

REFERENCE TITLE: dental hygienists; regulation; discipline; education

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

## **HB 2668**

Introduced by  
Representative Pierce J

AN ACT

AMENDING SECTIONS 32-1201, 32-1263, 32-1263.01, 32-1263.02, 32-1266 AND 32-1282, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 11, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1282.01; AMENDING SECTIONS 32-1287 AND 32-1290, ARIZONA REVISED STATUTES; RELATING TO THE DENTAL HYGIENIST COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1201, Arizona Revised Statutes, is amended to  
3 read:

4 ~~32-1201.~~ Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Auxiliary personnel" means all dental assistants, dental  
7 technicians, dental x-ray technicians and other persons employed by dentists  
8 or firms and businesses providing dental services to dentists.

9 2. "Board" means the state board of dental examiners.

10 3. "Business entity" means a business organization that has an  
11 ownership that includes any persons who are not licensed or certified to  
12 provide dental services in this state, that offers to the public professional  
13 services regulated by the board and that is established pursuant to the laws  
14 of any state or foreign country.

15 4. "COMMISSION" MEANS THE DENTAL HYGIENIST COMMISSION ESTABLISHED BY  
16 SECTION 32-1282.01.

17 ~~4.~~ 5. "Dental assistant" means any person who acts as an assistant to  
18 a dentist or a dental hygienist by rendering personal services to a patient  
19 that involve close proximity to the patient while the patient is under  
20 treatment or observation or undergoing diagnostic procedures.

21 ~~5.~~ 6. "Dental hygienist" means any person licensed and engaged in the  
22 general practice of dental hygiene and all related and associated duties,  
23 including educational, clinical and therapeutic dental hygiene procedures.

24 ~~6.~~ 7. "Dental incompetence" means lacking in sufficient dentistry  
25 knowledge or skills, or both, in that field of dentistry in which the  
26 dentist, denturist or dental hygienist concerned engages, to a degree likely  
27 to endanger the health of that person's patients.

28 ~~7.~~ 8. "Dental laboratory technician" means any person, other than a  
29 licensed dentist, who, pursuant to a written work order of a dentist,  
30 fabricates artificial teeth, prosthetic appliances or other mechanical and  
31 artificial contrivances designed to correct or alleviate injuries or defects,  
32 both developmental and acquired, disorders or deficiencies of the human oral  
33 cavity, teeth, investing tissues, maxilla or mandible or adjacent associated  
34 structures.

35 ~~8.~~ 9. "Dental x-ray laboratory technician" means any person, other  
36 than a licensed dentist, who, pursuant to a written work order of a dentist,  
37 performs dental and maxillofacial radiography, including cephalometrics,  
38 panoramic and maxillofacial tomography and other dental related  
39 non-fluoroscopic diagnostic imaging modalities.

40 ~~9.~~ 10. "Dentistry", "dentist" and "dental" means the general practice  
41 of dentistry and all specialties or restricted practices of dentistry.

42 ~~10.~~ 11. "Denturist" means a person practicing denture technology  
43 pursuant to article 5 of this chapter.

44 ~~11.~~ 12. "Disciplinary action" means regulatory sanctions that are  
45 imposed by the board OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION in

1 combination with, or as an alternative to, revocation or suspension of a  
2 license and that may include:

3 (a) Imposition of an administrative penalty in an amount not to exceed  
4 two thousand dollars for each violation of this chapter or rules adopted  
5 under this chapter.

6 (b) Imposition of restrictions on the scope of practice.

7 (c) Imposition of peer review and professional education requirements.

8 (d) Imposition of censure or probation requirements best adapted to  
9 protect the public welfare, which may include a requirement for restitution  
10 to the patient resulting from violations of this chapter or rules adopted  
11 under this chapter.

12 ~~12.~~ 13. "Irregularities in billing" means submitting any claim, bill  
13 or government assistance claim to any patient, responsible party or  
14 third-party payor for dental services rendered that is materially false with  
15 the intent to receive unearned income as evidenced by any of the following:

16 (a) Charges for services not rendered.

17 (b) Any treatment date that does not accurately reflect the date when  
18 the service and procedures were actually completed.

19 (c) Any description of a dental service or procedure that does not  
20 accurately reflect the actual work completed.

21 (d) Any charge for a service or procedure that cannot be clinically  
22 justified or determined to be necessary.

23 (e) Any statement that is material to the claim and that the licensee  
24 knows is false or misleading.

