

House Engrossed Senate Bill
dental anesthesia; requirements

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1602

AN ACT

AMENDING SECTIONS 32-1201 AND 32-1207, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 11, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1272; AMENDING SECTION 32-1403, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 13, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1459; AMENDING SECTIONS 32-1606, 32-1664 AND 32-1803, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 17, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1855.02; 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. "Affiliated practice dental hygienist" means any licensed dental
7 hygienist who is able, pursuant to section 32-1289.01, to initiate
8 treatment based on the dental hygienist's assessment of a patient's needs
9 according to the terms of a written affiliated practice agreement with a
10 dentist, to treat the patient without the presence of a dentist and to
11 maintain a provider-patient relationship.

12 2. "Auxiliary personnel" means all dental assistants, dental
13 technicians, dental x-ray technicians and other persons employed by
14 dentists or firms and businesses providing dental services to dentists.

15 3. "Board" means the state board of dental examiners.

16 4. "Business entity" means a business organization that has an
17 ownership that includes any persons who are not licensed or certified to
18 provide dental services in this state, that offers to the public
19 professional services regulated by the board and that is established
20 pursuant to the laws of any state or foreign country.

21 5. "Dental assistant" means any person who acts as an assistant to
22 a dentist, dental therapist or dental hygienist by rendering personal
23 services to a patient that involve close proximity to the patient while
24 the patient is under treatment or observation or undergoing diagnostic
25 procedures.

26 6. "Dental hygienist" means any person who is licensed and engaged
27 in the general practice of dental hygiene and all related and associated
28 duties, including educational, clinical and therapeutic dental hygiene
29 procedures.

30 7. "Dental incompetence" means lacking in sufficient dentistry
31 knowledge or skills, or both, in that field of dentistry in which the
32 dentist, dental therapist, denturist or dental hygienist concerned
33 engages, to a degree likely to endanger the health of that person's
34 patients.

35 8. "Dental laboratory technician" means any person, other than a
36 licensed dentist, who, pursuant to a written work order of a dentist,
37 fabricates artificial teeth, prosthetic appliances or other mechanical and
38 artificial contrivances designed to correct or alleviate injuries or
39 defects, both developmental and acquired, disorders or deficiencies of the
40 human oral cavity, teeth, investing tissues, maxilla or mandible or
41 adjacent associated structures.

42 9. "Dental therapist" means any person who is licensed and engaged
43 in the general practice of dental therapy and all related and associated
44 duties, including educational, clinical and therapeutic dental therapy
45 procedures.

1 10. "Dental x-ray laboratory technician" means any person, other
2 than a licensed dentist, who, pursuant to a written work order of a
3 dentist, performs dental and maxillofacial radiography, including
4 cephalometrics, panoramic and maxillofacial tomography and other dental
5 related nonfluoroscopic diagnostic imaging modalities.

6 11. "Dentistry", "dentist" and "dental" mean the general practice
7 of dentistry and all specialties or restricted practices of dentistry.

8 12. "Denturist" means a person practicing denture technology
9 pursuant to article 5 of this chapter.

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

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

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

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

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

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

28 (a) Charges for services not rendered.

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

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

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

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

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

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

1 15. "Letter of concern" means an advisory letter to notify a
2 licensee or a registered business entity that, while the evidence does not
3 warrant disciplinary action, the board believes that the licensee or
4 registered business entity should modify or eliminate certain practices
5 and that continuation of the activities that led to the information being
6 submitted to the board may result in board action against the
7 practitioner's license or the business entity's registration. A letter of
8 concern is not a disciplinary action. A letter of concern is a public
9 document and may be used in a future disciplinary action.

10 16. "Licensed" means licensed pursuant to this chapter.

11 17. "Place of practice" means each physical location at which a
12 person who is licensed pursuant to this chapter performs services subject
13 to this chapter.

