

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2496

AN ACT

AMENDING SECTIONS 32-1201, 32-1207, 32-1232, 32-1236, 32-1240, 32-1263.01, 32-1264, 32-1284, 32-1287, 32-1292.01, 32-1297.01, 32-1297.06 AND 32-1299, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF DENTAL EXAMINERS.

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

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

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

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

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

38 9. "Dentistry", "dentist" and "dental" means the general practice of
39 dentistry and all specialties or restricted practices of dentistry.

40 10. "Denturist" means a person practicing denture technology pursuant
41 to article 5 of this chapter.

42 11. "Disciplinary action" means regulatory sanctions that are imposed
43 by the board in combination with, or as an alternative to, revocation or
44 suspension of a license and that may include:

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

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

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

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

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

14 (a) Charges for services not rendered.

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

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

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

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

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

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

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

41 14. "Licensed" means licensed pursuant to this chapter.

42 15. "Place of practice" means each physical location at which a person
43 licensed pursuant to this chapter performs services subject to this chapter.

1 16. "Primary mailing address" means the address on file with the board
2 and to which official board correspondence, notices or documents are
3 delivered in a manner determined by the board.

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

9 18. "Recognized dental school" means a dental school accredited by the
10 American dental association commission on dental accreditation.

11 19. "Recognized denturist school" means a denturist school that
12 maintains standards of entrance, study and graduation and that is accredited
13 by the United States department of education or the council on higher
14 education accreditation.

15 20. "Supervised personnel" means all dental hygienists, dental
16 assistants, dental laboratory technicians, denturists, dental x-ray
17 laboratory technicians and other persons supervised by licensed dentists.

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

20 (a) Intentional betrayal of a professional confidence or intentional
21 violation of a privileged communication except as either of these may
22 otherwise be required by law. This subdivision does not prevent members of
23 the board from the full and free exchange of information with the licensing
24 and disciplinary boards of other states, territories or districts of the
25 United States or foreign countries, with the Arizona state dental association
26 or any of its component societies or with the dental societies of other
27 states, counties, districts, territories or foreign countries.

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

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

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

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

42 (f) Procuring or attempting to procure a certificate of the national
43 board of dental examiners or a license to practice dentistry or dental
44 hygiene by fraud or misrepresentation or by knowingly taking advantage of the
45 mistake of another.

- 1 (g) Having professional connection with or lending one's name to an
2 illegal practitioner of dentistry or any of the other healing arts.
- 3 (h) Representing that a manifestly not correctable condition, disease,
4 injury, ailment or infirmity can be permanently corrected, or that a
5 correctable condition, disease, injury, ailment or infirmity can be corrected
6 within a stated time, if this is not true.
- 7 (i) Offering, undertaking or agreeing to correct, cure or treat a
8 condition, disease, injury, ailment or infirmity by a secret means, method,
9 device or instrumentality.
- 10 (j) Refusing to divulge to the board, on reasonable notice and demand,
11 the means, method, device or instrumentality used in the treatment of a
12 condition, disease, injury, ailment or infirmity.
- 13 (k) Dividing a professional fee or OFFERING, PROVIDING OR receiving
14 any consideration for patient referrals among or between dental care
15 providers or dental care institutions or entities. This subdivision does not
16 prohibit the division of fees among licensees who are engaged in a bona fide
17 employment, partnership, corporate or contractual relationship for the
18 delivery of professional services.
- 19 (l) Knowingly making any false or fraudulent statement, written or
20 oral, in connection with the practice of dentistry.
- 21 (m) Refusal, revocation or suspension of a license or any other
22 disciplinary action taken against a dentist by, or the voluntary surrender of
23 a license in lieu of disciplinary action to, any other state, territory,
24 district or country, unless the board finds that this action was not taken
25 for reasons that relate to the person's ability to safely and skillfully
26 practice dentistry or to any act of unprofessional conduct.
- 27 (n) Any conduct or practice that constitutes a danger to the health,
28 welfare or safety of the patient or the public.
- 29 (o) Obtaining a fee by fraud or misrepresentation, or wilfully or
30 intentionally filing a fraudulent claim with a third party for services
31 rendered or to be rendered to a patient.
- 32 (p) Repeated irregularities in billing.
- 33 (q) Employing unlicensed persons to perform or aiding and abetting
34 unlicensed persons in the performance of work that can be done legally only
35 by licensed persons.
- 36 (r) Practicing dentistry under a false or assumed name in this state,
37 other than as allowed by section 32-1262.
- 38 (s) Wilfully or intentionally causing or permitting supervised
39 personnel or auxiliary personnel operating under the licensee's supervision
40 to commit illegal acts or perform an act or operation other than that
41 permitted under article 4 of this chapter and rules adopted by the board
42 pursuant to section 32-1282.
- 43 (t) The following advertising practices:

- 1 (i) The publication or circulation, directly or indirectly, of any
2 false, fraudulent or misleading statements concerning the skill, methods or
3 practices of the licensee or of any other person.
- 4 (ii) Advertising in any manner that tends to deceive or defraud the
5 public.
- 6 (u) Failing to dispense drugs and devices in compliance with article 6
7 of this chapter.
- 8 (v) Failing to comply with a ~~final~~ board order, including an order of
9 censure or probation.
- 10 (w) Failing to comply with a board subpoena in a timely manner.
- 11 (x) Failing or refusing to maintain adequate patient records.
- 12 (y) Failing to allow properly authorized board personnel, on demand,
13 to inspect the place of practice and examine and have access to documents,
14 books, reports and records maintained by the licensee or certificate holder
15 that relate to the dental practice or dentally related activity.
- 16 (z) Refusing to submit to a body fluid examination as required through
17 a monitored treatment program or pursuant to a board investigation into a
18 licensee's or certificate holder's alleged substance abuse.
- 19 (aa) Failing to inform a patient of the type of material the dentist
20 will use in the patient's dental filling and the reason why the dentist is
21 using that particular filling.
- 22 (bb) Failing to report in writing to the board any evidence that a
23 dentist, denturist or dental hygienist is or may be:
- 24 (i) Professionally incompetent.
- 25 (ii) Engaging in unprofessional conduct.
- 26 (iii) Impaired by drugs or alcohol.
- 27 (iv) Mentally or physically unable to safely engage in the activities
28 of a dentist, denturist or dental hygienist pursuant to this chapter.
- 29 (cc) Filing a false report pursuant to subdivision (bb) of this
30 paragraph.
- 31 (dd) Practicing dentistry, dental hygiene or denturism in a business
32 entity that is not registered with the board as required by section 32-1213.
- 33 Sec. 2. Section 32-1207, Arizona Revised Statutes, is amended to read:
34 32-1207. Powers and duties; executive director; immunity; fees;
35 definition
- 36 A. The board shall:
- 37 1. Adopt rules not inconsistent with this chapter for the regulation
38 of its own conduct, for holding examinations and for regulating the practice
39 of dentists and supervised personnel and registered business entities,
40 provided:
- 41 (a) Regulation of supervised personnel is based on the degree of
42 education and training of the supervised personnel, the state of scientific
43 technology available and the necessary degree of supervision of the
44 supervised personnel by dentists.

1 (b) Except as provided pursuant to section 32-1281, only licensed
2 dentists may perform diagnosis and treatment planning, prescribe medication
3 and perform surgical procedures on hard and soft tissues.

4 (c) Only a licensed dentist, or dental hygienist in consultation with
5 a dentist, may perform examinations, oral health assessments and treatment
6 sequencing for dental hygiene procedures.

7 2. Adopt a seal.

8 3. Maintain a record that shall remain available to the board at all
9 times of its acts and proceedings, including the issuance, denial, renewal,
10 suspension or revocation of licenses and the disposition of complaints. The
11 existence of a pending complaint or investigation shall not be disclosed to
12 the public. Records of complaints shall be available to the public, except
13 only as follows:

14 (a) If the board dismisses or terminates a complaint, the record of
15 the complaint shall not be available to the public.

16 (b) If the board has issued a nondisciplinary letter of concern, the
17 record of the complaint shall be available to the public only for a period of
18 five years after the date the board issued the letter of concern.

19 (c) If the board has required additional nondisciplinary continuing
20 education pursuant to section 32-1263.01 but has not taken further action,
21 the record of the complaint shall be available to the public only for a
22 period of five years after the licensee satisfies this requirement.