25 (f) An abrogation of the copayment provisions of a dental insurance  
26 contract by a waiver of all or a part of the copayment from the patient if  
27 this results in an excessive or fraudulent charge to a third party or if the  
28 waiver is used as an enticement to receive dental services from that  
29 provider. This subdivision does not interfere with a contractual  
30 relationship between a third-party payor and a licensee or business entity  
31 registered with the board.

32 (g) Any other practice in billing that results in excessive or  
33 fraudulent charges to the patient.

34 ~~13.~~ 14. "Letter of concern" means an advisory letter to notify a  
35 licensee or a registered business entity that, while the evidence does not  
36 warrant disciplinary action, the board **OR, IN THE CASE OF A DENTAL HYGIENIST,**  
37 **COMMISSION** believes that the licensee or registered business entity should  
38 modify or eliminate certain practices and that continuation of the activities  
39 that led to the information being submitted to the board **OR, IN THE CASE OF A**  
40 **DENTAL HYGIENIST, COMMISSION** may result in board **OR COMMISSION** action against  
41 the practitioner's license or the business entity's registration. A letter  
42 of concern is not a disciplinary action. A letter of concern is a public  
43 document and may be used in a future disciplinary action.

44 ~~14.~~ 15. "Licensed" means licensed pursuant to this chapter.

1       ~~15.~~ 16. "Place of practice" means each physical location at which a  
2 person licensed pursuant to this chapter performs services subject to this  
3 chapter.

4       ~~16.~~ 17. "Primary mailing address" means the address on file with the  
5 board and to which official board correspondence, notices or documents are  
6 delivered in a manner determined by the board.

7       ~~17.~~ 18. "Recognized dental hygiene school" means a school that has a  
8 dental hygiene program with a minimum two academic year curriculum, or the  
9 equivalent of four semesters, and that is approved by the board and  
10 accredited by the American dental association commission on dental  
11 accreditation.

12       ~~18.~~ 19. "Recognized dental school" means a dental school accredited by  
13 the American dental association commission on dental accreditation.

14       ~~19.~~ 20. "Recognized denturist school" means a denturist school that  
15 maintains standards of entrance, study and graduation and that is accredited  
16 by the United States department of education or the council on higher  
17 education accreditation.

18       ~~20.~~ 21. "Supervised personnel" means all dental hygienists, dental  
19 assistants, dental laboratory technicians, denturists, dental x-ray  
20 laboratory technicians and other persons supervised by licensed dentists.

21       ~~21.~~ 22. "Unprofessional conduct" means the following acts, whether  
22 occurring in this state or elsewhere:

23       (a) Intentional betrayal of a professional confidence or intentional  
24 violation of a privileged communication except as either of these may  
25 otherwise be required by law. This subdivision does not prevent members of  
26 the board **OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION** from the full and  
27 free exchange of information with the licensing and disciplinary boards of  
28 other states, territories or districts of the United States or foreign  
29 countries, with the Arizona state dental association or any of its component  
30 societies or with the dental societies of other states, counties, districts,  
31 territories or foreign countries.

32       (b) Using controlled substances as defined in section 36-2501,  
33 narcotic drugs, dangerous drugs or marijuana as defined in section 13-3401,  
34 or hypnotic drugs, including acetylurea derivatives, barbituric acid  
35 derivatives, chloral, paraldehyde, phenylhydantoin derivatives, sulfonmethane  
36 derivatives or any compounds, mixtures or preparations that may be used for  
37 producing hypnotic effects, or alcohol to the extent that it affects the  
38 ability of the dentist, denturist or dental hygienist to practice that  
39 person's profession.

40       (c) Prescribing, dispensing or using drugs for other than accepted  
41 dental therapeutic purposes or for other than medically indicated supportive  
42 therapy in conjunction with managing a patient's dental needs.

43       (d) Gross malpractice, or repeated acts constituting malpractice.

44       (e) Acting or assuming to act as a member of the board if this is not  
45 true.

1 (f) Procuring or attempting to procure a certificate of the national  
2 board of dental examiners or a license to practice dentistry or dental  
3 hygiene by fraud or misrepresentation or by knowingly taking advantage of the  
4 mistake of another.

5 (g) Having professional connection with or lending one's name to an  
6 illegal practitioner of dentistry or any of the other healing arts.

7 (h) Representing that a manifestly not correctable condition, disease,  
8 injury, ailment or infirmity can be permanently corrected, or that a  
9 correctable condition, disease, injury, ailment or infirmity can be corrected  
10 within a stated time, if this is not true.

11 (i) Offering, undertaking or agreeing to correct, cure or treat a  
12 condition, disease, injury, ailment or infirmity by a secret means, method,  
13 device or instrumentality.

