

# Virginia Law Sets the Standard for Teledentistry

## Learn More About the Board of Dentistry Reporting Process

The new state law, which became effective on July 1, 2020, clarifies that the delivery of teledentistry is now defined under the practice of dentistry, putting it under the purview of the Virginia Board of Dentistry. Accordingly, teledentistry providers must be held to the same standard of care as all licensed dentists in Virginia. All licensed dentists in Virginia have a responsibility under the *Standards of Professional Conduct in Dentistry* to “report to the Board of dentistry instances of gross or continually faulty treatment by other dentists,” including treatment delivered via a teledentistry platform.

### Guidance on The Reporting Process for the Virginia Board of Dentistry

#### 1 Identify whether a patient has clearly experienced gross or continually faulty treatment

#### 2 If determined that a patient has clearly experienced gross or continually faulty treatment, a dentist may, file a complaint with the Department of Health Professions (DHP) Enforcement Division

- This may be done in-person, in writing by email or telephone
- Visit the DHP Complaint page to see detailed information about the complaint process at [www.dhp.virginia.gov/PractitionerResources/Enforcement/FileaComplaint/](http://www.dhp.virginia.gov/PractitionerResources/Enforcement/FileaComplaint/)
- You are given options for filing through an online form or a form may be downloaded and printed to be mailed.
- Find the Online Complaint form at [www.dhp.virginia.gov/Complaints/](http://www.dhp.virginia.gov/Complaints/)
- Reach the DHP Enforcement Division by phone at (804) 367-4691 or toll free at (800) 533-1560.

#### 3 Inform the VDA when you have filed a complaint through our online form at [www.vadental.org/teledentistry-field-report](http://www.vadental.org/teledentistry-field-report)

As we continue to monitor and educate members on the impact of the recent teledentistry legislation, the VDA would like to know if and when you or one of your patients files a complaint. Please complete our online form to let us know when a complaint has been filed.

## FAQs Regarding the Complaint Process:

### 1. Are dentists required to report substandard care to the Virginia Board of Dentistry (“Board”)?

There are instances under Virginia law and regulation that require a dentist to report another dentist to the Board. For example, Virginia Code § 54.1-2709.4 requires a dentist to report to the Board any evidence that another dentist is or may be professionally incompetent, guilty of unprofessional conduct, or unable to engage safely in the practice of dentistry.

### 2. Is there an ethical requirement for a dentist to report substandard care to the Board?

The American Dental Association’s Principles of Ethics and Code of Professional Conduct Section 4.C states that dentists shall report “gross or continual faulty treatment” by other dentists. Ultimately, it is in the dentist’s professional discretion of whether a case warrants a report to the Board in instances where it is not otherwise required.

### 3. Who may file a complaint with the Board?

Any person with knowledge of the care or circumstances of the care provided may file a complaint with the Board, including other licensees, patients, and family members of patients. The complaint may be submitted anonymously. All that is required to file a complaint is the name of the practitioner being complained of and details of the complaint itself. All complaints are reviewed by the Board.

### 4. Is it more effective for a practitioner or the patient to submit a complaint?

While any person may submit a complaint, oftentimes the investigator reviewing the complaint will want to obtain the patient’s records to generate a complete report for the Board. Even if an orthodontist files the complaint against a dentist, the investigator will likely seek the patient’s complete records from both the orthodontist and the dentist and may speak with the patient. There can be situations where the orthodontist does not feel he or she has a legal or ethical duty to file a complaint, but the patient wants to file a complaint. Accordingly, it depends on the

specific circumstances whether it is more effective for the practitioner or patient or both to submit the complaint.

### 5. Must the complaint include the patient’s name and address to be a legitimate complaint?

The complaint does not have to include the patient’s information; however, patient records that may or may not corroborate allegations in the complaint are usually sought during the investigation so the investigator can generate a complete report for the Board to make a disciplinary determination.

### 6. If a practitioner decides to file a complaint on behalf of a patient, should he or she get that patient’s permission before filing the complaint?

There is no requirement that a practitioner filing a complaint on behalf of a patient obtain permission of the patient in advance.

### 7. Is the practitioner complained of able to see who is filing the complaint against them?

Unless the complaint is submitted anonymously, the name of the complaining person will be available to the dentist who is the subject of the complaint. However, absent bad faith or malicious intent, Virginia Code § 54.1-2400.8 states that any person who files a complaint with the Department of Health Professions (Board) shall be immune from civil liability resulting from the filing of the complaint.

### 8. Are Board investigations limited only to the specific allegations in the complaint?

No, the scope of a complaint does not limit the scope of an investigation. Once the Board is investigating, additional issues can and do come to light which can be investigated and end up as the subject of discipline.

### 9. Should I let the VDA know if I file a complaint with the Board of Dentistry?

Yes, please let the VDA know so we can monitor and track the information. This will also allow the VDA to know if a reported complaint becomes an active investigation.



*\* This document is for information purposes only and not to be construed as legal advice. If you have specific questions or concerns, please seek the advice of counsel.*

Coming in April!

# 2021 VDA Referral Book

More than 4,000 VDA member dentists in Virginia will use this resource to build their referral networks and make connections with specialists in their area.

Don't miss your opportunity for new connections and referrals and make sure your membership information is current at [vadental.org](http://vadental.org) or talk to **Jill Kelly** at **804-523-2183** or [jkelly@vadental.org](mailto:jkelly@vadental.org).