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

17 19. "QUALIFIED ANESTHESIA PROVIDER" MEANS ANY OF THE FOLLOWING:

18 (a) A LICENSEE WHO HOLDS A PERMIT TO ADMINISTER ANESTHESIA AND
19 SEDATION FROM THE BOARD PURSUANT TO SECTION 32-1207.

20 (b) A PHYSICIAN WHO HAS COMPLETED RESIDENCY TRAINING IN
21 ANESTHESIOLOGY, WHO IS LICENSED PURSUANT TO CHAPTER 13 OR 17 OF THIS TITLE
22 AND WHO IS REGISTERED WITH THE ARIZONA MEDICAL BOARD OR THE ARIZONA BOARD
23 OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY TO ADMINISTER ANESTHESIA
24 IN DENTAL OFFICES AND DENTAL CLINICS PURSUANT TO SECTION 32-1403 OR
25 32-1803.

26 (c) A CERTIFIED REGISTERED NURSE ANESTHETIST WHO HAS A NATIONAL
27 BOARD CERTIFICATION IN ANESTHESIOLOGY, WHO IS LICENSED PURSUANT TO CHAPTER
28 15 OF THIS TITLE AND WHO IS REGISTERED WITH THE ARIZONA STATE BOARD OF
29 NURSING TO ADMINISTER ANESTHESIA IN DENTAL OFFICES AND DENTAL CLINICS
30 PURSUANT TO SECTION 32-1606.

31 ~~19.~~ 20. "Recognized dental hygiene school" means a school that has
32 a dental hygiene program with a minimum two academic year curriculum, or
33 the equivalent of four semesters, and that is approved by the board and
34 accredited by the American dental association commission on dental
35 accreditation.

36 ~~20.~~ 21. "Recognized dental school" means a dental school that is
37 accredited by the American dental association commission on dental
38 accreditation.

39 ~~21.~~ 22. "Recognized dental therapy school" means a school that is
40 accredited or that has received initial accreditation by the American
41 dental association commission on dental accreditation.

42 ~~22.~~ 23. "Recognized denturist school" means a denturist school
43 that maintains standards of entrance, study and graduation and that is
44 accredited by the United States department of education or the council on
45 higher education accreditation.

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

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

9 4. Establish a uniform and reasonable standard of minimum
10 educational requirements consistent with the accreditation standards of
11 the American dental association commission on dental accreditation to be
12 observed by dental schools, dental therapy schools and dental hygiene
13 schools in order to be classified as recognized dental schools, dental
14 therapy schools or dental hygiene schools.

15 5. Establish a uniform and reasonable standard of minimum
16 educational requirements that are consistent with the accreditation
17 standards of the United States department of education or the council on
18 higher education accreditation and that must be observed by denture
19 technology schools in order to be classified as recognized denture
20 technology schools.

21 6. Determine the reputability and classification of dental schools,
22 dental therapy schools, dental hygiene schools and denture technology
23 schools in accordance with their compliance with the standard set forth in
24 paragraph 4 or 5 of this subsection, whichever is applicable.

25 7. Issue licenses to persons who the board determines are eligible
26 for licensure pursuant to this chapter.

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

29 9. Pursuant to section 32-1263.02, investigate charges of
30 misconduct on the part of licensees and persons to whom restricted permits
31 have been issued.

32 10. Issue a letter of concern, which is not a disciplinary action
33 but refers to practices that may lead to a violation and to disciplinary
34 action.

35 11. Issue decrees of censure, fix periods and terms of probation,
36 suspend or revoke licenses, certificates and restricted permits, as the
37 facts may warrant, and reinstate licenses, certificates and restricted
38 permits in proper cases.

39 12. Collect and disburse monies.

40 13. Perform all other duties that are necessary to enforce this
41 chapter and that are not specifically or by necessary implication
42 delegated to another person.

43 14. Establish criteria for the renewal of permits issued pursuant
44 to board rules relating to general anesthesia and sedation.

