

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 150
HOUSE BILL 2513

AN ACT

AMENDING SECTIONS 32-1213, 32-1236, 32-1263 AND 32-1263.02, ARIZONA REVISED
STATUTES; RELATING TO DENTISTRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-1213, Arizona Revised Statutes, is amended to
3 read:
4 32-1213. Business entities; registration; renewal; civil
5 penalty; exceptions
6 A. A business entity may not offer dental services pursuant to this
7 chapter unless:
8 1. The entity is registered with the board pursuant to this section.
9 2. The services are conducted by a licensee pursuant to this chapter.
10 B. The business entity must file a registration application on a form
11 provided by the board. The application must include:
12 1. A description of the entity's services offered to the public.
13 2. The name of any dentist who is authorized to provide and who is
14 responsible for providing the dental services offered at each office.
15 3. The names and addresses of the officers and directors of the
16 business entity.
17 4. A registration fee prescribed by the board in rule.
18 C. A business entity must file a separate registration application and
19 pay a fee for each branch office in this state.
20 D. A registration expires three years after the date the board issues
21 the registration. A business entity that wishes to renew a registration must
22 submit an application for renewal as prescribed by the board on a triennial
23 basis on a form provided by the board before the expiration date. An entity
24 that fails to renew the registration before the expiration date is subject to
25 a late fee as prescribed by the board by rule. The board may stagger the
26 dates for renewal applications.
27 E. The business entity must notify the board in writing within thirty
28 days after any change:
29 1. In the entity's name, address or telephone number.
30 2. In the officers or directors of the business entity.
31 3. In the name of any dentist who is authorized to provide and who is
32 responsible for providing the dental services in any facility.
33 F. The business entity shall establish a written protocol for the
34 secure storage, transfer and access of the dental records of the business
35 entity's patients. This protocol must include, at a minimum, procedures for:
36 1. Notifying patients of the future locations of their records if the
37 business entity terminates or sells the practice.
38 2. Disposing of unclaimed dental records.
39 3. The timely response to requests by patients for copies of their
40 records.
41 G. The business entity must notify the board within thirty days after
42 the dissolution of any registered business entity or the closing or
43 relocation of any facility and must disclose to the board the entity's
44 procedure by which its patients may obtain their records.
45 H. The board may do any of the following pursuant to its disciplinary
46 procedures if an entity violates the board's statutes or rules:

- 1 1. Refuse to issue a registration.
- 2 2. Suspend or revoke a registration.
- 3 3. Impose a civil penalty of not more than two thousand dollars for
- 4 each violation.
- 5 4. Enter a decree of censure.
- 6 5. Issue an order prescribing a period and terms of probation that are
- 7 best adapted to protect the public welfare and that may include a requirement
- 8 for restitution to a patient for a violation of this chapter or rules adopted
- 9 pursuant to this chapter.
- 10 6. Issue a letter of concern if a business entity's actions may cause
- 11 the board to take disciplinary action.
- 12 I. The board shall deposit, pursuant to sections 35-146 and 35-147,
- 13 civil penalties collected pursuant to this section in the state general fund.
- 14 J. This section does not apply to:
- 15 1. A sole proprietorship or partnership that consists exclusively of
- 16 persons who are licensed pursuant to this chapter.
- 17 2. Any of the following entities licensed under title 20:
- 18 (a) A service corporation.
- 19 (b) An insurer authorized to transact disability insurance.
- 20 (c) A prepaid dental plan organization that does not provide directly
- 21 for prepaid dental services.
- 22 (d) A health care services organization that does not provide directly
- 23 for dental services.
- 24 3. A professional corporation or professional limited liability
- 25 company, the shares of which are exclusively owned by persons who are
- 26 licensed pursuant to this chapter and that is formed to engage in the
- 27 practice of dentistry pursuant to title 10, chapter 20 or title 29, chapter
- 28 4, article 11.
- 29 4. A facility regulated by the federal government or a state, district
- 30 or territory of the United States.
- 31 5. An administrator or executor of the estate of a deceased dentist or
- 32 a person who is legally authorized to act for a dentist who has been
- 33 adjudicated to be mentally incompetent for not more than one year from the
- 34 date the board receives notice of the dentist's death or incapacitation
- 35 pursuant to section 32-1270.
- 36 K. A facility that offers dental services to the public by persons
- 37 licensed under this chapter shall be licensed by the board unless the
- 38 facility is any of the following:
- 39 1. Owned by a licensee.
- 40 2. Regulated by the federal government or a state, district or
- 41 territory of the United States.
- 42 L. Except for issues relating to insurance coding and billing that
- 43 require the name, signature and license number of the dentist providing
- 44 treatment, this section does not:
- 45 1. Authorize a licensee in the course of providing dental services for
- 46 an entity registered pursuant to this section to disregard or interfere with

1 a policy or practice established by the entity for the operation and
2 management of the business.

