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Advocacy Spotlight: Telehealth Regulations for Dentistry Established

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Telehealth Regulations for Dentistry Established

The rise of telehealth over the last three years has presented unique opportunities for providers to connect with patients more conveniently, while also raising

important questions about the limitations of telehealth services, particularly for dentistry, and how regulations can ensure patient safety, privacy, and quality health care outcomes without creating undue burdens for providers.

Part of recent rulemaking by the Michigan Board of Dentistry focused on creating telehealth regulations specifically for dentistry. The Board established definitions for key terms and regulations for obtaining consent, meeting the standard of care, and the dental scope of practice as they apply to telehealth services by dentists. These are described below.

R338.11611 – Definitions

The Board of Dentistry set definitions for “telehealth,” “telehealth service,” and “telemedicine.”

“Telehealth” — The use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Telehealth may include, but is not limited to, telemedicine.

“Telehealth service” — A health care service provided through telehealth.

Notably, if a dentist intends to delegate duties to allied dental personnel after a teledentistry visit, the patient must have had an in-person visit with the dentist within 24 months. However, this restriction does not apply to the delegation of radiographs to qualified allied dental personnel.

“Telemedicine” — The use of electronic media to link patients with health care professionals in different locations. To be considered telemedicine, the telemedicine services must be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in the health care professional’s health care profession in the state where the patient is located.

For Michigan patients, this requires that the dentist to be licensed in Michigan. This ensures that the Michigan Board of Dentistry has jurisdiction over teledentistry

R338.11613 – Consent; scope of practice; standard of care

The first requirement in this rule is that a dentist must obtain informed consent to provide telehealth services. To obtain legally effective consent for telehealth services:

- The dentist must ensure the patient is aware that they will be treated remotely using telehealth.

- Any licensee who has contact with the patient shall identify themselves to the patient as a dentist, dental therapist, registered dental hygienist, registered dental assistant, or unregistered dental auxiliary, at the inception of care.

- The dentist shall ensure that the patient is mentally capable of giving informed consent for diagnosis, care, or treatment.

- The dentist shall explain the alternatives, capabilities, and limitations of telemedicine and that the patient may decline to receive telehealth services.

- A parent or guardian must provide informed consent for a patient under the age of 18.

- Proof of consent for telehealth service must be kept in the patient’s up-to-date records and maintained as required by Michigan patient health recordkeeping laws.

The second requirement in this rule addresses scope of practice and standard of care. These guidelines inform providers of the standards they must meet while actually delivering care via telehealth. Specifically, a dentist must:

- Act within the scope of their license.

- Exercise the same standard of care applicable to a traditional, in-person health care service.

- Verify that telemedicine is appropriate to evaluate, diagnose, and treat the patient based on the patient’s unique presentation.

Effectively, this section limits the use of telehealth services by dentists to situations where the same clinical result will be achieved as if the patient-dentist interaction was in-person.

The final requirement in this section is that a dentist must comply with HIPAA and any other state or federal security or privacy regulations when using telehealth services.

R338.11615 – Prescribing Medications

This section permits a dentist to prescribe medications during a telehealth service if:

- The dentist is licensed to practice dentistry and, if necessary, licensed to write the prescription.
- The dentist is acting within the scope of their license in prescribing the drug.
- If medically necessary, the dentist shall refer the patient for other health care services or to another provider that is geographically accessible to the patient.
- After providing telehealth services, the dentist must deliver or delegate the delivery of follow-up care or refer to another dentist for follow-up care.

The authority to prescribe noncontrolled substances is included with a Michigan dental license. To prescribe controlled substances in Michigan, a dentist must have a controlled substance license and active DEA registration. The key limitation on prescribing medications via tele-

health services is that the dentist must deliver, delegate, or provide a referral to another dentist for follow-up care.

Summary

Understanding and following these rules is essential for any dentist to legally use telehealth services for their patients. Additionally, it's important to understand the requirements that your participation agreement and patient's plan require to be reimbursed for telehealth services. Finally, it's always a good idea to check with your malpractice carrier to determine if there any specific guidelines you must meet to ensure your policy covers the use of telehealth services.

Establishing common-sense teledentistry laws and regulations was one of the MDA's top priorities in 2023. The MDA's advocacy goals were to protect patient safety and privacy, require the standard of care be applied the same to teledentistry as in-person dentistry, and to ensure that patients have recourse for inappropriate uses of teledentistry. The MDA will continue to advocate for policies that allow dentists to safely and effectively use teledentistry to connect with their patients. ●



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