

IN THE SENATE

SENATE BILL NO. 1295

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO DENTISTS; AMENDING SECTION 54-901, IDAHO CODE, TO PROVIDE FOR
2 TELEDENTISTRY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION
3 54-924, IDAHO CODE, TO PROVIDE FOR CERTAIN GROUNDS FOR REFUSAL, REVOCA-
4 TION, OR SUSPENSION.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 54-901, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 54-901. DEFINITION -- PRACTICE OF DENTISTRY. The practice of den-
10 tistry is the doing by one (1) person, for a direct or indirect considera-
11 tion, of one (1) or more of the following with respect to the teeth, gums,
12 alveolar process, jaws, or adjacent tissues of another person, namely:

13 (1) Examining for diagnosis, treatment, extraction, repair, replace-
14 ment, substitution, or correction;

15 (2) Diagnosing of disease, pain, injury, deficiency, deformity or
16 physical condition;

17 (3) Treating, operating, prescribing, extracting, repairing, taking
18 impressions, fitting, replacing, substituting, or correcting;

19 (4) (a) Providing telehealth services, also referred to as teleden-
20 tistry, in accordance with chapter 57, title 54, Idaho Code, and in
21 accordance with the community standard of care where the patient is
22 located in Idaho. Prior to providing any teledentistry services, a
23 dentist must provide the patient with his contact information and the
24 contact information for all dental providers who may be working with
25 the patient. Such information shall include but is not limited to name,
26 Idaho license, practice address, and telephone number; and

27 (b) In addition to the requirements of paragraph (a) of this subsec-
28 tion, a dentist must also, prior to providing any teledentistry ser-
29 vices:

30 (i) Establish a referral relationship with a licensed den-
31 tist within the area of the patient's location, as agreed by the
32 patient. The referral relationship must be disclosed to the pa-
33 tient, and the referring dentist's contact information must be
34 provided to the patient in advance of authorizing or administering
35 teledentistry treatment; or

36 (ii) Obtain a signed patient notification acknowledging that
37 in-person dental examination and treatment may be required and
38 that the patient may have to seek such examination and treatment
39 from another dentist at additional cost; and

40 (5) Administering anesthetics or medicaments in connection with any of
41 the foregoing procedures provided for in this section.

1 SECTION 2. That Section 54-924, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 54-924. OTHER GROUNDS OF REFUSAL, REVOCATION OR SUSPENSION OF DEN-
4 TISTS -- PROBATION AGREEMENTS. The board may refuse to issue or renew a den-
5 tal license, or may revoke, suspend, place on probation, reprimand or take
6 other disciplinary action with respect to a dental license as the board may
7 deem proper, including administrative penalties not to exceed ten thousand
8 dollars (\$10,000) per violation and assessment of the costs of disciplinary
9 proceedings in the event a dentist shall:

10 (1) Intentionally misstate, or fail fully to disclose, a fact mate-
11 rial to determination of fitness and qualification in an application for
12 licensure to practice dentistry, or cheat in an examination to practice
13 dentistry; or procure a certificate or finding of qualification to practice
14 dentistry or subsequently a license by false, fraudulent or deceitful means
15 or in any other name than his own true name; or

16 (2) Practice dentistry under any name other than his own true name ex-
17 cept as a professional service corporation or professional limited liabil-
18 ity company or as a limited managed care plan pursuant to chapter 39, title
19 41, Idaho Code; or

20 (3) Practice or in any manner or by any means or at any place hold out
21 or represent himself as practicing dentistry in or under the name of, or as
22 a member, representative, agent or employee of, or in connection with, any
23 company, association, or corporation, or under any trade, fictitious or
24 business name except as a professional service corporation or professional
25 limited liability company or as a limited managed care plan pursuant to chap-
26 ter 39, title 41, Idaho Code, except for a dentist practicing dentistry as an
27 employee or contracting dentist providing dentistry services to any health
28 center as defined and authorized in section 330 of the public health service
29 act, codified as amended at 42 U.S.C. 254b; or

30 (4) (a) Make, or cause to be made, or assist in making, any fraudulent,
31 false, or misleading statement as to his own, or an employee's, asso-
32 ciate's, or other dentist's, dental therapist's, or dental hygienist's
33 skill or lack of skill, or method of practice; or

34 (b) Claim to practice dentistry without causing pain; or

35 (c) Claim superiority over other dentists; or

36 (d) Publish, advertise, or circulate reports, letters, certificates,
37 endorsements, or evidence of cures or corrections of dental conditions
38 by such dentist, his employee or associate by reason of his or their
39 skill, experience, or ability or of his or their use of any system,
40 method, technique, device, drug, medicine, material, manipulation or
41 machine; or

42 (e) Advertise the use of, or use, any system, method, technique, de-
43 vice, drug, medicine, material or machine, which is either falsely ad-
44 vertised or misnamed; or

45 (5) Use intoxicants or drugs to such a degree as to render him unfit to
46 practice; or

47 (6) Commit malpractice, that is, to provide dental care which fails to
48 meet the standard of dental care provided by other qualified dentists in the
49 same community or similar communities, taking into account his training, ex-

1 perience and the degree of expertise to which he holds himself out to the pub-
2 lic; or

3 (7) Engage in unprofessional conduct, as defined by board rules; or

4 (8) Advertise in such way as to deceive or defraud, or probably deceive
5 or defraud, the public or patrons; or

6 (9) Employ or permit any person not a dentist to practice dentistry, or
7 any person not a dentist or dental therapist to practice dental therapy, or
8 any person not a dentist or dental hygienist to practice dental hygiene, in
9 his office or under his control or direction; or

10 (10) Fail, neglect or refuse to keep his office or equipment, or oth-
11 erwise conduct his work in accordance with current state and federal laws,
12 rules and regulations; or

13 (11) Violate any other provisions of law or rules adopted by the board;
14 or

15 (12) Falsely identify himself to the public as a specialist in a spe-
16 cialty area of dentistry as defined by rule; or

17 (13) Engage in the practice of dentistry as a member, stockholder, em-
18 ployee, director, partner or proprietor in any business entity in which a
19 person, not duly licensed to practice dentistry in this state, holds an own-
20 ership interest. The provisions of this subsection shall not apply to such
21 engagement in a limited managed care plan pursuant to chapter 39, title 41,
22 Idaho Code, or to a dentist practicing dentistry for any health care center
23 as defined and authorized in section 330 of the public health service act,
24 codified as amended at 42 U.S.C. 254b.

25 (14) Supervise more than three (3) dental therapists.

26 (15) Authorize or perform, either directly or through the use of tele-
27 health communication technologies, dental procedures to correct the malpo-
28 sition of human teeth without first:

29 (a) Conducting an in-person comprehensive oral evaluation and review
30 of the patient's most recent diagnostic digital or conventional radio-
31 graph or other necessary imaging, to ensure that the community standard
32 of care has been met. New radiographs or other equivalent bone imaging
33 may be ordered if deemed appropriate by the treating dentist; or

34 (b) Reviewing the patient's records from an in-person comprehensive
35 oral examination conducted within the prior six (6) months by a licensed
36 dentist and the patient's most recent diagnostic digital or conven-
37 tional radiograph or other necessary imaging to ensure that the commu-
38 nity standard of care has been met. New radiographs or other equivalent
39 bone imaging may be ordered if deemed appropriate by the treating den-
40 tist.

41 (16) Require directly, or as a member, representative, contracted
42 agent, or employee of or in connection with any company, association, corpo-
43 ration, or partnership, that a patient sign an agreement limiting his right
44 or ability to file a complaint with the board.