14 (j) Refusing to divulge to the board **OR, IN THE CASE OF A DENTAL**  
15 **HYGIENIST, COMMISSION**, on reasonable notice and demand, the means, method,  
16 device or instrumentality used in the treatment of a condition, disease,  
17 injury, ailment or infirmity.

18 (k) Dividing a professional fee or receiving any consideration for  
19 patient referrals among or between dental care providers or dental care  
20 institutions or entities. This subdivision does not prohibit the division of  
21 fees among licensees who are engaged in a bona fide employment, partnership,  
22 corporate or contractual relationship for the delivery of professional  
23 services.

24 (l) Knowingly making any false or fraudulent statement, written or  
25 oral, in connection with the practice of dentistry.

26 (m) Refusal, revocation or suspension of a license or any other  
27 disciplinary action taken against a dentist by, or the voluntary surrender of  
28 a license in lieu of disciplinary action to, any other state, territory,  
29 district or country, unless the board finds that this action was not taken  
30 for reasons that relate to the person's ability to safely and skillfully  
31 practice dentistry or to any act of unprofessional conduct.

32 (n) Any conduct or practice that constitutes a danger to the health,  
33 welfare or safety of the patient or the public.

34 (o) Obtaining a fee by fraud or misrepresentation, or wilfully or  
35 intentionally filing a fraudulent claim with a third party for services  
36 rendered or to be rendered to a patient.

37 (p) Repeated irregularities in billing.

38 (q) Employing unlicensed persons to perform or aiding and abetting  
39 unlicensed persons in the performance of work that can be done legally only  
40 by licensed persons.

41 (r) Practicing dentistry under a false or assumed name in this state,  
42 other than as allowed by section 32-1262.

43 (s) Wilfully or intentionally causing or permitting supervised  
44 personnel or auxiliary personnel operating under the licensee's supervision  
45 to commit illegal acts or perform an act or operation other than that

1 permitted under article 4 of this chapter and rules adopted by the board  
2 pursuant to section 32-1282.

3 (t) The following advertising practices:

4 (i) The publication or circulation, directly or indirectly, of any  
5 false, fraudulent or misleading statements concerning the skill, methods or  
6 practices of the licensee or of any other person.

7 (ii) Advertising in any manner that tends to deceive or defraud the  
8 public.

9 (u) Failing to dispense drugs and devices in compliance with article 6  
10 of this chapter.

11 (v) Failing to comply with a final board order, including an order of  
12 censure or probation.

13 (w) Failing to comply with a board subpoena in a timely manner.

14 (x) Failing or refusing to maintain adequate patient records.

15 (y) Failing to allow properly authorized board personnel, on demand,  
16 to inspect the place of practice and examine and have access to documents,  
17 books, reports and records maintained by the licensee or certificate holder  
18 that relate to the dental practice or dentally related activity.

19 (z) Refusing to submit to a body fluid examination as required through  
20 a monitored treatment program or pursuant to a board investigation into a  
21 licensee's or certificate holder's alleged substance abuse.

22 (aa) Failing to inform a patient of the type of material the dentist  
23 will use in the patient's dental filling and the reason why the dentist is  
24 using that particular filling.

25 (bb) Failing to report in writing to the board **OR, IN THE CASE OF A**  
26 **DENTAL HYGIENIST, COMMISSION** any evidence that a dentist, denturist or dental  
27 hygienist is or may be:

28 (i) Professionally incompetent.

29 (ii) Engaging in unprofessional conduct.

30 (iii) Impaired by drugs or alcohol.

31 (iv) Mentally or physically unable to safely engage in the activities  
32 of a dentist, denturist or dental hygienist pursuant to this chapter.

33 (cc) Filing a false report pursuant to subdivision (bb) of this  
34 paragraph.

35 (dd) Practicing dentistry, dental hygiene or denturism in a business  
36 entity that is not registered with the board as required by section 32-1213.

37 Sec. 2. Section 32-1263, Arizona Revised Statutes, is amended to read:  
38 **32-1263. Grounds for disciplinary action; definition**

39 A. The board **OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION** may  
40 invoke disciplinary action against any person licensed under this chapter for  
41 any of the following reasons:

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

43 2. Conviction of a felony or of a misdemeanor involving moral  
44 turpitude, in which case the record of conviction or a certified copy is  
45 conclusive evidence.

