

Connecting People to Policy

NOTE: Senator Ratti requested dental therapists be included wherever possible.

TELEDENTISTRY

EXISTING LAW

Nevada Revised Statutes (NRS) 629.515(4)(c) defines the term “telehealth” to mean “the delivery of services from a **provider of health care** to a patient at a different location through the use of information and audio-visual communication technology, not including standard telephone, facsimile or electronic mail.”

NRS 629.031(1)(c) provides that a dentist is a provider of health care for the purposes of Chapter 629.

Because a dentist is a provider of health care, any services provided by a dentist to a patient at a different location through the use of information and audio-visual technology are considered telehealth, and NRS 629.510 and 629.515 apply.

Creation of Teledentistry section within NRS 631:

1. Require the Division of Health care Financing and Policy, DHHS, in requests for proposals (RFPs) for Medicaid medical managed care organizations (MCOs), to mandate that MCOs provide referrals to teledentistry services within any telehealth packages;
2. Require the Division of Health care Financing and Policy, DHHS, dental managed care organization and fee-for-service programs to cover services provided through teledentistry including the synchronous or asynchronous encounter code.
 - a. As a condition of payment, synchronous and asynchronous “store and forward” technology is permitted.
 - b. The dental managed care organization must create and annually update a resource inventory on currently available teledentistry services within their network. This information shall be accessible to hospital emergency departments.
3. Require hospital emergency departments to provide written information regarding currently available teledentistry services for patients who present with non-traumatic dental conditions.
4. A dental screening, exam, or assessment provided to patients through teledentistry meets the requirements for an oral health exam or assessment for entrance into an educational facility such as Head Start, licensed childcare facilities, and public or private school as long as the dental screening, exam, or assessment identifies definitive dental or oral lesions and provides care coordination and referral in locating a dental home.
5. Accordingly, the purpose of this act is to enhance access to dental care via teledentistry. Dental practitioners who use teledentistry must meet:
 - a. Teledentistry General Provisions as outlined in NRS XX
 - b. Practitioner-Patient Relationship standards as outlined in NRS XXY
 - c. Patient Rights and Informed Consent as outlined in NRS XXZ
 - d. Coordination of Care as outlined in NRS XXO
6. Licensure
 - a. Require dental practitioners to obtain 2 hours of continuing education in teledentistry for initial licensure and, for those who are already licensed, for licensure renewal by 2022. The Board will create regulation on courses that qualify for teledentistry continuing education.

- b. This requirement is waived if the dental practitioner presents a certificate of completion in a teledentistry course as part of their coursework for graduation from a CODA accredited institution.
 - c. A dental practitioner using teledentistry to practice dentistry, dental hygiene, or dental therapy on patients in Nevada must be licensed to practice in Nevada. This includes dental practitioners who treat or prescribe to Nevada patients through online service sites.
7. Professional liability insurance policies must provide malpractice coverage for teledentistry.
 8. The Board is authorized to adopt regulations as necessary to carry out the provisions of the bill. These regulations should at a minimum establish:
 - a. Prescribing policies
 - b. Patient records and privacy
 - c. Collaborative practices between medical and dental offices
 - d. Consultation, referrals, and billing between different dental specialty types
 - e. Definitions and interaction between dentists, dental hygienists, and dental therapists, including supervision and delivery of care.
 9. Teledentistry may be used in real time to provide limited diagnostic or emergency treatment planning services in collaboration with a non-dental community liaison such as a community health worker, teacher, or emergency medical responder, or a student enrolled in a program of study to become a dental hygienist, dental therapist or dentist.
 10. For the purposes of this chapter, "telehealth" as referenced in NRS 629 shall include "teledentistry".

