

**PROPOSED REGULATION OF THE  
BOARD OF DENTAL EXAMINERS OF NEVADA**

**LCB File No. R056-24**

May 1, 2024

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1 and 3-6, NRS 631.190 and section 13 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325; § 2, NRS 631.190, section 10 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3323 and section 13 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325; §§ 7 and 8, NRS 631.190 and section 15 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325; §§ 9 and 10, NRS 631.190, section 15 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325 and section 17 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3326; § 11, NRS 631.190 and 631.342, as amended by section 24 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3329; § 12, NRS 631.190 and 631.342, as amended by section 24 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3323 and section 13 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325; § 13, NRS 631.190, 631.3124 and 631.3125 and section 17 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3326, section 8 of Senate Bill No. 310, chapter 523, Statutes of Nevada 2023, at page 3406, and section 9 of Senate Bill No. 310, chapter 523, Statutes of Nevada 2023, at page 3407.

A REGULATION relating to dentistry; defining the term “bona fide relationship” for certain purposes; prescribing various requirements governing the provision of services through teledentistry and the administration of immunizations by certain providers of dental care; prescribing conditions and requirements relating to collaboration between certain providers of health care through teledentistry; requiring a written practice agreement between a dentist and certain dental therapists to include procedures for supervision through teledentistry; prescribing certain required contents of an application for a special endorsement to administer immunizations; prescribing requirements governing training and continuing education for providers of dental care who hold a special endorsement to administer immunizations; prescribing requirements governing the storage of immunizations and medication; requiring the submission of certain attestations with an application for the renewal or reinstatement of certain licenses; and providing other matters properly relating thereto.

### **Legislative Counsel’s Digest:**

Assembly Bill No. 147 (A.B. 147) of the 2023 Legislative Session enacted provisions to: (1) regulate the practice of teledentistry by dentists, dental hygienists and dental therapists; and (2) provide for the issuance of a special endorsement for a dentist, dental hygienist or dental therapist to administer immunizations. (Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3319) A.B. 147 requires the Board of Dental Examiners of Nevada to adopt regulations governing teledentistry. (Section 13 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325)

A.B. 147 requires a dentist, dental hygienist or dental therapist to establish a bona fide relationship, as defined by regulation of the Board, with a patient before providing services to the patient through teledentistry. (Section 10 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3323) **Section 2** of this regulation defines the term “bona fide relationship” for that purpose. **Section 3** of this regulation prescribes: (1) the services that a dentist, dental hygienist or dental therapist is authorized to provide through teledentistry; and (2) the requirements governing the issuance of a prescription through teledentistry. **Section 3** also requires a dentist, dental hygienist or dental therapist who provides services through teledentistry to maintain a list of dental providers to whom the licensee may refer a patient when in-person care is necessary.

A.B. 147 requires a dentist, dental hygienist or dental therapist to obtain the informed verbal or written consent of a patient or the informed written consent of the parent or guardian of a patient, as applicable, before providing services through teledentistry. A.B. 147: (1) requires a dentist, dental hygienist or dental therapist who is seeking such informed consent to provide certain information to the patient; and (2) authorizes the Board to prescribe by regulation additional information that the licensee is required to provide to the patient. (Section 10 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3323) **Section 4** of this regulation requires such a dentist, dental hygienist or dental therapist to provide to the patient: (1) his or her license and contact information; and (2) certain information concerning the services that he or she may provide through teledentistry and the actions that will be taken in an emergency. **Section 4** also requires a dentist, dental hygienist or dental therapist to obtain from a patient: (1) a signed acknowledgment that the patient received a notice of privacy practices required by federal law; and (2) certain information relating to the medical history of the patient and the manner in which the dentist, dental hygienist or dental therapist will be compensated for the services.

**Section 5** of this regulation prescribes the purposes for which a dentist, dental hygienist or dental therapist may use teledentistry to collaborate with: (1) a physician, physician assistant or advanced practice registered nurse; or (2) a dentist, dental hygienist or dental therapist who practices in a different specialty area. **Section 5** also prescribes certain requirements to ensure communication between multiple dentists, dental hygienists and dental therapists who are providing care to the same patient through teledentistry.

Existing law requires a dental therapist to enter into a written practice agreement with his or her authorizing dentist. Existing law prohibits a dental therapist from providing services outside the direct supervision of his or her authorizing dentist until he or she has obtained a certain number of hours of clinical practice as a dental therapist. (NRS 631.3122) **Section 6** of this regulation requires a written practice agreement between an authorizing dentist and a dental therapist who has not obtained those hours of clinical practice to contain certain provisions concerning supervision of the dental therapist through teledentistry.