- 1           3. Physical or mental incompetence to practice pursuant to this  
2 chapter.
- 3           4. Committing or aiding, directly or indirectly, a violation of or  
4 noncompliance with any provision of this chapter or of any rules adopted by  
5 the board pursuant to this chapter.
- 6           5. Dental incompetence, as defined in section 32-1201.
- 7           B. This section does not establish a cause of action against a  
8 licensee or a registered business entity that makes a report of  
9 unprofessional conduct or unethical conduct in good faith.
- 10          C. The board may take disciplinary action against a business entity  
11 registered pursuant to this chapter for unethical conduct.
- 12          D. For the purposes of this section, "unethical conduct" means the  
13 following acts occurring in this state or elsewhere:
- 14           1. Failing to report in writing to the board **OR, IN THE CASE OF A**  
15 **DENTAL HYGIENIST, COMMISSION** any evidence that a dentist, denturist or dental  
16 hygienist is or may be professionally incompetent, is or may be guilty of  
17 unprofessional conduct, is or may be impaired by drugs or alcohol or is or  
18 may be mentally or physically unable to safely engage in the permissible  
19 activities of a dentist, denturist or dental hygienist.
- 20           2. Falsely reporting to the board **OR, IN THE CASE OF A DENTAL**  
21 **HYGIENIST, COMMISSION** that a dentist, denturist or dental hygienist is or may  
22 be guilty of unprofessional conduct, is or may be impaired by drugs or  
23 alcohol or is or may be mentally or physically unable to safely engage in the  
24 permissible activities of a dentist, denturist or dental hygienist.
- 25           3. Obtaining or attempting to obtain a registration or registration  
26 renewal by fraud or by misrepresentation.
- 27           4. Knowingly filing with the board any application, renewal or other  
28 document that contains false information.
- 29           5. Failing to register or failing to submit a renewal registration  
30 with the board pursuant to section 32-1213.
- 31           6. Failing to provide the following persons with access to any place  
32 for which a registration has been issued or for which an application for a  
33 registration has been submitted in order to conduct a site investigation,  
34 inspection or audit:
- 35           (a) The board or its employees or agents.
- 36           (b) An authorized federal or state official.
- 37           7. Failing to notify the board of a change in officers and directors,  
38 a change of address or a change in the dentists providing services pursuant  
39 to section 32-1213, subsection E.
- 40           8. Failing to provide patient records pursuant to section 32-1264.
- 41           9. Obtaining a fee by fraud or misrepresentation or wilfully or  
42 intentionally filing a fraudulent claim with a third party for services  
43 rendered or to be rendered to a patient.
- 44           10. Engaging in repeated irregularities in billing.
- 45           11. Engaging in the following advertising practices:

1 (a) The publication or circulation, directly or indirectly, of any  
2 false or fraudulent or misleading statements concerning the skill, methods or  
3 practices of a registered business entity, a licensee or any other person.

4 (b) Advertising in any manner that tends to deceive or defraud the  
5 public.

6 12. Failing to comply with a board OR COMMISSION subpoena in a timely  
7 manner.

8 13. Failing to comply with a final board OR COMMISSION order, including  
9 a decree of censure, a period or term of probation, a consent agreement or a  
10 stipulation.

11 14. Employing or aiding and abetting unlicensed persons to perform work  
12 that must be done by a person licensed pursuant to this chapter.

13 15. Engaging in any conduct or practice that constitutes a danger to  
14 the health, welfare or safety of the patient or the public.

15 16. Engaging in a policy or practice that interferes with the clinical  
16 judgment of a licensee providing dental services for a business entity or  
17 compromising a licensee's ability to comply with this chapter.

18 Sec. 3. Section 32-1263.01, Arizona Revised Statutes, is amended to  
19 read:

20 32-1263.01. Types of disciplinary action; letter of concern;  
21 judicial review; notice; removal of notice;  
22 violation; classification

23 A. The board OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION may  
24 take any one or a combination of the following disciplinary actions against  
25 any person licensed under this chapter:

26 1. Revocation of license to practice.

27 2. Suspension of license to practice.

28 3. Entering a decree of censure, which may require that restitution be  
29 made to an aggrieved party.

30 4. Issuance of an order fixing a period and terms of probation best  
31 adapted to protect the public health and safety and to rehabilitate the  
32 licensed person. The order fixing a period and terms of probation may  
33 require that restitution be made to the aggrieved party.

34 5. Imposition of an administrative penalty in an amount not to exceed  
35 two thousand dollars for each violation of this chapter or rules adopted  
36 under this chapter.

37 6. Imposition of a requirement for restitution of fees to the  
38 aggrieved party.

39 7. Imposition of restrictions on the scope of practice.