NRS XX: Teledentistry General Provisions

1. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means or initial diagnosis and correction of malposition of human teeth or initial use of orthodontic appliances will be held to the same standards of appropriate practice as those in traditional, in-person encounters as outlined in NRS 631. Treatment, including issuing a prescription or orthodontic appliance based solely on an online questionnaire, does not constitute an acceptable standard of care.
2. Pursuant to NRS 631, the standards of professional conduct are the same whether a patient is seen in person or through a teledentistry encounter. . A dentist shall not conduct a dental examination using teledentistry if the standard of care necessitates an in-person dental examination.
3. Dental practitioners using teledentistry will be held to the same standard of professional conduct as practitioners engaging in more traditional in-person care delivery, including the requirement to meet all technical, clinical, confidentiality and ethical standards required by law.
4. This section shall not be construed to alter the scope of practice of any dental practitioner or authorize the delivery of dental health care services in a setting, or in a manner, not otherwise authorized by law.
5. All laws and regulations governing professional responsibility, unprofessional conduct, and standards of practice that apply to a dental practitioner under his/her Nevada license shall apply while providing teledental services.
6. The Board may adopt regulation to specify evidence-based standards of practice and practice guidelines during a teledental procedure to ensure patient safety, quality of care, and positive outcomes.

NRS XXY: Practitioner-Patient Relationship Standards

1. A dental practitioner 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.
2. Practitioner-Patient Relationship is the relationship between a dental practitioner and a receiver of oral health care services (patient) based on mutual understanding of their shared responsibility for the patient's oral health care.

3. When practicing teledentistry, a dental practitioner must establish a practitioner-patient relationship with the patient. The absence of in-person contact does not eliminate this requirement. Patient completion of a questionnaire does not, by itself, establish a practitioner-patient relationship, and therefore treatment, including prescriptions, based solely on a questionnaire does not constitute an acceptable standard of care.
 - a. The dental practitioner must provide proof of identity, jurisdiction, and licensure status to the patient.
 - b. The dental practitioner must make appropriate effort to confirm the patient's identity. If patient is a minor, the dental practitioner must make appropriate effort to confirm the parent or legal guardian is present when required.
 - c. The dental practitioner must make appropriate effort to confirm and document the patient is physically located in a jurisdiction in which the dental practitioner is licensed.
 - d. Any individual, partnership, corporation, or other entity that provides dental services through teledentistry shall make available the name, telephone number, practice address, and Nevada state license number of any dentist who will be involved in the provision of services to a patient prior to the rendering of services and when requested by a patient.
 - e. A violation of this section shall constitute unprofessional conduct.

NRS XXZ: Patient Rights and Informed Consent

1. When teledentistry will be utilized, the patient will be actively involved in treatment decisions. Prior to the delivery of dental health care via teledentistry, the dental practitioner initiating the use of teledentistry shall inform the patient about the use of telehealth as an acceptable mode of delivering dental health care services and public health. The consent shall be documented.
2. The dental practitioner shall ensure informed consent covers the following:
 - i. A description of the types of dental care services provided via teledentistry, including limitations on services;
 - ii. The identity, contact information, practice location, licensure, credentials, and qualifications of all dental practitioners involved in the patient's dental care, which must be publicly displayed on a website or provided in writing to the patient;
 - iii. Precautions for technological failures or emergency situations; and
 - iv. Any other regulations established by the Nevada State Board of Dental Examiners
2. Patient information must be stored and shared through a secure server. Electronic devices being used to record or store patient information must be encrypted and password protected.
3. The dental practitioner shall ensure that the use of teledentistry complies with the privacy and security requirements of the Health Insurance Portability and Accountability Act.
4. A dental practitioner providing teledentistry services must document the encounter appropriately and completely so that the record clearly, concisely and accurately reflects what occurred during the encounter. Such records should be permanent and easily available to or on behalf of the patient and other practitioners in accordance with patient consent, direction and applicable standards. dental practitioner should maintain security and confidentiality of the patient record in compliance with applicable laws and regulations related to the maintenance and transmission of such records. A dental practitioner who delivers dental services using teledentistry shall, upon request of the patient, provide health records in a timely manner.
5. A provider of dental services shall not require a patient to sign an agreement that limits the patient's ability to file a complaint with the board.
6. Nothing in this section shall preclude a patient from receiving in-person dental health care delivery services during a specified course of dental health care and treatment after agreeing to receive services via teledentistry.

