STATE OF NEW YORK

2245

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. FERNANDEZ -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to enacting the orthodontic tele-dentistry consumer protection act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "orthodontic tele-dentistry consumer protection act".

§ 2. The education law is amended by adding a new section 6614 to read as follows:

§ 6614. Special provisions regarding orthodontic tele-dentistry. 1. As used in this section, the term "orthodontic tele-dentistry" shall mean dental procedures including clear aligners in mail dental treatment, plastic aligner dental movements to straighten teeth without office visits conducted through pictures or videos without hands on clinical supervision by a licensed New York state dentist.

2. (a) Every licensed dentist who performs or approves orthodontic tele-dentistry treatment, shall certify to the department annually that any such procedures are performed in compliance with the standards of care prescribed by the American dental association. The timing and manner of such certification shall be determined by the department.

(b) The department is authorized to investigate any allegation of non-compliance with the provisions of paragraph (a) of this subdivision and may revoke or place on probation the license of a dentist who has been found to be non-compliant in more than two instances.

3. No agreement between a licensed dentist and a patient for the performance of an orthodontic dental treatment shall include an arbitration clause.

4. A licensed dentist shall provide a notice to all patients receiving orthodontic tele-dentistry, such notice shall (a) be required to be provided on a separate page, (b) be signed by such patients and such

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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licensed dentist or an authorized representative of such dentist, and (c) include the following text in bold printed font size forty-eight or greater:

"WARNING:

Without a pre-treatment x-ray evaluated by the treating dentist at the start of this treatment and at the end of this treatment, this procedure can lead to irreversible damage that can worsen your current dental condition."

"WARNING:

Tele-dentistry movements shown for clear aligner treatment and approved by a licensed dentist prior to treatment may not reflect your final results. Without clinical supervision before, during and after treatment the results can lead to irreversible damage that includes early loss or loosening of teeth, TMJ disorders, traumatic bites, fractured teeth and periodontal bone loss."

§ 3. This act shall take effect immediately and apply to contracts executed on and after such date.