40 8. Imposition of peer review and professional education requirements.

41 9. Imposition of community service.

42 B. The board OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION may  
43 issue a letter of concern if a licensee's continuing practices may cause the  
44 board OR COMMISSION to take disciplinary action. The board OR, IN THE CASE  
45 OF A DENTAL HYGIENIST, COMMISSION may also issue a nondisciplinary order

1 requiring the licensee to complete a prescribed number of hours of continuing  
2 education in an area or areas prescribed by the board OR COMMISSION to  
3 provide the licensee with the necessary understanding of current  
4 developments, skills, procedures or treatment.

5 C. Failure to comply with any final order of the board OR, IN THE CASE  
6 OF A DENTAL HYGIENIST, COMMISSION, including an order of censure or  
7 probation, is cause for suspension or revocation of a license.

8 D. Except as provided in section 41-1092.08, subsection H, final  
9 decisions of the board OR COMMISSION are subject to judicial review pursuant  
10 to title 12, chapter 7, article 6.

11 E. If the board acts to modify any dentist's prescription writing  
12 privileges, it shall immediately notify the state board of pharmacy of the  
13 modification.

14 F. The board OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION may  
15 post a notice of its suspension or revocation of a license at the licensee's  
16 place of business. This notice shall remain posted for sixty days. A person  
17 who removes this notice without board, COMMISSION or court authority before  
18 that time is guilty of a class 3 misdemeanor.

19 G. A licensee or certificate holder shall respond in writing to the  
20 board OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION within twenty days  
21 after notice of hearing is served. A licensee who fails to answer the  
22 charges in a complaint and notice of hearing issued pursuant to this article  
23 and title 41, chapter 6, article 10 is deemed to admit the acts charged in  
24 the complaint, and the board OR COMMISSION may revoke or suspend the license  
25 without a hearing.

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 OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION on its  
32 motion, or the executive director if delegated by the board, may investigate  
33 any evidence that appears to show the existence of any of the causes or  
34 grounds for disciplinary action as provided in section 32-1263. The board OR  
35 COMMISSION may investigate any complaint that alleges the existence of any of  
36 the causes or grounds for disciplinary action as provided in section 32-1263.  
37 The board OR COMMISSION shall not act on a complaint if the allegation of  
38 unprofessional conduct, unethical conduct or any other violation of this  
39 chapter occurred more than six years before the complaint is received by the  
40 board OR COMMISSION. The six-year time limitation does not apply to medical  
41 malpractice settlements or judgments. At the request of the complainant, the  
42 board OR COMMISSION shall not disclose to the respondent the complainant name  
43 unless the information is essential to proceedings conducted pursuant to this  
44 article.

1           B. The board or its designees OR, IN THE CASE OF A DENTAL HYGIENIST,  
2 THE COMMISSION shall conduct necessary investigations, including interviews  
3 between representatives of the board OR THE COMMISSION and the licensee with  
4 respect to any information obtained by or filed with the board OR COMMISSION  
5 under subsection A of this section. The results of the investigation  
6 conducted by a designee shall be forwarded to the board for its review.

7           C. If, based on the information it receives under subsection A of this  
8 section, the board OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION finds  
9 that the public health, safety or welfare imperatively requires emergency  
10 action and incorporates a finding to that effect in its order, the board OR  
11 COMMISSION may order a summary suspension of the respondent's license  
12 pursuant to section 41-1092.11 pending proceedings for revocation or other  
13 action.

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

16           E. If, after completing its investigation, the board OR, IN THE CASE  
17 OF A DENTAL HYGIENIST, COMMISSION finds that the information provided  
18 pursuant to subsection A of this section is insufficient to merit  
19 disciplinary action against the licensee, the board OR COMMISSION may take  
20 any of the following actions:

21           1. Dismiss the complaint.

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

23           3. Issue a nondisciplinary order requiring the licensee to complete a  
24 prescribed number of hours of continuing education in an area or areas  
25 prescribed by the board OR COMMISSION to provide the licensee with the  
26 necessary understanding of current developments, skills, procedures or  
27 treatment.

28           4. Assess a nondisciplinary civil penalty in an amount not to exceed  
29 five hundred dollars if the complaint involves a licensee's failure to  
30 respond to a board OR COMMISSION subpoena.