NRS XXO: Coordination of Care

1. A dental practitioner 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 dental practitioner 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.
2. If the information transmitted through electronic or other means as part of a patient's encounter is not of sufficient quality or does not contain adequate information for the dental practitioner to form an opinion or if the procedure is beyond the practitioner's capability, the dental practitioner must declare they cannot make an adequate diagnosis and shall refer the patient for care. The dental practitioner may either complete an in-person physical examination, request additional data, or recommend the patient be evaluated by the patient's primary dentist or other local oral health care provider.

Definition

- " Board" means the Nevada State Board of Dental Examiners.
- " Dental practitioner" means a dentist, affiliated practice dental hygienist, dental hygienists with a public health endorsement, or dental therapist who is licensed pursuant to NRS 631
- "Teledentistry" means the mode of delivering dental health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's dental health care while the patient is at the originating site and the dental practitioner is at a distant site. Teledentistry facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.
- "Teledental Services" means the use of telehealth systems and methodologies as outlined in NRS 629 by a licensed dental practitioner operating within the scope of their practice or specified in rules adopted by the Board
- "Dental Home" means that a child's oral health care is delivered in a comprehensive, continuously accessible, coordinated and family-centered way by a licensed dentist.
- Asynchronous store and forward" means the transmission of a patient's medical and dental information from an originating site to the dental practitioner at a distant site.
- "Distant site" means a site where a dental practitioner who provides dental health care services is located while providing these services via a telecommunications system.
- "Originating site" means a site where a patient is located at the time dental health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.
- "Synchronous interaction" means a real-time interaction between a patient and a dental practitioner located at a distant site.

DENTAL EMERGENCY RESPONDERS

1. Establish dental responders within NRS 631?

- a. A dentist, dental hygienist, or dental therapist in good standing with the Nevada State Board of Dental Examiners who is appropriately certified in disaster preparedness, immunizations, and dental humanitarian emergency medical response consistent with the Society of Disaster Medicine and Public Health and certified by the National Incident Management System of the Federal Emergency Management Agency, the National Disaster Life Support Foundation, or

their successor organizations may apply for a dental responder permit from the Nevada State Board of Health.

- b. Dental responders are deemed to be acting within the bounds of licensure when providing emergency medical care, immunizations, mobile and humanitarian care during the existence of a state of emergency or declaration of disaster pursuant to NRS 414.070 or a public health emergency or other health event pursuant to NRS 439.970.
 - c. The Nevada State Board of Health in association with the Committee on Dental Emergency Management shall adopt regulations as necessary to carry out the provisions of the bill.
 - d. A dental responder who provides care is not liable for any civil damages, liability, or legal action as a result of any act or omission by that person in rendering that care or assistance in good faith for the purpose of exercising functions related to an emergency. This does not exempt any harm that occurs because a dental responder committed intentional misconduct, gross negligence or provided services under the influence of alcohol or drugs.
 - e. A dental responder is afforded additional protections under NRS 41.5.
2. Include dental responders into NRS 450B.151 Creation; membership; terms of members; alternate members; vacancies.
 - a. 3 (j) One member who is licensed pursuant to NRS 631, holds a dental responder permit, and who has experience providing emergency medical services;

Definition:

- “Dental responders” defined. “Dental responders” means a dentist, dental hygienist, or dental therapist who is appropriately certified in disaster preparedness, immunizations, and dental humanitarian medical response consistent with the Society of Disaster Medicine and Public Health and certified by the National Incident Management System of the Federal Emergency Management Agency, the National Disaster Life Support Foundation, or their successor organizations and holds a permit from the Nevada State Board of Health.

