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WILLIAM H. TRICE III (1946-2014)

January 24, 2018

Ms. Donna K. Davis, Committee Staff
Bureau of Legislative Research
State Capitol Building, Room 315
Little Rock, AR 72201

**RE: My Client: Arkansas State Board of Dental Examiners
Proposed Article XXI- Tele Dentistry**

Dear Ms. Davis:

At its meeting on January 19, 2018, the Arkansas State Board of Dental Examiners approved the proposed Article XXI was amended. Two people spoke against this Article, Zachary Heard and Dr. Danny Leeds.

Enclosed are the following:

1. Two copies of a mark-up showing the changes to the proposed Regulation.
2. Two copies of the approved Article XXI- Tele Dentistry.

I am also emailing all of this to you at donna@arkleg.state.ar.us, and the Secretary of State's office at statedocs@library.arkansas.gov.

Please schedule this for a hearing before the Committee of Legislative Council. Please notify me of the date and time. I wait to hear from you.

Respectfully,



Kevin M. O'Dwyer,
Attorney for the Arkansas State Board of Dental Examiners

KMO/jab
Enclosures

cc: Donna Cobb, Executive Director, Arkansas State Board of Dental Examiners

ARTICLE XXI

TELE DENTISTRY

Requirement for all services provided by Dentist using Tele Dentistry:

1. For the purposes of this regulation, a proper Dentist/patient relationship is deemed to exist in the following situations:
 - a. Perform ~~a history and~~ an “in person” ~~physical dental~~ examination ~~(of the patient adequate to establish a diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided, OR)~~ to include a thorough evaluation and recording of the extraoral and intraoral hard and soft tissues. It shall also include the evaluation for oral cancer where Indicated and the evaluation and recording of the patient’s dental and medical history and a general health assessment. It may include the evaluation and recording of dental caries, missing or unerupted teeth, restoration, existing prostheses, occlusal relationships, periodontal conditions (including periodontal screening and/or charting), hard and soft tissue anomalies, etc.
 - b. When treatment is provided in consultation with, or upon referral by, another Dentist who has an ongoing relationship with the patient, and who has agreed to supervise the patient’s treatment, including follow up care and the use of any prescribed medications.
 - c. On-call or cross-coverage situations arranged by the patient’s treating Dentist
 - d. The Dentist personally knows the patient and the patient’s general health status through an “ongoing” personal or professional relationship;
2. A Dentist/patient relationship must be established before the delivery of services via Tele Dentistry. A patient completing a medical history online and forwarding it to a Dentist is NOT sufficient to establish the relationship, nor does it qualify as store-and-forward technology.
3. The following requirements apply to all services provided by Dentists using Tele Dentistry:
 - a. The practice of Dentistry via Tele Dentistry shall be held to the same standards of care as traditional in-person encounters.
 - b. The Dentist must obtain a detailed explanation of the patient’s complaint from the patient or the patient’s treating Dentist.
 - c. If a decision is made to provide treatment, the Dentist must agree to accept responsibility for the care of the patient.
 - d. If follow-up care is indicated, the Dentist must agree to provide or arrange for such follow-up care.
 - e. A Dentist using Tele Dentistry may NOT issue a prescription for any controlled substances defined as any scheduled medication under schedules II through V unless the Dentist has seen the patient for an in-person exam or unless a relationship exists through consultation or referral; on-call or cross-coverage situations; or through an ongoing personal or professional relationship.
 - f. The Dentist must keep a documented Dental patient record, including Dental history.
 - g. At the patient’s request, the Dentist must make available to the patient an electronic or hardcopy version of the patient’s Dental record documenting the

encounter. Additionally, unless the patient declines to consent, the Dentist must forward a copy of the record of the encounter to the patient's regular treating Dentist if that Dentist is not the same one delivering the service via Tele Dentistry.

- h. Services must be delivered in a transparent manner, including providing access to information identifying the Dentist in advance of the encounter, with licensure and board certifications, as well as patient financial responsibilities.
- i. If the patient, at the recommendation of the Dentist, needs to be seen in person for their current Dental issue, the Dentist must arrange to see the patient in person or direct the patient to their regular treating Dentist or other appropriate provider if the patient doesn't have a treating Dentist. Such recommendations shall be documented in the patient's Dental record.
- j. Dentists who deliver services through Tele Dentistry must establish protocols for referrals for emergency services.
- k. All Dentists providing care via Tele Dentistry to a patient located within the State of Arkansas shall be licensed to practice Dentistry in the State of Arkansas.

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- k. All Dentists providing care via Tele Dentistry to a patient located within the State of Arkansas shall be licensed to practice Dentistry in the State of Arkansas.

Pursuant to ACT 203 of 2017 the following are requirements for all services provided by Dentist using Tele Dentistry:

1. For the purpose of this regulation, a proper Dentist/patient relationship is deemed to exist in the following situations:
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