31           F. If, after completing its investigation, the board OR, IN THE CASE  
32 OF A DENTAL HYGIENIST, COMMISSION finds that the information provided  
33 pursuant to subsection A of this section is sufficient to merit disciplinary  
34 action against the licensee, the board OR COMMISSION may request that the  
35 licensee participate in a formal interview before the board OR COMMISSION.  
36 If the licensee refuses or accepts the invitation for a formal interview and  
37 the results indicate that grounds may exist for revocation or suspension, the  
38 board OR COMMISSION shall issue a formal complaint and order that a hearing  
39 be held pursuant to title 41, chapter 6, article 10. If, after completing a  
40 formal interview, the board OR COMMISSION finds that the protection of the  
41 public requires emergency action, it may order a summary suspension of the  
42 license pursuant to section 41-1092.11 pending formal revocation proceedings  
43 or other action authorized by this section.

44           G. If, after completing a formal interview, the board OR, IN THE CASE  
45 OF A DENTAL HYGIENIST, COMMISSION finds that the information provided under

1 subsection A of this section is insufficient to merit suspension or  
2 revocation of the license, it may take any of the following actions:

3 1. Dismiss the complaint.  
4 2. Order disciplinary action pursuant to section 32-1263.01,  
5 subsection A.

6 3. Enter into a consent agreement with the licensee for disciplinary  
7 action.

8 4 Order nondisciplinary continuing education pursuant to section  
9 32-1263.01, subsection B.

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

11 H. A copy of the board's OR COMMISSION'S order issued pursuant to this  
12 section shall be given to the complainant and to the licensee. Pursuant to  
13 title 41, chapter 6, article 10, the licensee may petition for rehearing or  
14 review.

15 I. Any person who in good faith makes a report or complaint as  
16 provided in this section to the board OR, IN THE CASE OF A DENTAL HYGIENIST,  
17 COMMISSION or to any person or committee acting on behalf of the board OR  
18 COMMISSION is not subject to liability for civil damages as a result of the  
19 report.

20 J. The board, through its president or the president's designee, OR,  
21 IN THE CASE OF A DENTAL HYGIENIST, THE COMMISSION, THROUGH ITS CHAIRPERSON,  
22 may issue subpoenas to compel the attendance of witnesses and the production  
23 of documents and may administer oaths, take testimony and receive exhibits in  
24 evidence in connection with an investigation initiated by the board OR  
25 COMMISSION or a complaint filed with the board OR COMMISSION. In case of  
26 disobedience to a subpoena, the board OR COMMISSION may invoke the aid of any  
27 court of this state in requiring the attendance and testimony of witnesses  
28 and the production of documentary evidence.

29 K. Patient records, including clinical records, medical reports,  
30 laboratory statements and reports, files, films, reports or oral statements  
31 relating to diagnostic findings or treatment of patients, any information  
32 from which a patient or a patient's family may be identified or information  
33 received and records kept by the board OR, IN THE CASE OF A DENTAL HYGIENIST,  
34 COMMISSION as a result of the investigation procedures taken pursuant to this  
35 chapter, are not available to the public.

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

39 M. The board OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION may  
40 accept the surrender of an active license from a licensee who is subject to a  
41 board OR COMMISSION investigation and who admits in writing to any of the  
42 following:

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

1 N. In determining the appropriate disciplinary action under this  
2 section, the board **OR, IN THE CASE OF A DENTAL HYGIENIST, COMMISSION** may  
3 consider any previous nondisciplinary and disciplinary actions against a  
4 licensee.

5 O. If a licensee currently providing dental services for a registered  
6 business entity believes that the registered business entity has engaged in  
7 unethical conduct as defined pursuant to section 32-1263, subsection D,  
8 paragraph 16, the licensee must do both of the following before filing a  
9 complaint with the board:

10 1. Notify the registered business entity in writing that the licensee  
11 believes that the registered business entity has engaged in a policy or  
12 practice that interferes with the clinical judgment of the licensee or that  
13 compromises the licensee's ability to comply with the requirements of this  
14 chapter. The licensee shall specify in the notice the reasons for this  
15 belief.

16 2. Provide the registered business entity with at least ten calendar  
17 days to respond in writing to the assertions made pursuant to paragraph 1 of  
18 this subsection.

19 P. A licensee who files a complaint pursuant to subsection O of this  
20 section shall provide the board with a copy of the licensee's notification  
21 and the registered business entity's response, if any.

22 Q. A registered business entity may not take any adverse employment  
23 action against a licensee because the licensee complies with the requirements  
24 of subsection O of this section.

25 R. For the purposes of this section:

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

27 2. "Licensee" means a dentist, dental hygienist, denturist, dental  
28 consultant, restricted permit holder or business entity regulated pursuant to  
29 this chapter.