3. Establish the Committee on Dental Emergency Management within Chapter 439?

- a. Creation; membership; terms of members; alternate members; vacancies.
 - a. Committee on Dental Emergency Management is hereby established within the Division of Public and Behavioral Health .
 - b. The Director shall appoint to the Committee on Dental Emergency Management:
 1. One representative of the Nevada Dental Association
 2. One representative of the Nevada Dental Hygienists’ Association
 3. One representative of the Nevada State Board of Dental Examiners
 4. One or more representative of a NSHE dental or dental hygiene school
 5. One representative who is a county health officer county appointed pursuant to NRS 439.290 in a county whose population is 100,000 or less, or the county health officer’s designee
 6. The Chief Medical Officer
 7. The State Dental Health Officer
 8. The State Public Health Dental Hygienist
 9. One or more representatives of a state or local public health agency whose duties relate to emergency preparedness
 10. One representative who is a consumer of dental healthcare services.
 - c. The term of each representative appointed to the Committee on Dental Emergency Management is 3 years. A representative may not serve more than two consecutive

terms but may serve more than two terms if there is a break in service of not less than 2 years.

- d. Each representative of the Committee shall appoint an alternate to serve in the member's place if the member is temporarily unable to perform the duties required of him or her pursuant to NRS (whatever this number will be) , inclusive.
- e. A position on the Committee that becomes vacant before the end of the term of the member must be filled in the same manner as the original appointment.
- b. Chair; meetings; rules for management; compensation of members.
 - a. The Committee shall elect a Chair from among its members. The term of the Chair is 1 year with the possibility for reappointment.
 - b. The Committee shall adopt rules for its own management.
 - c. Representatives of the Committee serve without compensation, except that, for each day or portion of a day during which a member attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member of the Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses must be paid by the Division from money not allocated by specific statute for another use.
- c. Duties. The Committee on Dental Emergency Management shall:
 - a. Advise the State Board of Dental Examiners and Division with respect to the preparation and adoption of regulations regarding any issues related to the delivery of dental services, dental practitioners, educational requirements, licensure, and emergency management during the existence of a state of emergency or declaration of disaster pursuant to NRS 414.070 or a public health emergency or other health event pursuant to NRS 439.970
 - b. Report any incidence of patient abandonment or unprofessional conduct to the State Board of Dental Examiners for investigation.
 - c. Review and advise the Division and the Committee on Emergency Medical Service regarding the management and performance of dental services during an emergency and regarding statewide emergency dental protocols.
 - d. Organize and activate dental emergency responders in coordination with the Medical Reserve Corps, Statewide Volunteer Pool, Battle Born Medical Corps, or any other state emergency health care workforce.
 - e. Request Division action through public health announcements, memorandums, or emergency declarations.
 - f. Develop an emergency service plan for the continuation of dental services during a declared local, state, or national emergency and establish associated protocols and notification systems including clear protocols for patient communication and emergency treatment, including patient screening and the appropriate use of personal protective equipment for the dental practitioner and dental staff.
 - g. Encourage the training and education of dental emergency responders to improve the system of public safety in this State; and
 - h. On or before January 31 of each year, submit a report to the Department, Division, and Chief
 - 1. a summary of any policies or procedures adopted by the Committee on Dental Emergency Management
 - 2. a description of the activities of the Committee on Dental Emergency Management for the immediately preceding calendar year
 - i. Perform such other duties as may be required by law or regulation.
- a. Activation of Committee or subcommittee: Conditions; duties.