3 2. Authorize an entity registered pursuant to this section to
4 establish or enforce a business policy or practice that may interfere with
5 the ~~professional~~ CLINICAL judgment of the licensee in providing dental
6 services for the entity or may compromise a licensee's ability to comply with
7 this chapter.

8 M. The board shall adopt rules that provide a method for the board to
9 receive the assistance and advice of business entities licensed pursuant to
10 this chapter in all matters relating to the regulation of business entities.

11 N. No individual currently holding a surrendered or revoked license to
12 practice dentistry or dental hygiene in any state or jurisdiction in the
13 United States may have a majority ownership interest in the business entity
14 registered pursuant to this ~~subsection~~ SECTION. Revocation and surrender of
15 licensure shall be limited to disciplinary actions resulting in loss of
16 license or surrender of license instead of disciplinary action. ~~Any dentist~~
17 DENTISTS or dental ~~hygienist~~ HYGIENISTS affected by this subsection shall
18 have one year from the surrender or revocation to divest themselves of their
19 ownership interest. This subsection does not apply to publicly held
20 companies. For the purposes of this subsection, "majority ownership
21 interest" means an ownership interest greater than fifty per cent.

22 Sec. 2. Section 32-1236, Arizona Revised Statutes, is amended to read:

23 32-1236. Dentist triennial licensure; continuing education;
24 license reinstatement; license for each place of
25 practice; notice of change of address or place of
26 practice; retired and disabled licensees; penalties

27 A. Except as provided in section 32-4301, a license expires on June 30
28 of every third year. On or before June 30 of every third year, every
29 licensed dentist shall submit to the board a complete renewal application and
30 pay a license renewal fee of not more than six hundred fifty dollars,
31 established by a formal vote of the board. At least once every three years,
32 before establishing the fee for the subsequent three fiscal years, the board
33 shall review the amount of the fee in a public meeting. Any change in the
34 amount of the fee shall be applied prospectively to a licensee at the time of
35 licensure renewal for the subsequent three fiscal years. The fee prescribed
36 by this subsection does not apply to a licensee in disabled or retired
37 status.

38 B. A licensee shall include a written affidavit with the renewal
39 application that affirms that the licensee complies with board rules relating
40 to continuing education requirements. A licensee is not required to complete
41 the written affidavit if the licensee received an initial license within the
42 year immediately preceding the expiration date of the license or the licensee
43 is in disabled status. If the licensee is not in compliance with board rules
44 relating to continuing education, the board may grant an extension of time to
45 complete these requirements if the licensee includes a written request for an
46 extension with the renewal application instead of the written affidavit and

1 the renewal application is received on or before June 30 of the expiration
2 year. The board shall consider the extension request based on criteria
3 prescribed by the board by rule. If the board denies an extension request,
4 the license expires on August 30.

5 C. A person applying for licensure for the first time in this state
6 shall pay a prorated fee for the period remaining until the next June 30.
7 This fee shall not exceed one-third of the fee established pursuant to
8 subsection A of this section. Subsequent licensure renewal shall be
9 conducted pursuant to this section.

10 D. An expired license may be reinstated by submitting a complete
11 renewal application within the twenty-four-month period immediately following
12 the expiration of the license with payment of the renewal fee and a one
13 hundred dollar penalty. Whenever issued, reinstatement is as of the date of
14 application and entitles the applicant to licensure only for the remainder of
15 the applicable three-year period. If a person does not reinstate a license
16 pursuant to this subsection, the person must reapply for licensure pursuant
17 to this chapter.

18 E. Each licensee must provide to the board in writing both of the
19 following:

- 20 1. A primary mailing address.
- 21 2. The address for each place of practice.

22 F. A licensee maintaining more than one place of practice shall obtain
23 from the board a duplicate license for each office. A fee set by the board
24 shall be charged for each duplicate license. The licensee shall notify the
25 board in writing within ten days of opening the additional place or places of
26 practice. The board shall impose a penalty of fifty dollars for failure to
27 notify the board.