- 1 B. The board may:
- 2 1. Sue and be sued.
- 3 2. Issue subpoenas, including subpoenas to the custodian of patient
- 4 records, compel attendance of witnesses, administer oaths and take
- 5 testimony concerning all matters within the board's jurisdiction. If a
- 6 person refuses to obey a subpoena issued by the board, the refusal shall
- 7 be certified to the superior court and proceedings shall be instituted for
- 8 contempt of court.
- 9 3. Adopt rules:
- 10 (a) Prescribing requirements for continuing education for renewal
- 11 of all licenses issued pursuant to this chapter.
- 12 (b) Prescribing educational and experience prerequisites for
- 13 administering intravenous or intramuscular drugs for the purpose of
- 14 sedation or for using general anesthetics in conjunction with a dental
- 15 treatment procedure.
- 16 (c) Prescribing requirements for obtaining licenses for retired
- 17 licensees or licensees who have a disability, including the triennial
- 18 license renewal fee.
- 19 4. Hire consultants to assist the board in the performance of its
- 20 duties and employ persons to provide investigative, professional and
- 21 clerical assistance as the board deems necessary.
- 22 5. Contract with other state or federal agencies as required to
- 23 carry out the purposes of this chapter.
- 24 6. If determined by the board, order physical, psychological,
- 25 psychiatric and competency evaluations of licensed dentists, dental
- 26 therapists and dental hygienists, certified denturists and applicants for
- 27 licensure and certification at the expense of those individuals.
- 28 7. Establish an investigation committee consisting of not more than
- 29 eleven licensees who are in good standing, who are appointed by the board
- 30 and who serve at the pleasure of the board to investigate any complaint
- 31 submitted to the board, initiated by the board or delegated by the board
- 32 to the investigation committee pursuant to this chapter.
- 33 C. The executive director or the executive director's designee may:
- 34 1. Issue and renew licenses, certificates and permits to applicants
- 35 who meet the requirements of this chapter.
- 36 2. Initiate an investigation if evidence appears to demonstrate
- 37 that a dentist, dental therapist, dental hygienist, denturist or
- 38 restricted permit holder may be engaged in unprofessional conduct or may
- 39 be unable to safely practice dentistry.
- 40 3. Initiate an investigation if evidence appears to demonstrate
- 41 that a business entity may be engaged in unethical conduct.
- 42 4. Subject to board approval, enter into a consent agreement with a
- 43 dentist, dental therapist, denturist, dental hygienist or restricted
- 44 permit holder if there is evidence of unprofessional conduct.

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

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

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

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

10 E. The board by rule shall require that a licensee obtain a permit
11 for applying general anesthesia, ~~semiconscious sedation or conscious~~ AND
12 sedation, shall establish and collect a fee of not more than \$300 to cover
13 administrative costs connected with issuing the permit and shall conduct
14 inspections to ensure compliance.

15 F. The board by rule may establish and collect fees for license
16 verification, board meeting agendas and minutes, published lists and
17 mailing labels.

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

20 H. For the purposes of this section:

21 1. "Good standing" means that a person holds an unrestricted and
22 unencumbered license that has not been suspended or revoked pursuant to
23 this chapter.

24 2. "Record of complaint" means the document reflecting the final
25 disposition of a complaint or investigation.

26 Sec. 3. Title 32, chapter 11, article 3, Arizona Revised Statutes,
27 is amended by adding section 32-1272, to read:

28 32-1272. Dental anesthesia; requirements

29 A. A DENTAL OFFICE OR DENTAL CLINIC AT WHICH GENERAL ANESTHESIA OR
30 SEDATION IS ADMINISTERED MUST CONTAIN PROPERLY OPERATING EQUIPMENT AND
31 SUPPLIES AS PRESCRIBED BY THE BOARD IN RULE AND HAVE PROPER EMERGENCY
32 RESPONSE PROTOCOLS IN PLACE, INCLUDING ADVANCED CARDIAC LIFE SUPPORT AND
33 AIRWAY MANAGEMENT AND PEDIATRIC ADVANCED LIFE SUPPORT, AS APPLICABLE, WHEN
34 ADMINISTERING GENERAL ANESTHESIA OR SEDATION AS PRESCRIBED BY THE BOARD IN
35 RULE THAT IS CONSISTENT WITH THE STANDARDS AND PRACTICES RECOMMENDED BY
36 THE AMERICAN HEART ASSOCIATION.