23 (d) If the board has assessed a nondisciplinary civil penalty pursuant
24 to section 32-1208 but has not taken further action, the record of the
25 complaint shall be available to the public only for a period of five years
26 after the licensee satisfies this requirement.

27 4. Establish a uniform and reasonable standard of minimum educational
28 requirements consistent with the accreditation standards of the American
29 dental association commission on dental accreditation to be observed by
30 dental schools and dental hygiene schools in order to be classified as
31 recognized dental schools or dental hygiene schools.

32 5. Establish a uniform and reasonable standard of minimum educational
33 requirements that are consistent with the accreditation standards of the
34 United States department of education or the council on higher education
35 accreditation and that must be observed by denture technology schools in
36 order to be classified as recognized denture technology schools.

37 6. Determine the reputability and classification of dental schools,
38 dental hygiene schools and denture technology schools in accordance with
39 their compliance with the standard set forth in paragraph 4 or 5 of this
40 subsection, whichever is applicable.

41 7. Issue licenses to those it determines are eligible for licensure
42 pursuant to this chapter.

43 8. Determine the eligibility of applicants for restricted permits and
44 issue restricted permits to those found eligible.

- 1 9. Pursuant to section 32-1263.02, investigate charges of misconduct
2 on the part of licensees and persons to whom restricted permits have been
3 issued.
- 4 10. Issue a letter of concern, which is not a disciplinary action, ~~—~~ but
5 refers to practices that may lead to a violation and to disciplinary action.
- 6 11. Issue decrees of censure, fix periods and terms of probation,
7 suspend or revoke licenses, certificates and restricted permits, as the facts
8 may warrant, and reinstate licenses, certificates and restricted permits in
9 proper cases.
- 10 12. Collect and disburse monies.
- 11 13. Perform all other duties that are necessary to enforce this chapter
12 and that are not specifically or by necessary implication delegated to
13 another person.
- 14 14. Establish criteria for the renewal of permits issued pursuant to
15 board rules relating to general anesthesia and sedation.
- 16 B. The board may:
- 17 1. Sue and be sued.
- 18 2. Issue subpoenas, including subpoenas to the custodian of patient
19 records, compel attendance of witnesses, administer oaths and take testimony
20 concerning all matters within its jurisdiction. If a person refuses to obey
21 a subpoena issued by the board, the refusal shall be certified to the
22 superior court and proceedings shall be instituted for contempt of court.
- 23 3. Adopt rules:
- 24 (a) Prescribing requirements for continuing education for renewal of
25 all licenses issued pursuant to this chapter.
- 26 (b) Prescribing educational and experience prerequisites for the
27 administration of intravenous or intramuscular drugs for the purpose of
28 sedation or for use of general anesthetics in conjunction with a dental
29 treatment procedure.
- 30 (c) Prescribing requirements for obtaining licenses for disabled or
31 retired licensees, including the triennial license renewal fee.
- 32 4. Hire consultants to assist the board in the performance of its
33 duties and employ persons to provide investigative, professional and clerical
34 assistance as it deems necessary.
- 35 5. Contract with other state or federal agencies as required to carry
36 out the purposes of this chapter.
- 37 6. If ~~it determines necessary~~ DETERMINED BY THE BOARD, order physical,
38 psychological, psychiatric and competency evaluations of licensed dentists
39 and dental hygienists, certified denturists and applicants for licensure and
40 certification AT THE EXPENSE OF THOSE INDIVIDUALS.
- 41 C. The executive director or the executive director's designee may:
- 42 1. Issue and renew licenses, certificates and permits to applicants
43 who meet the requirements of this chapter.
- 44 2. Initiate an investigation if evidence appears to demonstrate that a
45 dentist, dental hygienist, denturist or restricted permit holder may be

1 engaged in unprofessional conduct or may be unable to safely practice
2 dentistry.

3 3. Initiate an investigation if evidence appears to demonstrate that a
4 business entity may be engaged in unethical conduct.

5 4. Subject to board approval, enter into a consent agreement with a
6 dentist, denturist, dental hygienist or restricted permit holder if there is
7 evidence of unprofessional conduct.