28 G. A licensee ~~who is over sixty five years of age and~~ who is fully
29 retired and a licensee who is permanently disabled may contribute services to
30 a recognized charitable institution and still retain that classification for
31 triennial registration purposes on payment of a reduced renewal fee as
32 prescribed by the board by rule.

33 H. A licensee applying for retired or disabled status shall:

34 1. Relinquish any prescribing privileges and shall ~~provide evidence~~
35 **ATTEST BY AFFIDAVIT** that the licensee has surrendered to the United States
36 drug enforcement administration any registration issued pursuant to the
37 federal controlled substances act and has surrendered to the board any
38 registration issued pursuant to section 36-2606.

39 2. If the licensee holds a permit to dispense drugs and devices
40 pursuant to section 32-1298, the licensee shall surrender that permit to the
41 board.

42 3. **ATTEST BY AFFIDAVIT THAT THE LICENSEE IS NOT CURRENTLY ENGAGED IN**
43 **THE PRACTICE OF DENTISTRY.**

44 I. A licensee who changes the licensee's primary mailing address or
45 place of practice address shall notify the board of that change in writing
46 within ten days. The board shall impose a penalty of fifty dollars if a

1 licensee fails to notify the board of the change within that time. The board
2 shall increase the penalty imposed to one hundred dollars if a licensee fails
3 to notify it of the change within thirty days.

4 Sec. 3. Section 32-1263, Arizona Revised Statutes, is amended to read:
5 32-1263. Grounds for disciplinary action; definition

6 A. The board may invoke disciplinary action against any person
7 licensed under this chapter for any of the following reasons:

8 1. Unprofessional conduct, as defined in section 32-1201.

9 2. Conviction of a felony or of a misdemeanor involving moral
10 turpitude, in which case the record of conviction or a certified copy is
11 conclusive evidence.

12 3. Physical or mental incompetence to practice pursuant to this
13 chapter.

14 4. Committing or aiding, directly or indirectly, a violation of or
15 noncompliance with any provision of this chapter or of any rules adopted by
16 the board pursuant to this chapter.

17 5. Dental incompetence, as defined in section 32-1201.

18 B. ~~Nothing in~~ This section ~~creates~~ DOES NOT ESTABLISH a cause of
19 action against a licensee or a registered business entity that makes a report
20 of unprofessional conduct or unethical conduct in good faith.

21 C. The board may take disciplinary action against a business entity
22 registered pursuant to this chapter for unethical conduct.

23 D. For the purposes of this section, "unethical conduct" means the
24 following acts occurring in this state or elsewhere:

25 1. Failing to report in writing to the board any evidence that a
26 dentist, denturist or dental hygienist is or may be professionally
27 incompetent, is or may be guilty of unprofessional conduct, is or may be
28 impaired by drugs or alcohol or is or may be mentally or physically unable to
29 safely engage in the permissible activities of a dentist, denturist or dental
30 hygienist.

31 2. Falsely reporting to the board that a dentist, denturist or dental
32 hygienist is or may be guilty of unprofessional conduct, is or may be
33 impaired by drugs or alcohol or is or may be mentally or physically unable to
34 safely engage in the permissible activities of a dentist, denturist or dental
35 hygienist.

36 3. Obtaining or attempting to obtain a registration or registration
37 renewal by fraud or by misrepresentation.

38 4. Knowingly filing with the board any application, renewal or other
39 document that contains false information.

40 5. Failing to register or failing to submit a renewal registration
41 with the board pursuant to section 32-1213.

42 6. Failing to provide the following persons with access to any place
43 for which a registration has been issued or for which an application for a
44 registration has been submitted in order to conduct a site investigation,
45 inspection or audit:

46 (a) The board or its employees or agents.