30 Sec. 5. Section 32-1266, Arizona Revised Statutes, is amended to read:

31 32-1266. Prosecution of violations

32 The attorney general shall act for the board **OR, IN THE CASE OF**  
33 **REGULATING DENTAL HYGIENISTS, COMMISSION** in all matters requiring legal  
34 assistance, but the board may employ other or additional counsel in its own  
35 behalf. The board **AND COMMISSION** shall assist prosecuting officers in  
36 enforcement of this chapter, and in so doing may engage suitable persons to  
37 assist in investigations and in the procurement and presentation of evidence.  
38 Subpoenas or other orders issued by the board **OR COMMISSION** may be served by  
39 any officer empowered to serve processes, who shall receive the fees  
40 prescribed by law. Expenditures made in carrying out provisions of this  
41 section shall be paid from the dental board fund.

42 Sec. 6. Section 32-1282, Arizona Revised Statutes, is amended to read:

43 32-1282. Administration and enforcement

44 A. ~~So far~~ **EXCEPT AS PROVIDED IN SECTION 32-1282.01**, as applicable, the  
45 board shall have the same powers and duties in administering and enforcing

1 this article that it has under section 32-1207 in administering and enforcing  
2 articles 1, 2 and 3 of this chapter.

3 B. The board shall adopt rules that provide a method for the board to  
4 receive the assistance and advice of dental hygienists licensed pursuant to  
5 this chapter in all matters relating to the regulation of dental hygienists.

6 Sec. 7. Title 32, chapter 11, article 4, Arizona Revised Statutes, is  
7 amended by adding section 32-1282.01, to read:

8 32-1282.01. Dental hygienist commission; members; duties;  
9 compensation

10 A. THE DENTAL HYGIENIST COMMISSION IS ESTABLISHED AND IS RESPONSIBLE  
11 FOR THE DISCIPLINE AND CONTINUING EDUCATION OF DENTAL HYGIENISTS LICENSED  
12 PURSUANT TO THIS ARTICLE. THE BOARD SHALL APPOINT SEVEN MEMBERS TO THE  
13 DENTAL HYGIENE COMMISSION AS FOLLOWS:

14 1. TWO DENTISTS WHO ARE CURRENTLY SERVING AS BOARD MEMBERS.

15 2. FIVE DENTAL HYGIENISTS, TWO OF WHOM ARE CURRENTLY SERVING AS BOARD  
16 MEMBERS.

17 B. THE DENTISTS WHO ARE APPOINTED TO THE COMMISSION AND WHO ARE  
18 CONCURRENTLY SERVING ON THE BOARD SHALL SERVE ONE TERM OF FOUR YEARS. THE  
19 DENTAL HYGIENISTS WHO ARE APPOINTED TO THE COMMISSION AND WHO ARE CURRENTLY  
20 SERVING ON THE BOARD SHALL SERVE CONCURRENT TERMS WITH THEIR BOARD  
21 MEMBERSHIP. EXCEPT FOR THE APPOINTED MEMBERS OF THE COMMISSION WHO ARE  
22 CURRENTLY SERVING ON THE BOARD, THE BOARD SHALL APPOINT DENTAL HYGIENIST  
23 COMMISSION MEMBERS FOR STAGGERED TERMS OF THREE YEARS AND LIMIT EACH MEMBER  
24 TO TWO CONSECUTIVE TERMS. THE BOARD SHALL FILL ANY COMMISSION VACANCY FOR  
25 THE UNEXPIRED PORTION OF THE TERM. ANY PERSON WHO IS APPOINTED AS A DENTIST  
26 OR DENTAL HYGIENIST COMMISSION MEMBER MUST HOLD AN ACTIVE LICENSE IN THIS  
27 STATE AND BE IN GOOD STANDING.

28 C. THE DENTAL HYGIENIST COMMISSION SHALL ELECT A CHAIRPERSON AT THE  
29 FIRST MEETING CONVENED DURING EACH CALENDAR YEAR.

30 D. THE COMMISSION SHALL:

31 1. BE RESPONSIBLE FOR INVOKING ANY DISCIPLINARY ACTION AUTHORIZED IN  
32 THIS CHAPTER AGAINST A DENTAL HYGIENIST WHO IS LICENSED PURSUANT TO THIS  
33 ARTICLE.

34 2. ANNUALLY AUDIT UP TO TEN PER CENT OF THE DENTAL HYGIENISTS LICENSED  
35 PURSUANT TO THIS ARTICLE FOR COMPLIANCE WITH THE CONTINUING EDUCATION  
36 REQUIREMENTS FOR LICENSE RENEWAL.

