



March 27, 2025

The Honorable Evan Worrell  
Chairman, Health and Human Services Committee  
West Virginia House of Delegates  
1900 Kanawha Blvd. East  
Charleston, WV 25305

**RE: ATA ACTION CONCERNS OVER WEST VIRGINIA SB 710**

Dear Chairman Watson and members of the Health and Human Services Committee,

On behalf of ATA Action, I am writing to express our strong opposition to SB 710 related to teledentistry.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services – including teledentistry – across the care continuum. ATA Action supports the enactment of state and federal telehealth policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

ATA Action is concerned that SB 710 would take a significant step backward for patient access to quality care in West Virginia. This is for two reasons: first, the legislation enacts significantly differing standards of care on teledentistry services in favor of brick-and-mortar dental practices, creating an anti-competitive marketplace in favor of brick-and-mortar dental practices; and second, the legislation essentially limits dentists' ability to provide teledentistry services by turning teledentistry into a referral service for other brick-and-mortar dental offices. This will discourage innovation and investment in dental services in West Virginia and limit access to quality care for West Virginia residents. In short, this legislation is protectionist and creates arbitrary barriers to patient access to quality care to benefit traditional dental providers.

National telehealth best practices encourage states to always apply the same standard of care for both in-person and telehealth/teledentistry care. This ensures both clear guidelines for providers and similar high-quality treatment for patients, no matter where they are receiving services. This also gives innovative telehealth providers the ability to offer a wide range of services to patients in addition to traditional, brick-and-mortar dental providers, so long as those services meet the same high-level standard of care as their in-person counterparts.

Unfortunately, SB 710 ignores these national best practices and creates a separate standard of care for teledentistry compared to an in-person care by requiring dentists to warn patients that “[t]eledentistry services are intended to supplement traditional treatment methods and are not

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intended to replace in-person examinations.”<sup>1</sup> ATA Action categorically rejects the notion that just because services are provided by teledentistry the patient is receiving a substandard form of care; in fact, state law should be clear in holding providers to the same standards, ethical obligations and legal duties irrespective of the modality through which care is provided.

Additionally, by stating teledentistry cannot meet the same standard of care as in-person services, SB 710 would largely restrict the range of teledentistry services available to West Virginians and grant brick-and-mortar dental practices a protected monopoly for services by requiring in-person examinations prior to dentists performing services via telehealth/teledentistry.

Our organization believes patients and providers should be empowered to choose any available care modalities that will meet the standard of care for the condition presented by the patient, not limited by statutory definitions. We agree with the *American Dental Association* that “examinations performed using teledentistry can be an effective way to extend the reach of dental professionals, increasing access to care by reducing the effect of distance barriers to care.”<sup>2</sup> State governments should seek to empower licensed providers to be able to offer patients safe access to the full market of available healthcare services, rather than arbitrarily pick winners and losers based on their ability to provide in-person care.

SB 710 provides three exceptions for providing initial care via teledentistry: (1) for providing care to a public health program, (2) for providing emergency care, and (3) for the initial diagnosis of a malposition of teeth. ATA Action takes issue with all three exceptions because they only serve to require patients to receive services at brick-and-mortar dental offices. Moreover, as in all telehealth services, the standard of care should regulate the ability of a provider to render an evaluation and diagnosis using remote technologies.

First, SB 710 would allow non-competitive providers (such as government operated public health programs<sup>3</sup>) to provide teledentistry services unhindered. Are teledentistry services offered through government funded public health programs safer than teledentistry services offered by West Virginia licensed dentists over competitive market, for-profit teledentistry platforms?

Second, the bill allows dentists to establish a patient-provider relationship “for the purpose of emergent care,” but requires the dentist to refer the patient to either an emergency room or another dentist for the provision of acute care.<sup>4</sup> While the bill necessitates a dentist referring a patient for emergent care as the dentist of record, questions remain. Since the dentist providing care via a teledentistry platform has established a bona fide patient relationship, is the teledentistry provider permitted to treat the patient via teledentistry? Was the dentist required to disclose the identity of the provider, telephone number, address, license number, or any other relevant qualification prior to referring the patient to an emergency room? If the dentist providing care through teledentistry refers

<sup>1</sup> West Virginia Senate Bill 710, § 30-4-8b(h)(i), lines 89-91.

<sup>2</sup> ADA Policy on Teledentistry, <https://www.ada.org/en/about/governance/current-policies/ada-policy-on-teledentistry>.

<sup>3</sup> West Virginia Senate Bill 710, § 30-4-8b(d)(2).

<sup>4</sup> Compare West Virginia Senate Bill 710, § 30-4-8b(d)(1), line 38 with West Virginia Senate Bill 710, § 30-4-8b(m), lines 113-116.



the patient to an in-person dentist to provide acute care—which necessitates that the referring dentist is the dentist of record—is the referring dentist liable for the malpractice of a dentist who provided in-person care? Moreover, when a dentist operating out of a brick-and-mortar office refers a patient to a teledentistry platform, the in-person dentist remains the patient of record.<sup>5</sup> Why would any dentist refer a patient to a teledentistry platform if the referring dentist remained liable for the care provided by a third party?

Third, the bill allows dentists operating via telehealth to establish a bona fide patient-provider relationship for the initial diagnosis of a malposition of teeth and determination of need for orthodontic appliances. However, while allowing the initial diagnosis to occur via teledentistry, the bill requires review of radiographic records to occur contemporaneously with an *in-person* visit.<sup>6</sup>

These three limitations negate the core benefits of telehealth services—spreading access to care for rural and underserved communities. With the US Health Resources & Services Administration designating fifty-two of West Virginia’s fifty-five counties as dental professional shortage areas, this bill only benefits brick-and-mortar dental offices at the expense of West Virginians’ access to care.<sup>7</sup>

Thank you for the opportunity to comment on this legislation. In order to preserve patient access to teledentistry, ensure continued innovation in the healthcare field and provide for the highest levels of patient choice, we encourage you to reject this legislation. This regressive bill would disrupt care for patients currently receiving teledentistry in West Virginia and do nothing meaningful to alleviate existing provider shortages and other barriers to patient care. If you have any questions or would like to discuss the telemedicine industry’s perspective further, please contact me at [kzebley@ataaction.org](mailto:kzebley@ataaction.org).

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley", written in a cursive style.

Kyle Zebley  
Executive Director  
ATA Action

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<sup>5</sup> West Virginia Senate Bill 710, § 30-4-8b(h).

<sup>6</sup> West Virginia Senate Bill 710, § 30-4-8b(c)(1).

<sup>7</sup> Health Professional Shortage Areas: Dental Care, by County, January 2025 - West Virginia, Rural Health Information Hub.