A.B. 147 provides for the issuance of special endorsements to authorize a dentist, dental hygienist or dental therapist to administer immunizations. (Section 15 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325) **Section 7** of this regulation defines the term “special endorsement” to refer to such a special endorsement. **Section 8** of this regulation requires that an application for such a special endorsement include copies of certain policies, procedures and plans required by existing law relating to the administration of immunizations. (Section 17 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3326)

A.B. 147 requires an applicant for a special endorsement to administer immunizations to have completed a course of training in the administration of immunizations. (Section 15 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325) **Section 8** requires that such a course completed by a dental hygienist or dental therapist include at least 20 hours of instruction.

**Section 9** of this regulation requires a dentist who holds a special endorsement to administer immunizations and who administers immunizations, or authorizes a dental hygienist or dental therapist to administer immunizations, to adopt written policies and procedures for the storage of immunizations. **Section 13** of this regulation provides that the failure to ensure that each medication or immunization is returned to a safe, appropriate location at the end of each day constitutes unprofessional conduct for which a dentist, dental hygienist, dental therapist or expanded function dental assistant may be disciplined by the Board.

**Section 10** of this regulation authorizes the holder of a special endorsement to administer only immunizations for influenza and COVID-19. **Section 10** also requires the holder of a special endorsement to: (1) notify the primary care provider of a patient to whom the holder of a special endorsement administers an immunization of each dose administered; and (2) maintain a log of each immunization that the holder administers. **Section 10** additionally requires a dentist who holds a special endorsement to ensure the availability and regular inspection of emergency equipment. **Section 10** clarifies that a dental hygienist or dental therapist is prohibited from issuing a standing order for the administration of an immunization.

A.B. 147 requires the holder of a special endorsement to administer immunizations to complete certain continuing education. (NRS 631.342, as amended by section 24 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3329) **Section 11** of this regulation prescribes additional requirements governing continuing education for a dental hygienist or dental therapist who holds such a special endorsement. **Section 12** of this regulation requires: (1) the holder of a special endorsement to administer immunizations who is requesting the renewal or reinstatement of his or her license to certify that he or she has completed the required continuing education; and (2) a dentist, dental therapist or dental hygienist who provides services through teledentistry to certify that he or she possesses certain professional liability insurance required by A.B. 147. (Section 8 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3323)

**Section 1.** Chapter 631 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

**Sec. 2.** *For the purposes of section 10 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3323, “bona fide relationship” means a relationship between a patient and a licensee where the licensee has:*

*1. Reviewed the medical records of the patient, including, without limitation:*

*(a) Any relevant information concerning a current illness; and*

*(b) Any diagnostic or radiographic records obtained within the immediately preceding 6 months;*

*2. Performed an in-person examination of the patient’s oral cavity within the immediately preceding 6 months for the purposes of diagnosing, assessing or determining the current medical condition of the patient; and*

*3. A reasonable expectation that he or she will provide follow-up care and treatment to the patient.*

**Sec. 3.** *1. Subject to the provisions of subsection 3, a licensee may only provide the following services through teledentistry:*

*(a) Consultation and recommending treatment.*

*(b) Issuing a prescription that he or she deems necessary to treat an emergent need of the patient.*

*(c) Providing a limited diagnosis based on information provided by the patient during a visit conducted through teledentistry.*

*(d) Determining the need for orthodontic corrections to address identifiable problems related to the malposition of teeth.*

*(e) Correcting the position of teeth using orthodontic appliances.*

*2. A licensee who provides services through teledentistry shall maintain a list of licensees to whom the licensee may refer a patient to receive services in person when necessary in accordance with subsection 2 of section 12 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325.*

*3. A licensee shall not provide services through teledentistry if the licensee is not authorized to provide those services in person.*

*4. A licensee who issues a prescription through teledentistry shall:*

*(a) Comply with the relevant provisions of chapter 639 of NAC; and*

*(b) Transmit the prescription by telephone or electronic transmission to the pharmacy designated by the patient.*

*Sec. 4. 1. In addition to the information required by section 10 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3323, a licensee who is seeking informed consent pursuant section 10 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3323, must provide to the patient or his or her parent or guardian, as applicable:*

*(a) A copy of the license issued to the licensee by the Board;*

*(b) The contact information of the licensee and any other licensee providing services to the patient through teledentistry, which:*

*(1) May include, without limitation, the electronic mail address and telephone number of the licensee and the physical address of the office at which the licensee practices; and*

*(2) Must include information that may be used to contact the licensee in an emergency;*

*(c) A list of the services that the patient may receive through teledentistry and the cost of each service; and*

