

Startups feud with dentists over X-ray requirement on Newsom's desk

By Alexander Nieves

10/04/2019 04:15 PM EDT

SACRAMENTO — An explosive battle between the state's dental establishment and startup orthodontia firms seeking to undercut the traditional industry has emerged over regulations tucked into an otherwise mundane dental sunset bill on Gov. Gavin Newsom's desk.

On its face, [AB 1519 \(19R\)](#) is a standard measure that comes up every four years to reauthorize the Dental Board of California. The bill sailed through both houses without a single no vote.

But over the final month of the legislative session, online-focused orthodontia companies like SmileDirect Club and Byte mounted an intense lobbying campaign against provisions in the legislation that could threaten their business model, which relies on providing cheaper alternatives for straightening teeth.

If Newsom signs the bill, patients in California would essentially be required to have X-rays examined by a licensed dentist before undergoing orthodontic treatment. Teledentistry companies would also have to provide patients with the license number of the dentist or orthodontist treating them and could not require customers to relinquish their rights to complain to the Dental Board.

Assemblyman Evan Low (D-Campbell), the bill's author, and the California Dental Association, the main backer of the bill, say these are necessary protections that create a statewide standard of care and prevent consumers from damaging their teeth.

“The problem is that people's teeth are getting massively screwed up,” Low said. “You're moving bones while bypassing the doctor.”

The at-home orthodontia process involves a company mailing patients a mold, which they use to make an impression of their teeth. The mold is then examined by a licensed dentist who decides on the proper clear aligners to send the consumer. According to Byte, about 80 percent of patients qualify for treatment, which is only meant for mild to moderate cases.

Patients are generally required to sign a voluntary consent form that indicates they've seen a dentist in the last year and releases the company from liability for damage.

Proponents of the X-ray measure say dentists shouldn't make a decision about whether a patient qualifies for orthodontic treatment solely based on molds, which don't show potential issues underneath the gums.

“Let's keep in mind your teeth don't just float there, they have to be anchored in the jaw, in the bone,” said Sen. Richard Pan (D-Sacramento). “And if you don't know what the health of that bone is, you can't provide the appropriate care.”

Teledentistry companies argue that X-rays are unnecessary in most cases and needlessly expose patients to radiation. Jon Marashi, co-founder of Byte, framed the bill as an anti-competitive move that guarantees patients will have to visit a dentist's office even if they elect to use at-home treatment.

“It's not surprising that an established profession is going to do everything that they can to do to protect their own territory,” he said. “The reality is that the majority of people who are going to be candidates for teledentistry are unlikely to go to the orthodontist or the general dentist office anyway.”

Teledentistry has developed into a lucrative industry over the last five or six years, with more than a million patients purchasing clear aligners that are designed to quickly make cosmetic changes. SmileDirect Club, the largest company in the industry, went public last month and is valued at over \$1 billion.

Richard Stapler, vice president of public affairs for CDA, said dentists throughout the state have embraced clear aligners and that his organization has no interest in cutting into the profits of teledentistry startups. However, he cited increasing concerns from dentists who are seeing patients come in with teeth damaged by at-home treatment and hundreds of complaints to the Better Business Bureau while defending the bill.

“It's something that's very popular with the public and we certainly don't want to stand in the way of that,” he said. “We just want to ensure that our members aren't having to go back in and fix problems with patients' mouths.”

[An informational sheet circulated](#) to lawmakers by teledentistry companies claimed 98 percent of at-home orthodontic treatments are successful and that there's no evidence that remote dentists and orthodontists fail to meet the same obligations as their counterparts at brick-and-mortar locations.

“There's been over a million documented case of teledentistry and there is no evidence, there's no literature that exists that the incidence of problems that have been documented are any better or worse compared to the treatment outcomes of people who have been treated in brick and mortar with the radiographs,” Marashi said.

Opposition letters from a range of groups, including four teledentistry companies and TechNet, the powerful technology industry association, also asserted that AB 1519 would threaten affordable dental care for thousands of Californians. A plan with SmileDirect Club, Byte and their competitors typically costs less than \$2,000, a third of the price of traditional braces.

“[AB 1519] threatens to return to a time when underserved and uninsured Californians were excluded from care, this time by forcing them to travel to and pay for unnecessary radiology,” reads a letter from Byte and teledentistry companies Candid and Smilelove.

Stapler said that while most of the X-ray debate was simply growing pains related to the emergence of a new industry, he found the access argument insulting. He pointed to CDA's backing of Proposition 56, a 2016 initiative that hiked tobacco taxes and funneled \$30 million to fund state and local oral health plans, as a real effort to increase access.

“The notion that this somehow would impact access frankly is offensive to the people who've spent decades working to expand oral health care access in the state of California,” Stapler said.

Low took this criticism a step further, calling out teledentistry companies for being the ones hurting disadvantaged Californians.

“We don't want you to go out of business, but you should not be manipulating underserved communities,” he said.