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ata ACTION
Telehealth Policy to Transform Healthcare

June 10, 2025

Nevada State Board of Dental Examiners,
2651 N. Green Valley Pkwy, Ste. 104,
Henderson, NV 89014

RE: ATA ACTION OPPOSITION TO SECTION 2 OF LCB File No. R056-24

Dear Members of the Nevada State Board of Dental Examiners,

On behalf of ATA Action, I am writing you to comment in opposition to the provisions of Section 2 of LCB File No. R0556-24 which defines the term "bona fide relationship" regarding teledental care, the establishment of a bone fide relationship with new patients, and informed consent requirements outlined in Section 10(4).

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 coverage and fair payment 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.

First and foremost, ATA Action has broad concerns with the proposed definition of "bona fide relationship" in Section 2(2) of the proposed rule, which requires a licensee to conduct an in-person examination within the previous six months—or review the results of such an exam by another licensee—before a patient-provider relationship can be established. This requirement directly contradicts the legislative intent of Nevada Revised Statute § 631.34583(1), which limits in-person examination mandates to the prescription of orthodontic appliances. By imposing a blanket in-person prerequisite for establishing a bona fide relationship, the proposed rule defies the statute's clear directive permitting the use of teledentistry to initiate care in non-orthodontic settings, including emergent care and public health programs, neither of which are addressed in the proposed rule.

Further, ATA Action has significant concerns with the authorized uses of telehealth by licensees. Nevada Revised Statute § 631.34582(1)(a) states "a licensee may use teledentistry to examine... a new patient if the examination is sufficient, in accordance with evidence-based standards of practice, to provide an informed diagnosis." However, the proposed rule indirectly prohibits licensees from using teledentistry to examine and diagnose a new patient through the definition of "bona fide relationship," which requires an in-person examination within the preceding six

months. How can a licensee utilize teledentistry to examine a *new* patient if the establishment of a patient relationship requires an examination by the licensee within the previous six months?

While the caveat allowing a dentist who utilizes teledentistry to obtain records from another licensee who examined the patient within the previous six months as a means of establishing a bona fide relationship may satisfy the *new* patient—insofar as new to the dentist utilizing teledentistry—the rule still prohibits licensees from examining new patients when the examination is sufficient according to evidence-based standards, as the enacting statute states. Moreover, the statute ***does not*** direct the board to make a determination of when utilization of teledentistry is appropriate—it directs the board to allow licensees to examine new patients via telehealth when sufficiently utilizing evidence-based standards of practice. By imposing a rigid and unnecessary in-person requirement that contradicts statutory language, we believe the proposed rule to be arbitrary and capricious, as it disregards legislative mandates.

Additionally, the informed consent requirements outlined in Section 10 of the proposed rule unfairly discriminate against teledentistry providers by imposing obligations not required of licensees conducting in-person services. Specifically, the rule mandates that teledentistry providers disclose a list of services and any limitations, provide detailed information about the qualifications of the licensee delivering care, outline precautions for emergencies or technological failure, and include any other information the board may later prescribe. These additional burdens create an uneven regulatory landscape that treats virtual providers as inherently less capable than their in-person counterparts, despite offering the same standard of care. Moreover, the rules around informed consent are inconsistent: within the requirements for informed consent outlined in Section 10(4), providing any and all information about the licensees qualifications must be provided in order to obtain informed consent, while the previous paragraph, Section 10(3), requires that same information only "upon request of the patient," creating confusion about a licensee's obligations for providing services via teledentistry and further reinforcing the arbitrary nature of the proposed requirements.

ATA Action is firmly opposed to the implementation of in-person requirements which take away the ability of licensed providers to use any available modalities, be that in-person or via teledentistry, which will meet the standard of care for the condition presented by the patient. We agree with the *Federation of State Medical Boards* that it should be practitioners, relying on their extensive education and clinical experience, who should have the ability to determine if treatment can be conducted via telehealth or in-person. 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.

There is no clinical justification for this requirement which would significantly limit access to teledentistry care, at the cost of patient flexibility, time and personal cost. Many Nevada patients would no longer have access to innovative new dental technologies, such as the ability to receive an on-demand emergency visit or other services using asynchronous teledentistry platforms. While we acknowledge that there are situations in which the standard of care for the condition

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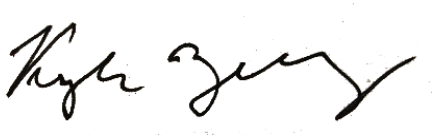
presented by the patient cannot be met through telehealth modalities, synchronous or asynchronous, we believe the blanket requirement of an in-person exam prior to the establishment of a patient provider relationship via teledentistry is severely limiting. In these instances, it is the responsibility of the provider to take steps to treat the patient in-person or direct them to seek other treatment that does meet the standard of care.

Finally, implementing this policy would put unrealistic requirements on teledentistry patients and providers. Many counties in Nevada lack an adequate number of brick-and-mortar dental offices, with only two of Nebraska's seventeen counties not identified as health professional shortage areas for dental care, forcing patients to potentially travel a great distance for routine or even unnecessary care that could have been conducted virtually.[1] We encourage you to consider how reducing access to convenient, safe, and often less costly teledentistry services will affect patients, particularly those in rural and underserved communities.

We strongly encourage you to reconsider elements of this proposed rule in order to limit the damage done to teledentistry access for Nevada patients by AB 147. Thank you for the opportunity to comment on this legislation. Please let us know if there is anything that we can do to assist you in your efforts to adopt practical telehealth policy in Nevada. If you have any questions or would like to engage in additional discussion regarding the telehealth industry's perspective, please contact me at kzebley@ataaction.org.

Kind regards,



Kyle Zebley
Executive Director
ATA Action

[1] Health Professional Shortage Areas: Dental Care, by County, April 2025 – Nevada, Rural Health Information Hub, data from HRSA, https://www.ruralhealthinfo.org/charts/9?state=NV.