*(d) The actions that the licensee will take in an emergency, including, without limitation, the contact information for the medical facility to be used in the event of a medical emergency.*

*2. Before providing services to a patient through teledentistry, a licensee shall obtain from the patient:*

*(a) A signed acknowledgment that the patient received the notice of privacy practices required by 45 C.F.R. § 164.520;*

*(b) The relevant medical history of the patient; and*

*(c) If applicable:*

*(1) Information concerning the policy of insurance covering the patient; and*

*(2) A financial agreement for the compensation of the licensee.*

*3. As used in this section, “medical facility” has the meaning ascribed to it in NRS 449.0151.*

**Sec. 5. 1.** *A licensee may use teledentistry to collaborate with a physician, physician assistant or advanced practice registered nurse, or the designees thereof, for the purposes of:*

*(a) Obtaining the relevant medical history of a patient; or*

*(b) Collaborating on the care of a patient.*

*2. A licensee may use teledentistry to collaborate with a licensee who does not practice in the same specialty area for the purpose of:*

*(a) Obtaining the relevant medical history of a patient;*

*(b) Collaborating on the care of a patient; or*

*(c) Developing a plan for the treatment of a patient.*

*3. When more than one licensee provides care to the same patient, any licensee who provides care to the patient through teledentistry shall:*

*(a) Obtain from the patient, to the extent that the patient is willing to provide such information, the names and contact information of the other licensees providing care to the patient; and*

*(b) If the patient provides information to the licensee pursuant to paragraph (a):*

*(1) Communicate with the other licensees concerning the relevant medical history and care of the patient; and*

*(2) Provide all relevant information and recommendations concerning the care of the patient to the other licensees.*

**Sec. 6.** *In addition to the requirements of NRS 631.3123, the written practice agreement required by NRS 631.3122 between an authorizing dentist and a dental therapist who has not completed the hours of clinical practice under the direct supervision of an authorizing dentist required by subsection 1 of NRS 631.3122 must include, without limitation:*

- 1. Procedures for the supervision of the dental therapist through teledentistry; or*
- 2. A statement that all supervision of the dental therapist will occur in person.*

**Sec. 7.** *As used in sections 8 to 11, inclusive, of this regulation, unless the context otherwise requires, “special endorsement” means a special endorsement to administer immunizations issued pursuant to section 15 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325.*

**Sec. 8.** *1. An application for a special endorsement must include, without limitation, copies of:*

*(a) The written policies and procedures for the handling and disposal of used or contaminated equipment required by paragraph (b) of subsection 1 of section 17 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3326; and*

*(b) The written plan for addressing emergencies required by paragraph (c) of subsection 1 of section 17 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3326.*

*2. A course of training in the administration of immunizations completed by a dental therapist or dental hygienist to satisfy the requirements of section 15 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325, must include at least 20 hours of instruction.*

**Sec. 9.** *1. In addition to complying with the requirements of section 17 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3326, a dentist who holds a special endorsement and who administers immunizations, or under whose authorization a dental hygienist or dental therapist who holds such an endorsement administers immunizations, shall adopt written policies and procedures for the storage of immunizations.*

*2. The written policies, procedures and plans adopted pursuant to this section and section 17 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3326, must comply with all applicable provisions of chapter 639 of NAC.*

**Sec. 10.** *1. A dentist, dental hygienist or dental therapist who holds a special endorsement may only administer immunizations for influenza and COVID-19.*

*2. A dentist, dental hygienist or dental therapist who holds a special endorsement shall:*

*(a) Notify the primary care provider of the patient, if any, of each dose of an immunization that is administered to the patient.*

*(b) Maintain and update at least monthly a log of each immunization administered by the dentist, dental hygienist or dental therapist, as applicable.*

*3. A dentist who holds a special endorsement and who administers immunizations, or under whose authorization a dental hygienist or dental therapist who holds a special*

*endorsement administers immunizations, shall ensure that the equipment that may be needed in an emergency is:*

*(a) Present at the physical location where an immunization is administered and immediately accessible, as required by paragraph (c) of subsection 1 of section 17 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3326; and*

*(b) Inspected at least quarterly to ensure that the equipment remains functional.*

*4. A dental hygienist or a dental therapist may not issue or obtain a standing order for the administration of an immunization.*

*5. As used in this section, "COVID-19" means:*

*(a) The novel coronavirus identified as SARS-CoV-2;*

*(b) Any mutation of the novel coronavirus identified as SARS-CoV-2; or*

*(c) A disease or health condition caused by the novel coronavirus identified as SARS-CoV-*

