

DENTAL BOARD[650]

Adopted and Filed

Rule making related to teledentistry

The Dental Board hereby amends Chapter 27, “Standards of Practice and Principles of Professional Ethics,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 153.33 and 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.2, 153.13, 153.15, 153.17 and 153.38.

Purpose and Summary

The primary purpose of these amendments is to define standards of practice for teledentistry. Technological advances have made it possible for dental services to be provided without an on-site dentist. New rule 650—27.12(153) expands access to dental services utilizing available technology. The new rule also establishes criteria to safely provide dental services while maintaining patient confidentiality.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as **ARC 4359C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on July 3, 2019, as **ARC 4534C**. A public hearing was held on July 24, 2019. Eleven individuals were in attendance. Of those who commented during the public hearing, five individuals were in favor of the rules as proposed in **ARC 4359C** and **ARC 4534C**. Three individuals were not in favor due to concerns related to the practice of orthodontics. Three individuals were in attendance who did not submit additional comments. The Board accepted written comments through July 24, 2019, which are summarized below.

The American Association of Orthodontists (AAO), and written comments from 23 orthodontists, suggested that only a dentist should be allowed to own any teledentistry platform and that the dentist providing treatment should reside within a 50- or 75-mile radius of the patient. Additionally, it was suggested that an in-person examination should be completed before using teledentistry.

Four written comments were received from dentists and hygienists in support of the amendments. They commented that teledentistry would benefit patients at federally qualified health care facilities, benefit rural Iowans, and increase access to dental care.

The American Teledentistry Association suggested that a static Internet questionnaire should be allowed to establish a dentist-patient relationship. The Association also suggested that informed consent criteria for teledentistry should be identical to those of brick-and-mortar facilities.

The Iowa Dental Association (IDA) suggested that an initial in-person examination should be required before using teledentistry. The IDA also suggested that a licensee should be closely located to the patient in case of an emergency situation. Additionally, the IDA suggested that patients should be informed of the dentist’s identity and the dentist’s practice location.

Delta Dental of Iowa was supportive of the amendments and commented that there is a need for teledentistry due to a dental workforce shortage. Delta Dental also commented that teledentistry would

help meet the dental needs of Iowans. Delta Dental suggested that a dentist providing teledentistry services should have knowledge of local resources to assist with follow-up and emergency care.

The Iowa Primary Care Association (IPCA), the Iowa Dental Hygienists' Association (IDHA), and the Iowa Department of Public Health commented that they were in favor of the amendments and indicated that teledentistry will expand access to dental care.

Smile Direct Club suggested that the proposed definition of "asynchronous technology" (store-and-forward technology) should not be limited to licensees and registrants. Smile Direct Club also suggested that the proposed definition of "synchronous technology" be eliminated and that definitions for "teledentistry" and "teledentistry technology" be made consistent with similar rules established by the Iowa Board of Medicine.

Following further discussion by the Board, the Board voted on September 27, 2019, to adopt the rules with the changes described below. Based on the public comments received, the Board made the following changes:

- Revised the definition of "teledentistry" and removed other definitions;
- Updated language for clarity;
- Added more specific information regarding informed consent; and
- Removed the calibration training requirement.

Adoption of Rule Making

This rule making was adopted by the Board on September 27, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

The rules in this chapter establish the minimum requirements to meet the standard of care in the practice of dentistry. Waiver of these rules would pose a risk to members of the public since it would mitigate the minimum acceptable standard of the practice of dentistry.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 11, 2019.

The following rule-making actions are adopted:

- ITEM 1. Renumber rule **650—27.12(17A,147,153,272C)** as **650—27.13(17A,147,153,272C)**.
- ITEM 2. Adopt the following **new** rule 650—27.12(153):

650—27.12(153) Teledentistry. This rule establishes the standards of practice for teledentistry.
27.12(1) Definition.

“*Teledentistry*” means a dentist is providing or supervising dental services using technology when the patient is in another location.

27.12(2) *Teledentistry authorized.* A dentist may utilize teledentistry to provide dental care to patients located in Iowa. A dentist shall not provide dental care to a patient located in Iowa based solely on an Internet questionnaire consisting of a static set of questions that have been answered by the patient.

27.12(3) *License or registration required.* A dentist, dental hygienist, or dental assistant who uses teledentistry for a patient located in Iowa shall hold an active Iowa license or registration issued by the board.

27.12(4) *General requirements.* The standard of dental care is the same whether a patient is seen in person or through a teledentistry encounter. The use of teledentistry is not an expansion of the scope of practice for dental hygienists or dental assistants. A dentist who uses teledentistry shall utilize evidence-based standards of practice and practice guidelines to ensure patient safety, quality of care, and positive outcomes.

27.12(5) *Informed consent.* When teledentistry will be utilized, a dentist shall ensure informed consent covers the following additional information:

a. A description of the types of dental care services provided via teledentistry, including limitations on services;

b. The identity, contact information, practice location, licensure, credentials, and qualifications of all dentists, dental hygienists, and dental assistants involved in the patient’s dental care, which must be publicly displayed on a website or provided in writing to the patient; and

c. Precautions for technological failures or emergency situations.

27.12(6) *Examination.* A dentist may use teledentistry to conduct an examination for a new patient or for a new diagnosis if the examination is conducted in accordance with evidence-based standards of practice to sufficiently establish an informed diagnosis. A dentist shall not conduct a dental examination using teledentistry if the standard of care necessitates an in-person dental examination. Once an examination has been conducted, a dentist may delegate the services to be provided.

27.12(7) *Follow-up and emergency care.* A dentist who uses teledentistry shall have adequate knowledge of the nature and availability of local dental resources to provide appropriate follow-up care to a patient following a teledentistry encounter. A dentist shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of emergency.

27.12(8) *Supervision.* With the exception of administering local anesthesia or nitrous oxide inhalation analgesia, or performing expanded functions, a dentist may delegate to and supervise services to be performed by a dental hygienist or dental assistant.

a. When direct supervision of a dental hygienist or dental assistant is required, a dentist may provide direct supervision using live video. A dentist is not required to directly supervise the entire delivery of dental care but must appear upon request using live video with a response time similar to what would be expected if the dentist were present in the treatment facility.

b. When general supervision of a dental hygienist or dental assistant is required, a dentist may utilize teledentistry.

c. When public health supervision is utilized, a supervising dentist may authorize use of teledentistry.

27.12(9) *Patient records.* A teledentistry encounter shall be clearly characterized as such in a patient record.

27.12(10) *Privacy and security.* All dentists, dental hygienists, and dental assistants shall ensure that the use of teledentistry complies with the privacy and security requirements of the Health Insurance Portability and Accountability Act.

ITEM 3. Amend **650—Chapter 27**, implementation sentence, as follows:
These rules are intended to implement Iowa Code sections ~~153.34(7), 153.34(9), 272C.3, 272C.4(1f)~~
and 272C.4(6).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/6/19.