8 5. Subject to board approval, enter into a consent agreement with a
9 business entity if there is evidence of unethical conduct.

10 6. Refer cases to the board for a formal interview.

11 7. If delegated by the board, enter into a stipulation agreement with
12 a person under the board's jurisdiction for the treatment, rehabilitation and
13 monitoring of chemical substance abuse or misuse.

14 D. Members of the board are personally immune from liability with
15 respect to all acts done and actions taken in good faith and within the scope
16 of their authority.

17 E. The board by rule shall require that a licensee obtain a permit for
18 the application of general anesthesia, semiconscious sedation or conscious
19 sedation, shall establish and collect a fee of not more than three hundred
20 dollars to cover administrative costs connected with issuing the permit and
21 shall conduct inspections to assure compliance.

22 F. The board by rule may establish and collect fees for license
23 verification, board meeting agendas and minutes, published lists and mailing
24 labels.

25 G. This section does not prohibit the board from conducting its
26 authorized duties in a public meeting.

27 H. For the purposes of this section, "record of complaint" means the
28 document reflecting the final disposition of a complaint or investigation.

29 Sec. 3. Section 32-1232, Arizona Revised Statutes, is amended to read:

30 32-1232. Qualifications of applicant; application; fee;
31 fingerprint clearance card

32 A. An applicant for licensure shall be of good moral character, shall
33 meet the requirements of section 32-1233 and shall hold a diploma conferring
34 a degree of doctor of dental medicine or doctor of dental surgery from a
35 recognized dental school.

36 B. Each candidate shall submit a written application to the board
37 accompanied by a nonrefundable Arizona dental jurisprudence examination fee
38 of three hundred dollars. The board shall waive this fee for candidates who
39 are holders of valid restricted permits. **EACH CANDIDATE SHALL ALSO OBTAIN A**
40 **VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03.**

41 C. The board may deny an application for a license, for license
42 renewal or for a restricted permit if the applicant:

43 1. Has committed any act that would be cause for censure, probation or
44 suspension or revocation of a license under this chapter.

1 2. While unlicensed, committed or aided and abetted the commission of
2 any act for which a license is required by this chapter.

3 3. Knowingly made any false statement in the application.

4 4. Has had a license to practice dentistry revoked by a dental
5 regulatory board in another jurisdiction in the United States for an act that
6 occurred in that jurisdiction and that constitutes unprofessional conduct
7 pursuant to this chapter.

8 5. Is currently under suspension or restriction by a dental regulatory
9 board in another jurisdiction in the United States for an act that occurred
10 in that jurisdiction and that constitutes unprofessional conduct pursuant to
11 this chapter.

12 6. Has surrendered, relinquished or given up a license to practice
13 dentistry in lieu of disciplinary action by a dental regulatory board in
14 another jurisdiction in the United States for an act that occurred in that
15 jurisdiction and that constitutes unprofessional conduct pursuant to this
16 chapter.

17 D. The board shall suspend an application for a license, for license
18 renewal or for a restricted permit if the applicant is currently under
19 investigation by a dental regulatory board in another jurisdiction. The
20 board shall not issue or deny a license to the applicant until the
21 investigation is resolved.

22 Sec. 4. 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

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

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

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

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

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

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

29 G. A licensee who is fully retired and a licensee who is permanently
30 disabled may contribute services to a recognized charitable institution and
31 still retain that classification for triennial registration purposes on
32 payment of a reduced renewal fee as 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 attest by affidavit
35 that the licensee has surrendered to the United States drug enforcement
36 administration any registration issued pursuant to the federal controlled
37 substances act and has surrendered to the board any registration issued
38 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

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

5 Sec. 5. Section 32-1240, Arizona Revised Statutes, is amended to read:
6 32-1240. Licensure by credential; examinations; waiver; fee

7 A. The board by rule may waive the examination requirements of this
8 article on receipt of evidence satisfactory to the board that the applicant
9 has passed the clinical examination of another state or testing agency and
10 either:

11 1. The other state or testing agency maintains a standard of licensure
12 that is substantially equivalent to that of this state as determined by the
13 board. **THE BOARD BY RULE SHALL REQUIRE:**