37 B. A QUALIFIED ANESTHESIA PROVIDER WHO IS LICENSED BY THE BOARD AND
38 WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION OR APPLICABLE
39 BOARD RULES COMMITS AN ACT THAT CONSTITUTES A DANGER TO THE HEALTH,
40 WELFARE OR SAFETY OF THE PUBLIC PURSUANT TO SECTION 32-1201.01.

41 C. IF A QUALIFIED ANESTHESIA PROVIDER WHO IS NOT LICENSED BY THE
42 STATE BOARD OF DENTAL EXAMINERS FAILS TO COMPLY WITH THE REQUIREMENTS OF
43 THIS SECTION OR APPLICABLE BOARD RULES, THE STATE BOARD OF DENTAL
44 EXAMINERS SHALL PROMPTLY REPORT THE QUALIFIED ANESTHESIA PROVIDER'S
45 CONDUCT TO THE REGULATORY BOARD THAT LICENSES THE QUALIFIED ANESTHESIA

1 PROVIDER. IF AN ADVERSE ANESTHESIA OUTCOME INVOLVES A QUALIFIED
2 ANESTHESIA PROVIDER WHO IS NOT LICENSED BY THE STATE BOARD OF DENTAL
3 EXAMINERS, THE STATE BOARD OF DENTAL EXAMINERS SHALL PROMPTLY REPORT THE
4 ADVERSE ANESTHESIA OUTCOME TO THE REGULATORY BOARD THAT LICENSES THE
5 QUALIFIED ANESTHESIA PROVIDER.

6 D. IF A DEATH OR AN INCIDENT REQUIRING EMERGENCY MEDICAL RESPONSE
7 OCCURS IN A DENTAL OFFICE OR DENTAL CLINIC DURING THE ADMINISTRATION OF OR
8 RECOVERY FROM GENERAL ANESTHESIA OR SEDATION BY A QUALIFIED ANESTHESIA
9 PROVIDER, THE TREATING DENTIST SHALL SUBMIT A REPORT OF THE INCIDENT TO
10 THE STATE BOARD OF DENTAL EXAMINERS WITHIN SEVEN BUSINESS DAYS AFTER THE
11 OCCURRENCE. IF THE INCIDENT INVOLVES A QUALIFIED ANESTHESIA PROVIDER WHO
12 IS NOT LICENSED BY THE STATE BOARD OF DENTAL EXAMINERS, THE STATE BOARD OF
13 DENTAL EXAMINERS SHALL IMMEDIATELY FORWARD A COPY OF THE INCIDENT REPORT
14 TO THE REGULATORY BOARD THAT LICENSES THE QUALIFIED ANESTHESIA PROVIDER.

15 Sec. 4. Section 32-1403, Arizona Revised Statutes, is amended to
16 read:

17 32-1403. Powers and duties of the board; compensation;
18 immunity; committee on executive director
19 selection and retention

20 A. The primary duty of the board is to protect the public from
21 unlawful, incompetent, unqualified, impaired or unprofessional
22 practitioners of allopathic medicine through licensure, regulation and
23 rehabilitation of the profession in this state. The powers and duties of
24 the board include:

25 1. Ordering and evaluating physical, psychological, psychiatric and
26 competency testing of licensed physicians and candidates for licensure as
27 may be determined necessary by the board.