- 1 (b) An authorized federal or state official.
2 7. Failing to notify the board of a change in officers and directors,
3 a change of address or a change in the dentists providing services pursuant
4 to section 32-1213, subsection E.
5 8. Failing to provide patient records pursuant to section 32-1264.
6 9. Obtaining a fee by fraud or misrepresentation or wilfully or
7 intentionally filing a fraudulent claim with a third party for services
8 rendered or to be rendered to a patient.
9 10. Engaging in repeated irregularities in billing.
10 11. Engaging in the following advertising practices:
11 (a) The publication or circulation, directly or indirectly, of any
12 false or fraudulent or misleading statements concerning the skill, methods or
13 practices of a registered business entity, a licensee or any other person.
14 (b) Advertising in any manner that tends to deceive or defraud the
15 public.
16 12. Failing to comply with a board subpoena in a timely manner.
17 13. Failing to comply with a final board order, including a decree of
18 censure, a period or term of probation, a consent agreement or a stipulation.
19 14. Employing or aiding and abetting unlicensed persons to perform work
20 that must be done by a person licensed pursuant to this chapter.
21 15. Engaging in any conduct or practice that constitutes a danger to
22 the health, welfare or safety of the patient or the public.
23 16. **ENGAGING IN A POLICY OR PRACTICE THAT INTERFERES WITH THE CLINICAL**
24 **JUDGMENT OF A LICENSEE PROVIDING DENTAL SERVICES FOR A BUSINESS ENTITY OR**
25 **COMPROMISING A LICENSEE'S ABILITY TO COMPLY WITH THIS CHAPTER.**
26 Sec. 4. Section 32-1263.02, Arizona Revised Statutes, is amended to
27 read:
28 **32-1263.02. Investigation and adjudication of complaints;**
29 **disciplinary action; civil penalty; immunity;**
30 **subpoena authority; definitions**
31 A. The board on its motion, or the executive director if delegated by
32 the board, may investigate any evidence that appears to show the existence of
33 any of the causes or grounds for disciplinary action as provided in section
34 32-1263. The board may investigate any complaint that alleges the existence
35 of any of the causes or grounds for disciplinary action as provided in
36 section 32-1263. **THE BOARD SHALL NOT ACT ON A COMPLAINT IF THE ALLEGATION OF**
37 **UNPROFESSIONAL CONDUCT, UNETHICAL CONDUCT OR ANY OTHER VIOLATION OF THIS**
38 **CHAPTER OCCURRED MORE THAN SIX YEARS BEFORE THE COMPLAINT IS RECEIVED BY THE**
39 **BOARD. THE SIX-YEAR TIME LIMITATION DOES NOT APPLY TO MEDICAL MALPRACTICE**
40 **SETTLEMENTS OR JUDGMENTS.** At the request of the complainant, the board shall
41 not disclose to the respondent the complainant name unless the information is
42 essential to proceedings conducted pursuant to this article.
43 B. The board or its designees shall conduct necessary investigations,
44 including interviews between representatives of the board and the licensee
45 with respect to any information obtained by or filed with the board under

1 subsection A of this section. The results of the investigation conducted by
2 a designee shall be forwarded to the board for its review.

3 C. If, based on the information it receives under subsection A of this
4 section, the board finds that the public health, safety or welfare
5 imperatively requires emergency action and incorporates a finding to that
6 effect in its order, the board may order a summary suspension of the
7 respondent's license pursuant to section 41-1092.11 pending proceedings for
8 revocation or other action.

9 D. If a complaint refers to quality of care, the patient may be
10 referred for a clinical evaluation at the discretion of the board.

11 E. If, after completing its investigation, the board finds that the
12 information provided pursuant to subsection A of this section is insufficient
13 to merit disciplinary action against the licensee, the board may take any of
14 the following actions:

15 1. Dismiss the complaint.

16 2. Issue a nondisciplinary letter of concern to the licensee.

17 3. Issue a nondisciplinary order requiring the licensee to complete a
18 prescribed number of hours of continuing education in an area or areas
19 prescribed by the board to provide the licensee with the necessary
20 understanding of current developments, skills, procedures or treatment.

21 4. Assess a nondisciplinary civil penalty in an amount not to exceed
22 five hundred dollars if the complaint involves a licensee's failure to
23 respond to a board subpoena.

24 F. If, after completing its investigation, the board finds that the
25 information provided pursuant to subsection A of this section is sufficient
26 to merit disciplinary action against the licensee, the board may request that
27 the licensee participate in a formal interview before the board. If the
28 licensee refuses or accepts the invitation for a formal interview and the
29 results indicate that grounds may exist for revocation or suspension, the
30 board shall issue a formal complaint and order that a hearing be held
31 pursuant to title 41, chapter 6, article 10. If, after completing a formal
32 interview, the board finds that the protection of the public requires
33 emergency action, it may order a summary suspension of the license pursuant
34 to section 41-1092.11 pending formal revocation proceedings or other action
35 authorized by this section.

36 G. If, after completing a formal interview, the board finds that the
37 information provided under subsection A of this section is insufficient to
38 merit suspension or revocation of the license, it may take any of the
39 following actions:

40 1. Dismiss the complaint.

41 2. Order disciplinary action pursuant to section 32-1263.01,
42 subsection A.

43 3. Enter into a consent agreement with the licensee for disciplinary
44 action.