1. The Committee on Dental Emergency Management shall meet at least twice each calendar year.
 2. The Chief or State Dental Health Officer may activate the Committee on Dental Emergency Management or any subcommittee thereof
 3. During the existence of a state of emergency or declaration of disaster pursuant to NRS 414.070 or a public health emergency or other health event pursuant to NRS 439.970, the provisions of chapter 241 of NRS do not apply to any meeting held by the Committee on Dental Emergency Management or a subcommittee thereof.
- b. Regulations.
1. The Division of Public and Behavioral Health shall adopt such regulations as are necessary to govern the Committee on Dental Emergency Management

Definition:

- “Dental Abandonment” defined. “Dental abandonment” means temporary or permanent unilateral severance of professional relationship between a dental practitioner and patient without sufficient notice when the necessity of continuing dental services exists.
- “Director” defined. “Director” means the Administrator of the Division of Public and Behavioral Health.
- “Division” defined. “Division” means the Division of Public and Behavioral Health.
- “Department” defined. “Department” means the Department of Health and Human Services
- “Chief” defined. “Chief” means the Chief of the Division of Emergency Management of the Department of Public Safety.

DENTAL LOSS RATIO / DENTAL PUBLIC HEALTH FUND

NEW: NRS 695D. 24X Reinvestment for Prevention and Dental Public Health Fund

1. Establish the Fund for Silver State Smiles, housed within the Department of Health and Human Services and administered by the State Dental Health Officer.
2. Require every organization for dental care that serves members in the State of Nevada (as defined in Chapter 695D of NRS), to contribute 1 percent (up to \$500,000 per fiscal year) of its prepaid charges or premiums to the Fund for Silver State Smiles.
3. Require moneys from the Fund for Silver State Smiles to be directed to community-based prevention and oral health promotion, surveillance, and improvement initiatives and infrastructure to serve insured residents, dental practitioners, and underserved, vulnerable and rural citizens of all ages.

REVISE NRS 695D.240 Limitation on expenses for marketing and administration and reporting of medical loss ratio (MLR) by organizations for dental care

1. The organization for dental care shall use not more than 25 percent of its prepaid charges or premiums for marketing and administrative expenses, including all costs to solicit members or dentists.
2. Marketing and administrative expenses must include agent commissions, profits and salaries of employees at organization for dental care.
3. The Commissioner may adopt further regulations which define “marketing and administrative expenses” for the purposes of subsection 1 and 2.
4. An organization for dental care that issues, sells, renews, or offers a contract covering dental services shall file a report with the department by July 31 of each year, which shall be known as the MLR annual report. The MLR annual report shall be organized by market and product type and shall

contain the same information required in the 2013 federal Medical Loss Ratio (MLR) Annual Reporting Form (CMS-10418). The department shall post a health care service plan's MLR annual report on its Internet Web site within 45 days after receiving the report.

5. The MLR reporting year shall be for the calendar year during which dental coverage is provided by the plan. As applicable, all terms used in the MLR annual report shall have the same meaning as used in the federal Public Health Service Act (42 U.S.C. Sec. 300gg-18), Part 158 (commencing with Section 158.101) of Title 45 of the Code of Federal Regulations, and Section 1367.003.
6. If the commissioner decides to conduct a financial examination as described in NRS 695D.270 because the commissioner finds it necessary to verify the organization for dental care's representations in the MLR annual report, the department shall provide the health care service plan with a notification 30 days before the commencement of the financial examination.
7. The organization for dental care shall have 30 days from the date of notification to electronically submit to the department all requested records, books, and papers. The commissioner may extend the time for a health care service plan to comply with this subdivision upon a finding of good cause.
8. The department shall make available to the public all of the data provided to the department pursuant to this section.
9. Organizations for dental care are exempt from this reporting requirement for products offered under Nevada Medicaid, Children's Health Insurance Plans (CHIP) or other state sponsored health programs.

Definition:

- "Medical Loss Ratio" defined. A financial measurement to determine the percentage of prepaid charges or premiums collected that are used to pay for dental care. For example, a medical loss ratio of 75% indicates that the organization for dental care is using the remaining 25% of premiums to pay marketing and administration expenses, including profits, agent commissions and salaries for employees at the organization for dental care.