14 (a) **A MINIMUM NUMBER OF ACTIVE PRACTICE HOURS WITHIN A SPECIFIC TIME**
15 **PERIOD BEFORE THE APPLICANT SUBMITS THE APPLICATION. THE BOARD SHALL DEFINE**
16 **WHAT CONSTITUTES ACTIVE PRACTICE.**

17 (b) **AN AFFIRMATION THAT THE APPLICANT HAS COMPLETED THE CONTINUING**
18 **EDUCATION REQUIREMENTS OF THE JURISDICTION WHERE THE APPLICANT IS LICENSED.**

19 2. The applicant has acquired a certificate or other evidence of
20 successful completion of a board approved examination not more than five
21 years before submitting an application for licensure pursuant to this
22 chapter.

23 B. The applicant shall pay a licensure by credential fee of two
24 thousand dollars.

25 Sec. 6. Section 32-1263.01, Arizona Revised Statutes, is amended to
26 read:

27 32-1263.01. Types of disciplinary action; letter of concern;
28 judicial review; notice; removal of notice;
29 violation; classification

30 A. The board may take any one or a combination of the following
31 disciplinary actions against any person licensed under this chapter:

32 1. Revocation of license to practice.

33 2. Suspension of license to practice.

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

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

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

43 6. Imposition of a requirement for restitution of fees to the
44 aggrieved party.

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

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

2 9. Imposition of community service.

3 B. The board may issue a letter of concern if a licensee's continuing
4 practices may cause the board to take disciplinary action. The board may
5 also issue a nondisciplinary order requiring the licensee to complete a
6 prescribed number of hours of continuing education in an area or areas
7 prescribed by the board to provide the licensee with the necessary
8 understanding of current developments, skills, procedures or treatment.

9 C. Failure to comply with any ~~final~~ order of the board, including an
10 order of censure or probation, is cause for suspension or revocation of a
11 license.

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

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

18 F. The board may post a notice of its suspension or revocation of a
19 license at the licensee's place of business. This notice shall remain posted
20 for sixty days. A person who removes this notice without board or court
21 authority before that time is guilty of a class 3 misdemeanor.

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

28 Sec. 7. Section 32-1264, Arizona Revised Statutes, is amended to read:
29 32-1264. Maintenance of records

30 A. A person WHO IS licensed or certified pursuant to this chapter
31 shall make and maintain legible written records concerning all diagnosis,
32 evaluation and treatment of each patient of record. A licensee or
33 certificate holder shall maintain records stored or produced electronically
34 in retrievable paper form. These records shall include:

35 1. All treatment notes, including current health history and clinical
36 examinations.

37 2. Prescription and dispensing information, including all drugs,
38 medicaments and dental materials used for patient care.

39 3. Diagnosis and treatment planning.

40 4. Dental and periodontal charting. Specialist charting must include
41 areas of requested care and notation of visual oral examination describing
42 any areas of potential pathology or radiographic irregularities.

43 5. All radiographs.

44 B. Records are available for review and for treatment purposes to the
45 dentist, dental hygienist or denturist providing care.

1 C. On request, the licensee or certificate holder shall allow properly
2 authorized board personnel to have access to the licensee's or certificate
3 holder's place of practice to conduct an inspection and must make the
4 licensee's or certificate holder's records, books and documents available to
5 the board as part of an investigation process.

6 D. Within fifteen business days of a patient's written request, that
7 patient's dentist, dental hygienist or denturist or a registered business
8 entity shall transfer legible and diagnostic quality copies of that patient's
9 records to another licensee or certificate holder or that patient. The
10 patient may be charged for the reasonable costs of copying and forwarding
11 these records. ~~The board by rule shall prescribe the reasonable costs of~~
12 ~~reproduction.~~ A dentist, dental hygienist, denturist or registered business
13 entity may require that payment of reproduction costs be made in advance,
14 unless the records are necessary for continuity of care, in which case the
15 records shall not be withheld. Copies of records shall not be withheld
16 because of an unpaid balance for dental services.

17 E. Unless otherwise required by law, a person WHO IS licensed or
18 certified pursuant to this chapter or a business entity THAT IS registered
19 pursuant to this chapter must retain the original or a copy of a patient's
20 dental records as follows:

21 1. If the patient is an adult, for at least six years after the last
22 date the adult patient received dental services from that provider.