*2.*

**Sec. 11.** *1. A dental hygienist or dental therapist who holds a special endorsement must annually complete at least 3 hours of continuing education on the administration of immunizations and public health emergencies.*

*2. The continuing education obtained pursuant to subsection 1 may be used to satisfy the requirements of subsection 6 of NRS 631.342, as amended by section 24 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3329.*

**Sec. 12.** NAC 631.177 is hereby amended to read as follows:

631.177 1. When requesting a renewal or reinstatement of his or her license, each:

(a) Dentist shall submit a signed, written statement in substantially the following language for each year since his or her last renewal:

I, ....., hereby certify to the Board of Dental Examiners of Nevada that I have obtained at least 20 approved hours of instruction in continuing education during the period July 1, ....., through and including June 30, ....., I also certify to the Board of Dental Examiners of Nevada that I am currently certified in administering cardiopulmonary resuscitation or another medically acceptable means of maintaining basic bodily functions which support life.

Dated this ..... (day) of ..... (month) of ..... (year)

.....

Signature of Dentist

(b) Dental hygienist shall submit a signed, written statement in substantially the following language for each year since his or her last renewal:

I, ....., hereby certify to the Board of Dental Examiners of Nevada that I have obtained at least 15 approved hours of instruction in continuing education during the period July 1, ....., through and including June 30, ....., I also certify to the Board of Dental Examiners of Nevada that I am currently certified in administering cardiopulmonary resuscitation or another medically acceptable means of maintaining basic bodily functions which support life.

Dated this ..... (day) of ..... (month) of ..... (year)

.....  
Signature of Dental Hygienist

(c) Dentist or dental hygienist shall submit proof of his or her current certification in administering cardiopulmonary resuscitation or other medically acceptable means of maintaining basic bodily functions which support life.

*(d) Dentist who holds a special endorsement issued pursuant to section 15 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325, shall submit a signed, written statement in substantially the following language for each biennium since his or her last renewal:*

*I, ....., hereby certify to the Board of Dental Examiners of Nevada that I have obtained the continuing education required by subsection 6 of NRS 631.342, as amended by section 24 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3329, during the period July 1, ....., through and including June 30, .....*

*Dated this .....(day) of .....(month) of .....(year)*

.....  
*Signature of Dentist*

*(e) Dental hygienist or dental therapist who holds a special endorsement issued pursuant to section 15 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3325, shall*

*submit a signed, written statement in substantially the following language for each biennium since his or her last renewal:*

*I, ....., hereby certify to the Board of Dental Examiners of Nevada that I have obtained the continuing education required by subsection 6 of NRS 631.342, as amended by section 24 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3329, and section 11 of this regulation during the period July 1, ....., through and including June 30, .....*

*Dated this .....(day) of .....(month) of .....(year)*

.....

*Signature of Dental Hygienist or Dental Therapist*

*(f) Dentist, dental hygienist or dental therapist who provides dental services through teledentistry shall attest that he or she possesses the policy of professional liability insurance required by section 8 of Assembly Bill No. 147, chapter 513, Statutes of Nevada 2023, at page 3323.*

2. Legible copies of all receipts, records of attendance, certificates and other evidence of attendance by a dentist or dental hygienist at an approved course in continuing education must be retained by the dentist or dental hygienist and made available to the Board for inspection or copying for 3 years after attendance at the course is submitted to meet the continuing education requirements of the Board. Proof of attendance and completion of the required credit hours of instruction must be complete enough to enable the Board to verify the attendance and completion

of the course by the dentist or dental hygienist and must include at least the following information:

- (a) The name and location of the course;
- (b) The date of attendance;
- (c) The name, address and telephone number of its instructor;
- (d) A synopsis of its contents; and
- (e) For courses designed for home study, the number assigned to the provider by the Board at the time the course was approved and the name, address and telephone number of the producer or author of the course.

3. The third or subsequent failure of a dentist and dental hygienist to obtain or file proof of completion of the credit hours of instruction required by this section and NAC 631.173 and 631.175 is unprofessional conduct.

4. The Board will conduct random audits of dentists or dental hygienists to ensure compliance with the requirements of this section and NAC 631.173 and 631.175.

**Sec. 13.** NAC 631.230 is hereby amended to read as follows:

631.230 1. In addition to those specified by statute and subsection 3 of NAC 631.177, the following acts constitute unprofessional conduct:

- (a) The falsification of records of health care or medical records.
- (b) Writing prescriptions for controlled substances in such excessive amounts as to constitute a departure from prevailing standards of acceptable dental practice.
- (c) The consistent use of dental procedures, services or treatments which constitute a departure from prevailing standards of acceptable dental practice even though the use does not constitute malpractice or gross malpractice.

