygiene functions with a patient at the same location, unless a dentist is physically present to supervise.

Under the Proposed Model, the dental hygienist would not be providing teledentistry services to the patient. Rather, the dental hygienist would be performing traditional dental hygiene functions onsite with the patient without the dentist physically present. Because the dental hygienist would not be providing teledentistry services to the patient who is at the same location, the Teledentistry statute is inapplicable to the services provided by the dental hygienist. As such, the Proposed Model does not comply with the Teledentistry statute or the Dental Hygiene Act with respect to the supervision of dental hygienists.

For the same reasons, the Teledentistry statute does not permit a dental hygienist to provide dental hygiene services to a patient who is at a dental office where the dentist is not physically present, regardless of whether the dentist can be reached by electronic or other digital means. The Teledentistry statute does not permit a dentist to remotely supervise dental hygiene services that are not otherwise authorized by law, such as by a PHH and LSH under appropriate conditions. As noted above, the Teledentistry statute did not eliminate or modify the existing statutory and regulatory requirements for dentists to supervise in person dental hygienists and other ancillary personnel, as that term is defined in GS 90-40.2(a)(1).

In contrast, if a patient is unable to come to the dental office and the dentist can use electronic or other digital means to obtain the information necessary from the patient to appropriately (i) prescribe a medication, (ii) evaluate a dental condition, or (iii) make a referral to a specialist, the Teledentistry statute generally authorizes such encounters. In these examples, the dentist is providing dental services to the patient in a different location using electronic or other digital means. These types of remote patient visits became more prevalent and necessary during the COVID-19 pandemic when the statute was adopted in 2021.