23 2. If the patient is a child, for at least three years after the
24 child's eighteenth birthday or for at least six years after the last date the
25 child received dental services from the provider, whichever occurs later.

26 Sec. 8. Section 32-1284, Arizona Revised Statutes, is amended to read:
27 32-1284. Qualifications of applicant; application; fee;
28 fingerprint clearance card; rules; denial or
29 suspension of application

30 A. An applicant for licensure as a dental hygienist shall be at least
31 eighteen years of age, shall be of good moral character, shall meet the
32 requirements of section 32-1285 and shall present to the board evidence of
33 graduation or a certificate of satisfactory completion in a course or
34 curriculum in dental hygiene from a recognized dental hygiene school. A
35 candidate shall make written application to the board accompanied by a
36 nonrefundable Arizona dental jurisprudence examination fee of one hundred
37 dollars. The board shall waive this fee for candidates who are holders of
38 valid restricted permits. EACH CANDIDATE SHALL ALSO OBTAIN A VALID
39 FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03.

40 B. The board shall adopt rules that govern the practice of dental
41 hygienists and that are not inconsistent with this chapter.

42 C. The board may deny an application for licensure or an application
43 for license renewal if the applicant:

44 1. Has committed an act that would be cause for censure, probation or
45 suspension or revocation of a license under this chapter.

1 2. While unlicensed, committed or aided and abetted the commission of
2 an act for which a license is required by this chapter.

3 3. Knowingly made any false statement in the application.

4 4. Has had a license to practice dental hygiene revoked by a
5 regulatory board in another jurisdiction in the United States for an act that
6 occurred in that jurisdiction and that constitutes unprofessional conduct
7 pursuant to this chapter.

8 5. Is currently under suspension or restriction by a regulatory board
9 in another jurisdiction in the United States for an act that occurred in that
10 jurisdiction and that constitutes unprofessional conduct pursuant to this
11 chapter.

12 6. Has surrendered, relinquished or given up a license to practice
13 dental hygiene instead of disciplinary action by a regulatory board in
14 another jurisdiction in the United States for an act that occurred in that
15 jurisdiction and that constitutes unprofessional conduct pursuant to this
16 chapter.

17 D. The board shall suspend an application for a license if the
18 applicant is currently under investigation by a dental regulatory board in
19 another jurisdiction. The board shall not issue or deny a license to the
20 applicant until the investigation is resolved.

21 Sec. 9. Section 32-1287, Arizona Revised Statutes, is amended to read:

22 32-1287. Dental hygienist triennial licensure; continuing
23 education; license reinstatement; notice of change
24 of address; penalties; retired and disabled
25 licensees

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

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

5 C. A person applying for a license for the first time in this state
6 shall pay a prorated fee for the period remaining until the next
7 June 30. This fee shall not exceed one-third of the fee established pursuant
8 to subsection A. Subsequent registrations shall be conducted pursuant to
9 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. A licensee shall notify the board in writing within ten days after
19 the licensee changes the primary mailing address listed with the board. The
20 board shall impose a penalty of fifty dollars if a licensee fails to notify
21 the board of the change within that time. The board shall increase the
22 penalty imposed to one hundred dollars if a licensee fails to notify it of
23 the change within thirty days.

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

29 Sec. 10. Section 32-1292.01, Arizona Revised Statutes, is amended to
30 read:

31 32-1292.01. Licensure by credential; examinations; waiver; fee

32 A. The board by rule may waive the examination requirements of this
33 article on receipt of evidence satisfactory to the board that the applicant
34 has passed the clinical examination of another state or testing agency and
35 either:

36 1. The other state or testing agency maintains a standard of licensure
37 that is substantially equivalent to that of this state as determined by the
38 board. **THE BOARD BY RULE SHALL REQUIRE:**

39 (a) **A MINIMUM NUMBER OF ACTIVE PRACTICE HOURS WITHIN A SPECIFIC TIME**
40 **PERIOD BEFORE THE APPLICANT SUBMITS THE APPLICATION. THE BOARD SHALL DEFINE**
41 **WHAT CONSTITUTES ACTIVE PRACTICE.**

42 (b) **AN AFFIRMATION THAT THE APPLICANT HAS COMPLETED THE CONTINUING**
43 **EDUCATION REQUIREMENTS OF THE JURISDICTION WHERE THE APPLICANT IS LICENSED.**

44 2. The applicant has acquired a certificate or other evidence of
45 successful completion of a board-approved examination not more than five

1 years before submitting an application for licensure pursuant to this
2 chapter.