37 3. REVIEW APPLICATIONS, SYLLABI AND RELATED MATERIALS REGARDING  
38 CERTIFICATION OF COURSES IN LOCAL ANESTHESIA, NITROUS OXIDE ANALGESIA AND  
39 SUTURE PLACEMENT AND OTHER PROCEDURES THAT MAY REQUIRE CERTIFICATION.

40 E. MEMBERS OF THE COMMISSION ARE ENTITLED TO RECEIVE COMPENSATION IN  
41 THE AMOUNT OF TWO HUNDRED DOLLARS FOR EACH DAY ACTUALLY SPENT IN PERFORMING  
42 NECESSARY WORK AUTHORIZED BY THE COMMISSION AND ALL EXPENSES NECESSARILY AND  
43 PROPERLY INCURRED WHILE PERFORMING THIS WORK.

44 F. THE STAFF OF THE BOARD SHALL CARRY OUT THE ADMINISTRATIVE  
45 RESPONSIBILITIES OF THE COMMISSION.

1           Sec. 8. Section 32-1287, Arizona Revised Statutes, is amended to read:  
2           32-1287. Dental hygienist triennial licensure; continuing  
3                                   education; license reinstatement; notice of change  
4                                   of address; penalties; retired and disabled  
5                                   licensees

6           A. Except as provided in section 32-4301, a license expires on June 30  
7 of every third year. On or before June 30 of every third year, every  
8 licensed dental hygienist shall submit to the board a complete renewal  
9 application and pay a license renewal fee of not more than three hundred  
10 twenty-five dollars, established by a formal vote of the board. At least  
11 once every three years, before establishing the fee for the subsequent three  
12 fiscal years, the board shall review the amount of the fee in a public  
13 meeting. Any change in the amount of the fee shall be applied prospectively  
14 to a licensee at the time of licensure renewal for the subsequent three  
15 fiscal years. The fee prescribed by this section does not apply to a retired  
16 or disabled hygienist.

17           B. A licensee shall include a written affidavit with the renewal  
18 application that affirms that the licensee complies with board rules relating  
19 to continuing education requirements. A licensee is not required to complete  
20 the written affidavit if the licensee received an initial license within the  
21 year immediately preceding the expiration date of the license or the licensee  
22 is in disabled status. If the licensee is not in compliance with board rules  
23 relating to continuing education, the ~~board~~ COMMISSION may grant an extension  
24 of time to complete these requirements if the licensee includes a written  
25 request for an extension with the renewal application instead of the written  
26 affidavit and the renewal application is received on or before June 30 of the  
27 expiration year. The ~~board~~ COMMISSION shall consider the extension request  
28 based on criteria prescribed by the board by rule. If the ~~board~~ COMMISSION  
29 denies an extension request, the license expires on August 30 of the  
30 expiration year.

31           C. A person applying for a license for the first time in this state  
32 shall pay a prorated fee for the period remaining until the next June 30.  
33 This fee shall not exceed one-third of the fee established pursuant to  
34 subsection A OF THIS SECTION. Subsequent registrations shall be conducted  
35 pursuant to this section.

36           D. An expired license may be reinstated by submitting a complete  
37 renewal application within the twenty-four-month period immediately following  
38 the expiration of the license with payment of the renewal fee and a one  
39 hundred dollar penalty. Whenever issued, reinstatement is as of the date of  
40 application and entitles the applicant to licensure only for the remainder of  
41 the applicable three-year period. If a person does not reinstate a license  
42 pursuant to this subsection, the person must reapply for licensure pursuant  
43 to this chapter.

44           E. A licensee shall notify the board in writing within ten days after  
45 the licensee changes the primary mailing address listed with the board. The

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

5 F. A licensee who is over sixty-five years of age and who is fully  
6 retired and a licensee who is permanently disabled may contribute services to  
7 a recognized charitable institution and still retain that classification for  
8 triennial registration purposes on payment of a reduced renewal fee as  
9 prescribed by the board by rule.

10 Sec. 9. Section 32-1290, Arizona Revised Statutes, is amended to read:

11 32-1290. Grounds for censure, probation, suspension or  
12 revocation of license; procedure

13 After a hearing pursuant to title 41, chapter 6, article 10, the ~~board~~  
14 **DENTAL HYGIENIST COMMISSION** may suspend or revoke the license issued to a  
15 person under this article or censure or place on probation any such person  
16 for any of the causes set forth as grounds for censure, probation, suspension  
17 or revocation in section 32-1263.