

REFERENCE TITLE: dental board; teeth-whitening services

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HB 2460

Introduced by
Representatives Payne: Allen J, Cook

AN ACT

AMENDING SECTIONS 32-1201 AND 32-1231, 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
8 dentists 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
13 professional services regulated by the board and that is established
14 pursuant to the laws of any state or foreign country.

15 4. "Dental assistant" means any person who acts as an assistant to
16 a dentist or a dental hygienist by rendering personal services to a
17 patient that involve close proximity to the patient while the patient is
18 under 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
25 likely 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
30 defects, both developmental and acquired, disorders or deficiencies of the
31 human oral cavity, teeth, investing tissues, maxilla or mandible or
32 adjacent associated structures.

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

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

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

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

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

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

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

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

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

16 (a) Charges for services not rendered.

17 (b) Any treatment date that does not accurately reflect the date
18 when 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
24 licensee 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
28 the 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. "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 believes that the licensee or
37 registered business entity should modify or eliminate certain practices
38 and that continuation of the activities that led to the information being
39 submitted to the board may result in board action against the
40 practitioner's license or the business entity's registration. A letter of
41 concern is not a disciplinary action. A letter of concern is a public
42 document and may be used in a future disciplinary action.

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

1 15. "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. "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. "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. "Recognized dental school" means a dental school accredited by
13 the American dental association commission on dental accreditation.

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

18 20. "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. "TEETH-WHITENING EQUIPMENT":

22 (a) INCLUDES TEETH-WHITENING TRAYS, TEETH-WHITENING APPLICATOR
23 PENS, VITAMIN E SWABS, TEETH WIPES, CHEEK RETRACTORS, CHAIRS, EMESIS BOWLS
24 AND LED WHITENING LIGHTS.

25 (b) DOES NOT INCLUDE LASERS OR HIGH-TEMPERATURE LAMPS, SUCH AS
26 HALOGEN LAMPS.

27 22. "TEETH-WHITENING MATERIALS" MEANS NONPRESCRIPTION
28 TEETH-WHITENING POWDERS OR GELS, INCLUDING THOSE THAT CONTAIN CARBAMIDE
29 PEROXIDE, HYDROGEN PEROXIDE OR OVER-THE-COUNTER WHITENING AGENTS.

30 23. "TEETH-WHITENING SERVICES" MEANS ANY OF THE FOLLOWING:

31 (a) DISCUSSING THE USE OF TEETH-WHITENING EQUIPMENT AND
32 TEETH-WHITENING MATERIALS WITH A CONSUMER WHO IS INTERESTED IN PURCHASING
33 THE MATERIALS.

34 (b) PROVIDING INSTRUCTION ON THE USE OF TEETH-WHITENING EQUIPMENT
35 AND TEETH-WHITENING MATERIALS TO A CONSUMER USING THE EQUIPMENT AND
36 MATERIALS.

37 (c) PROVIDING TEETH-WHITENING EQUIPMENT ON-SITE TO A CONSUMER FOR
38 THE CONSUMER TO SELF-APPLY TEETH-WHITENING MATERIALS.

39 (d) PROVIDING OTHER INCIDENTAL ASSISTANCE AND INSTRUCTION BEFORE,
40 DURING OR AFTER THE TEETH-WHITENING PROCESS, INCLUDING THE ADJUSTMENT OF
41 CHAIRS, THE POSITIONING OF TEETH-WHITENING LIGHTS AND THE DISPOSAL OF
42 DISCARDED TEETH-WHITENING MATERIALS.

43 ~~21.~~ 24. "Teledentistry" means the use of data transmitted through
44 interactive audio, video or data communications for the purposes of
45 diagnosis, treatment planning, consultation and directing the delivery of

1 treatment by dentists and dental providers in settings permissible under
2 this chapter or specified in rules adopted by the board.

3 Sec. 2. Section 32-1231, Arizona Revised Statutes, is amended to
4 read:

5 32-1231. Persons not required to be licensed

6 This chapter does not prohibit:

7 1. A dentist or dental hygienist who is officially employed in the
8 service of the United States from practicing dentistry in the dentist's or
9 dental hygienist's official capacity, within the scope of that person's
10 authority, on persons enlisted in, directly connected with or under the
11 immediate control of some branch of service of the United States.

12 2. An intern or student of dentistry or dental hygiene from
13 operating in the clinical departments or laboratories of a recognized
14 dental school, dental hygiene school or hospital under THE supervision of
15 a dentist.

16 3. An unlicensed person from performing for a licensed dentist
17 merely mechanical work on inert matter not within the oral cavity in the
18 construction, making, alteration or repairing of any artificial dental
19 substitute or any dental restorative or corrective appliance, if the casts
20 or impressions for that work have been furnished by a licensed dentist and
21 the work is directly supervised by the dentist for whom done or under a
22 written authorization signed by the dentist, but the burden of proving
23 that written authorization or direct supervision is on the person charged
24 with having violated this provision.

25 4. A clinician WHO IS not licensed in this state from giving
26 demonstrations, before bona fide dental societies, study clubs and groups
27 of professional students, that are free to the persons on whom made.

28 5. The state director of dental public health from performing the
29 director's administrative duties as prescribed by law.

30 6. A dentist or dental hygienist to whom a restricted permit has
31 been issued from practicing dentistry or dental hygiene in this state as
32 provided in sections 32-1237 and 32-1292.

33 7. A dentist or dental hygienist who is not practicing on the
34 public at large from practicing in a recognized dental school or a
35 recognized dental hygiene school.

36 8. A PERSON FROM PROVIDING TEETH-WHITENING SERVICES IN A BUSINESS
37 ENTITY THAT IS NOT REGISTERED WITH THE BOARD IF THE PERSON DOES ALL OF THE
38 FOLLOWING:

39 (a) DISCLOSES TO CUSTOMERS THAT THE TEETH-WHITENING SERVICES BEING
40 PROVIDED ARE NOT REGULATED BY THIS STATE BY POSTING, IN A CONSPICUOUS
41 LOCATION IN THE RECEPTION AREA OF THE BUSINESS ENTITY, A SIGN THAT
42 CONTAINS LETTERING THAT IS AT LEAST ONE-INCH HIGH AND THAT STATES:
43 "TEETH-WHITENING SERVICES ARE AN UNREGULATED SERVICE OFFERED BY (PERSON'S
44 NAME)."

1 (b) DISCARDS TEETH-WHITENING TRAYS, TEETH-WHITENING APPLICATOR
2 PENS, VITAMIN E SWABS, TEETH WIPES, EMESIS BOWLS, CHEEK RETRACTORS AND
3 DISPOSABLE PLASTIC BARRIER SLEEVES AFTER THEIR USE BY CUSTOMERS.

4 (c) PROVIDES TEETH-WHITENING SERVICES ONLY TO CUSTOMERS WHO ARE AT
5 LEAST EIGHTEEN YEARS OF AGE.

6 (d) IF USING LED WHITENING LIGHTS INTENDED FOR PLACEMENT IN A
7 CUSTOMER'S MOUTH, COVERS THE LED LIGHT WITH A DISPOSABLE PLASTIC BARRIER
8 SLEEVE.