

BILL ANALYSIS

Senate Research Center
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H.B. 4070
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, some companies sell orthodontic devices directly to consumers without confirmation of an in-person dental examination. The bill author has informed the committee that, without such an examination, a patient can be pursuing orthodontics without evaluation to determine the proper treatment and can incur significant damage to their teeth as a result, since some devices may not be an adequate treatment option if an individual has gum disease, short roots, or other dental conditions. H.B. 4070 seeks to protect patients from unsafe medical practices by establishing requirements for a person selling an orthodontic device or providing a service related to the design or manufacture of such a device to patients in Texas, including an in-person examination requirement.

H.B. 4070 amends current law relating to the sale, design, and manufacture of orthodontic devices.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 431, Health and Safety Code, by adding Section 431.024, as follows:

Sec. 431.024. ORTHODONTIC DEVICES. (a) Defines "orthodontic device" and "dentist."

(b) Prohibits a person from selling an orthodontic device to a patient in this state or provide a service related to the design or manufacture of an orthodontic device unless the person is a dentist who has provided the services prescribed by Subsection (c) to the patient or receives written or electronic confirmation from a dentist who has provided the services prescribed by Subsection (c) to the patient.

(c) Prohibits a person from selling an orthodontic device or providing a service related to the design or manufacture of an orthodontic device to a patient in this state who has not received:

(1) an in-person intraoral dental examination and an examination of the patient's head and neck;

(2) a review of recently performed x-rays, panoramic x-rays, computed tomography, bone imaging scans, or other appropriate diagnostic imaging sufficient to allow the dentist to detect certain patient conditions that preclude or contraindicate the provision of safe orthodontic treatment;

(3) a prescription for an orthodontic device issued by a certain dentist;

(4) subject to Subsection (d), counsel by a dentist described by Subdivision (3) regarding available orthodontic treatment options and the risks associated with those treatments; and

(5) a review of the patient's medical and dental health histories.

(d) Provides that the required counsel under Subsection (c)(4) is valid only if the patient acknowledges and verifies in writing, with the patient's signature, that the patient received the counsel. Requires the dentist providing the required counsel to attach and maintain the patient's written acknowledgment of counsel in the patient's file.

(e) Requires a person who sells an orthodontic device to a patient or provides a service related to the design or manufacture of an orthodontic device to maintain any documents received under Subsection (c) for not less than seven years after the date of sale or provision of services.

(f) Prohibits a dentist from requiring a patient to agree to use a particular type of orthodontic device as a condition of performing the examination or review described by Subsections (c)(1) and (c)(2).

(g) Requires a dentist described by Subsection (c)(3)(A) (relating to a dentist who provided a certain examination and reviewed certain diagnostic imaging) to provide any records collected under Subsections (c)(1) and (c)(2) to another dentist in accordance with Section 258.109 (Request for Dental Record: Timing; Exception), Occupations Code, if disclosure of a dental record is authorized under Subchapter C (Dental Privilege), Chapter 258 (Practice by Dentist), Occupations Code, and the other dentist requests the records.

SECTION 2. Makes application of Section 431.024, Health and Safety Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2025.