3 B. The applicant shall pay a licensure by credential fee of one
4 thousand dollars.

5 Sec. 11. Section 32-1297.01, Arizona Revised Statutes, is amended to
6 read:

7 32-1297.01. Application for certification; fingerprint
8 clearance card; denial; suspension

9 A. Each applicant for certification shall submit a written application
10 to the board accompanied by a nonrefundable jurisprudence examination fee AND
11 OBTAIN A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION
12 41-1758.03.

13 B. The board may deny an application for certification or for
14 certification renewal if the applicant:

15 1. Has committed any act that would be cause for censure, probation,
16 suspension or revocation of a certificate under this chapter.

17 2. Has knowingly made any false statement in the application.

18 3. While uncertified, has committed or aided and abetted the
19 commission of any act for which a certificate is required under this chapter.

20 4. Has had a certificate to practice denture technology revoked by a
21 regulatory board in another jurisdiction in the United States or Canada for
22 an act that occurred in that jurisdiction and that constitutes unprofessional
23 conduct pursuant to this chapter.

24 5. Is currently under investigation, suspension or restriction by a
25 regulatory board in another jurisdiction in the United States or Canada for
26 an act that occurred in that jurisdiction and that constitutes unprofessional
27 conduct pursuant to this chapter.

28 6. Has surrendered, relinquished or given up a certificate to practice
29 denture technology in lieu of disciplinary action by a regulatory board in
30 another jurisdiction in the United States or Canada for an act that occurred
31 in that jurisdiction and that constitutes unprofessional conduct pursuant to
32 this chapter.

33 C. The board shall suspend an application for certification if the
34 applicant is currently under investigation by a denturist regulatory board in
35 another jurisdiction. The board shall not issue or deny certification to the
36 applicant until the investigation is resolved.

37 Sec. 12. Section 32-1297.06, Arizona Revised Statutes, is amended to
38 read:

39 32-1297.06. Denturist certification; continuing education;
40 certificate reinstatement; certificate for each
41 place of practice; notice of change of address or
42 place of practice; penalties

43 A. Except as provided in section 32-4301, a certification expires on
44 June 30 of every third year. On or before June 30 of every third year, every
45 certified denturist shall submit to the board a complete renewal application

1 and shall pay a certificate renewal fee of not more than three hundred
2 dollars, established by a formal vote of the board. At least once every
3 three years, before establishing the fee ~~for the subsequent three fiscal~~
4 ~~years~~, the board shall review the amount of the fee in a public meeting. Any
5 change in the amount of the fee shall be applied prospectively to a ~~licensee~~
6 ~~CERTIFICATE HOLDER~~ at the time of ~~licensure~~ ~~CERTIFICATION~~ renewal ~~for the~~
7 ~~subsequent three fiscal years~~. This requirement does not apply to a disabled
8 or retired status.

9 B. A certificate holder shall include a written affidavit with the
10 renewal application that affirms that the certificate holder complies with
11 board rules relating to continuing education requirements. A certificate
12 holder is not required to complete the written affidavit if the certificate
13 holder received an initial certification within the year immediately
14 preceding the expiration date of the certificate or the certificate holder is
15 in disabled status. If the certificate holder is not in compliance with
16 board rules relating to continuing education, the board may grant an
17 extension of time to complete these requirements if the certificate holder
18 includes a written request for an extension with the renewal application
19 instead of the written affidavit and the renewal application is received on
20 or before June 30 of the expiration year. The board shall consider the
21 extension request based on criteria prescribed by the board by rule. If the
22 board denies an extension request, the certificate expires on August 30 of
23 the expiration year.

24 C. A person applying for a certificate for the first time in this
25 state shall pay a prorated fee for the period remaining until the next
26 June 30. This fee shall not exceed one-third of the fee established pursuant
27 to subsection A. Subsequent certifications shall be conducted pursuant to
28 this section.