- (d) The acquisition of any controlled substances from any pharmacy or other source by misrepresentation, fraud, deception or subterfuge.
- (e) Making an unreasonable additional charge for laboratory tests, radiology services or other testing services which are ordered by the dentist and performed outside his or her own office.
- (f) The failure to report to the Board as required in NAC 631.155 or to sign any affidavit required by the Board.
- (g) Employing any person in violation of NAC 631.260 or failing to report to the Board as required by that section.
- (h) The failure of a dentist who is administering or directly supervising the administration of general anesthesia, deep sedation or moderate sedation to be physically present while a patient is under general anesthesia, deep sedation or moderate sedation.
- (i) Administering moderate sedation to more than one patient at a time, unless each patient is directly supervised by a person authorized by the Board to administer moderate sedation.
- (j) Administering general anesthesia or deep sedation to more than one patient at a time.
- (k) The failure to have any patient who is undergoing general anesthesia, deep sedation or moderate sedation monitored with a pulse oximeter or similar equipment required by the Board.
- (l) Allowing a person who is not certified in basic cardiopulmonary resuscitation to care for any patient who is undergoing general anesthesia, deep sedation or moderate sedation.
- (m) The failure to obtain a patient's written, informed consent before administering general anesthesia, deep sedation or moderate sedation to the patient or, if the patient is a minor, the failure to obtain his or her parent's or guardian's consent unless the dentist determines that an emergency situation exists in which delaying the procedure to obtain the consent would likely cause permanent injury to the patient.

(n) The failure to maintain a record of all written, informed consents given for the administration of general anesthesia, deep sedation or moderate sedation.

(o) The failure to report to the Board, in writing, the death or emergency hospitalization of any patient to whom general anesthesia, deep sedation or moderate sedation was administered. The report must be made within 30 days after the event.

(p) Allowing a person to administer general anesthesia, deep sedation or moderate sedation to a patient if the person does not hold a permit to administer such anesthesia or sedation unless the anesthesia or sedation is administered in a facility for which a permit is held as required by NRS 449.442.

(q) The failure of a dentist who owns a dental practice to provide copies of the records of a patient to a dentist or dental hygienist who provided the services as an employee or independent contractor of the dentist when the records are the basis of a complaint before the Board. Nothing in this paragraph relieves the treating dentist or dental hygienist from the obligation to provide records of the patient to the Board.

(r) The failure of a dentist who owns a dental practice to verify the license of a dentist or dental hygienist before offering employment or contracting for services with the dentist or dental hygienist as an independent contractor.

(s) The failure of a dentist who owns a dental practice and participates in the diagnosis and treatment of any patient to ensure that the services rendered by a dentist or dental hygienist who is an employee or independent contractor of that dentist meet the prevailing standards of acceptable dental practice. If a dentist or dental hygienist who is an employee or independent contractor of the dentist is found by substantial evidence to have provided services below the prevailing standards of acceptable dental practice, the dentist who owns the dental practice may

be required to reimburse the patient to whom the services were provided pursuant to paragraph (l) of subsection 1 of NRS 631.350.

(t) The failure of a dentist who owns a dental practice to record the name of the dentist or dental hygienist who provided the services in the records of a patient each time the services are rendered.

(u) The failure of a dentist who is registered to dispense controlled substances with the State Board of Pharmacy pursuant to chapter 453 of NRS to conduct annually a minimum of one self-query regarding the issuance of controlled substances through the Prescription Monitoring Program of the State Board of Pharmacy.

*(v) The failure of a dentist, dental hygienist, dental therapist or expanded function dental assistant to ensure that each medication or immunization in his or her control that is used in his or her practice is returned at the end of each day to a specified physical location that is safe and appropriate for the storage of the medication or immunization, as applicable.*

2. For purposes of NRS 631.347, a plan or practice requiring a patient to select a dentist from a specific group does not provide the patient with a reasonable opportunity to select a dentist of his or her own choice, and constitutes unprofessional conduct on the part of any dentist participating in such a plan or practice, unless it, or another plan concurrently available to the patient, allows the patient to:

(a) Have an annual opportunity, lasting for a minimum of 30 days, to select a dentist of his or her own choice for all dental work to be performed during the subsequent 12 months. Any new patient added to the plan or practice must immediately be given an initial opportunity, lasting at least 30 days, to select the coverage supplied by the plan or practice or a dentist of his or her own choice.

(b) Receive the allowance for a procedure performed by a dentist of his or her own choice in substantially the same amount as he or she would if he or she used the services of one of the group of dentists specified by the plan or practice.