45 4 Order nondisciplinary continuing education pursuant to section
46 32-1263.01, subsection B.

1 5. Issue a nondisciplinary letter of concern to the licensee.

2 H. A copy of the board's order issued pursuant to this section shall
3 be given to the complainant and to the licensee. Pursuant to title 41,
4 chapter 6, article 10, the licensee may petition for rehearing or review.

5 I. Any person who in good faith makes a report or complaint as
6 provided in this section to the board or to any person or committee acting on
7 behalf of the board is not subject to liability for civil damages as a result
8 of the report.

9 J. The board, through its president or the president's designee, may
10 issue subpoenas to compel the attendance of witnesses and the production of
11 documents and may administer oaths, take testimony and receive exhibits in
12 evidence in connection with an investigation initiated by the board or a
13 complaint filed with the board. In case of disobedience to a subpoena, the
14 board may invoke the aid of any court of this state in requiring the
15 attendance and testimony of witnesses and the production of documentary
16 evidence.

17 K. Patient records, including clinical records, medical reports,
18 laboratory statements and reports, files, films, reports or oral statements
19 relating to diagnostic findings or treatment of patients, any information
20 from which a patient or a patient's family may be identified or information
21 received and records kept by the board as a result of the investigation
22 procedures taken pursuant to this chapter, are not available to the public.

23 L. The board may charge the costs of formal hearings conducted
24 pursuant to title 41, chapter 6, article 10 to a licensee it finds to be in
25 violation of this chapter.

26 M. The board may accept the surrender of an active license from a
27 licensee who is subject to a board investigation and who admits in writing to
28 any of the following:

- 29 1. Being unable to safely engage in the practice of dentistry.
30 2. Having committed an act of unprofessional conduct.
31 3. Having violated this chapter or a board rule.

32 N. In determining the appropriate disciplinary action under this
33 section, the board may consider any previous nondisciplinary and disciplinary
34 actions against a licensee.

35 O. IF A LICENSEE CURRENTLY PROVIDING DENTAL SERVICES FOR A REGISTERED
36 BUSINESS ENTITY BELIEVES THAT THE REGISTERED BUSINESS ENTITY HAS ENGAGED IN
37 UNETHICAL CONDUCT AS DEFINED PURSUANT TO SECTION 32-1263, SUBSECTION D,
38 PARAGRAPH 16, THE LICENSEE MUST DO BOTH OF THE FOLLOWING BEFORE FILING A
39 COMPLAINT WITH THE BOARD:

- 40 1. NOTIFY THE REGISTERED BUSINESS ENTITY IN WRITING THAT THE LICENSEE
41 BELIEVES THAT THE REGISTERED BUSINESS ENTITY HAS ENGAGED IN A POLICY OR
42 PRACTICE THAT INTERFERES WITH THE CLINICAL JUDGMENT OF THE LICENSEE OR THAT
43 COMPROMISES THE LICENSEE'S ABILITY TO COMPLY WITH THE REQUIREMENTS OF THIS
44 CHAPTER. THE LICENSEE SHALL SPECIFY IN THE NOTICE THE REASONS FOR THIS
45 BELIEF.

1 2. PROVIDE THE REGISTERED BUSINESS ENTITY WITH AT LEAST TEN CALENDAR
2 DAYS TO RESPOND IN WRITING TO THE ASSERTIONS MADE PURSUANT TO PARAGRAPH 1 OF
3 THIS SUBSECTION.

4 P. A LICENSEE WHO FILES A COMPLAINT PURSUANT TO SUBSECTION O OF THIS
5 SECTION SHALL PROVIDE THE BOARD WITH A COPY OF THE LICENSEE'S NOTIFICATION
6 AND THE REGISTERED BUSINESS ENTITY'S RESPONSE, IF ANY.

7 Q. A REGISTERED BUSINESS ENTITY MAY NOT TAKE ANY ADVERSE EMPLOYMENT
8 ACTION AGAINST A LICENSEE BECAUSE THE LICENSEE COMPLIES WITH THE REQUIREMENTS
9 OF SUBSECTION O OF THIS SECTION.

10 ~~Q.~~ R. For the purposes of this section:

11 1. "License" includes a certificate issued pursuant to this chapter.

12 2. "Licensee" means a dentist, dental hygienist, denturist, dental
13 consultant, restricted permit holder or business entity regulated pursuant to
14 this chapter.

APPROVED BY THE GOVERNOR APRIL 29, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2013.