29 D. An expired certificate may be reinstated by submitting a complete
30 renewal application within the twenty-four-month period immediately following
31 the expiration of the certificate with payment of the renewal fee and a one
32 hundred dollar penalty. Whenever issued, reinstatement is as of the date of
33 application and entitles the applicant to certification only for the
34 remainder of the applicable three-year period. If a person does not
35 reinstate a certificate pursuant to this subsection, the person must reapply
36 for certification pursuant to this chapter.

37 E. Each certificate holder must provide to the board in writing both
38 of the following:

- 39 1. A primary mailing address.
- 40 2. The address for each place of practice.

41 F. A certificate holder maintaining more than one place of practice
42 shall obtain from the board a duplicate certificate for each office. The
43 board shall set and charge a fee for each duplicate certificate. A
44 certificate holder shall notify the board in writing within ten days of
45 opening an additional place of practice.

1 G. A certificate holder shall notify the board in writing within ten
2 days after changing a primary mailing address or place of practice address
3 listed with the board. The board shall impose a fifty dollar penalty if a
4 certificate holder fails to notify the board of the change within that time.
5 The board shall increase the penalty imposed to one hundred dollars if a
6 certificate holder fails to notify it of the change within thirty days.

7 Sec. 13. Section 32-1299, Arizona Revised Statutes, is amended to
8 read:

9 32-1299. Substance abuse treatment and rehabilitation program;
10 private contract; funding; confidential stipulation
11 agreement

12 A. The board may establish a confidential program for the treatment
13 and rehabilitation of dentists, denturists and dental hygienists who are
14 impaired by alcohol or drug abuse. This program shall include education,
15 intervention, therapeutic treatment and posttreatment monitoring and support.

16 B. The board may contract with other organizations to operate the
17 program established pursuant to this section. A contract with a private
18 organization shall include the following requirements:

19 1. Periodic reports to the board regarding treatment program activity.

20 2. Release to the board on demand of all treatment records.

21 3. Periodic reports to the board regarding each dentist's, denturist's
22 or dental hygienist's diagnosis and prognosis and recommendations for
23 continuing care, treatment and supervision.

24 4. Immediate reporting to the board of the name of an impaired
25 practitioner whom the treating organization believes to be a danger to self
26 or others.

27 5. Immediate reporting to the board of the name of a practitioner who
28 refuses to submit to treatment or whose impairment is not substantially
29 alleviated through treatment.

30 C. The board may allocate an amount of not more than twenty dollars
31 annually or sixty dollars triennially from each fee it collects from the
32 renewal of active licenses for the operation of the program established by
33 this section.

34 D. A dentist, denturist or hygienist who, in the opinion of the board,
35 is impaired by alcohol or drug abuse shall agree to enter into a confidential
36 nondisciplinary stipulation agreement with the board. The board shall place
37 a licensee or certificate holder on probation if the licensee or certificate
38 holder refuses to enter into a stipulation agreement with the board and may
39 take other action as provided by law. The board may also refuse to issue a
40 license or certificate to an applicant if the applicant refuses to enter into
41 a stipulation agreement with the board.

42 E. IN THE CASE OF A LICENSEE OR CERTIFICATE HOLDER WHO IS IMPAIRED BY
43 ALCOHOL OR DRUG ABUSE AFTER COMPLETING A SECOND MONITORING PROGRAM PURSUANT
44 TO A STIPULATION AGREEMENT UNDER SUBSECTION D OF THIS SECTION, THE BOARD
45 SHALL DETERMINE WHETHER:

- 1 1. TO REFER THE MATTER FOR A FORMAL HEARING FOR THE PURPOSE OF
- 2 SUSPENDING OR REVOKING THE LICENSE OR CERTIFICATE.
- 3 2. THE LICENSEE OR CERTIFICATE HOLDER SHOULD BE PLACED ON PROBATION
- 4 FOR A MINIMUM OF ONE YEAR WITH RESTRICTIONS NECESSARY TO ENSURE PUBLIC
- 5 SAFETY.
- 6 3. TO ENTER INTO ANOTHER STIPULATION AGREEMENT UNDER SUBSECTION D OF
- 7 THIS SECTION WITH THE LICENSEE OR CERTIFICATE HOLDER.