28 2. Initiating investigations and determining on ~~its~~ THE BOARD'S own
29 motion whether a doctor of medicine has engaged in unprofessional conduct
30 or provided incompetent medical care or is mentally or physically unable
31 to engage in the practice of medicine.

32 3. Developing and recommending standards governing the profession.

33 4. Reviewing the credentials and the abilities of applicants whose
34 professional records or physical or mental capabilities may not meet the
35 requirements for licensure or registration as prescribed in article 2 of
36 this chapter in order for the board to make a final determination whether
37 the applicant meets the requirements for licensure pursuant to this
38 chapter.

39 5. Disciplining and rehabilitating physicians.

40 6. Engaging in a full exchange of information with the licensing
41 and disciplinary boards and medical associations of other states and
42 jurisdictions of the United States and foreign countries and the Arizona
43 medical association and its components.

44 7. Directing the preparation and circulation of educational
45 material the board determines is helpful and proper for licensees.

1 8. Adopting rules regarding the regulation and the qualifications
2 of doctors of medicine.

3 9. Establishing fees and penalties as provided pursuant to section
4 32-1436.

5 10. Delegating to the executive director the board's authority
6 pursuant to section 32-1405 or 32-1451. The board shall adopt substantive
7 policy statements pursuant to section 41-1091 for each specific licensing
8 and regulatory authority the board delegates to the executive director.

9 11. Determining whether a prospective or current Arizona licensed
10 physician has the training or experience to demonstrate the physician's
11 ability to treat and manage opiate-dependent patients as a qualifying
12 physician pursuant to 21 United States Code section 823(g)(2)(G)(ii).

13 12. ISSUING REGISTRATIONS TO ADMINISTER GENERAL ANESTHESIA AND
14 SEDATION IN DENTAL OFFICES AND DENTAL CLINICS PURSUANT TO SECTION 32-1272
15 TO DOCTORS OF MEDICINE WHO HAVE COMPLETED RESIDENCY TRAINING IN
16 ANESTHESIOLOGY.

17 B. The board may appoint one of its members to the jurisdiction
18 arbitration panel pursuant to section 32-2907, subsection B.

19 C. There shall be no monetary liability on the part of and no cause
20 of action shall arise against the executive director or such other
21 permanent or temporary personnel or professional medical investigators for
22 any act done or proceeding undertaken or performed in good faith and in
23 furtherance of the purposes of this chapter.

24 D. In conducting its investigations pursuant to subsection A,
25 paragraph 2 of this section, the board may receive and review staff
26 reports relating to complaints and malpractice claims.

27 E. The board shall establish a program that is reasonable and
28 necessary to educate doctors of medicine regarding the uses and advantages
29 of autologous blood transfusions.

30 F. The board may make statistical information on doctors of
31 medicine and applicants for licensure under this article available to
32 academic and research organizations.

33 G. The committee on executive director selection and retention is
34 established consisting of the Arizona medical board and the chairperson
35 and vice chairperson of the Arizona regulatory board of physician
36 assistants. The committee is a public body and is subject to the
37 requirements of title 38, chapter 3, article 3.1. The committee is
38 responsible for appointing the executive director pursuant to section
39 32-1405. All members of the committee are voting members of the
40 committee. The committee shall elect a chairperson and a vice chairperson
41 when the committee meets but ~~not~~ NOT more frequently than once a year. The
42 chairperson shall call meetings of the committee as necessary, and the
43 vice chairperson may call meetings of the committee that are necessary if
44 the chairperson is not available. The presence of eight members of the
45 committee at a meeting constitutes a quorum. The committee meetings may

1 be held using communications equipment that allows all members who are
2 participating in the meeting to hear each other. If any discussions occur
3 in an executive session of the committee, notwithstanding the requirement
4 that discussions made at an executive session be kept confidential as
5 specified in section 38-431.03, the chairperson and vice chairperson of
6 the Arizona regulatory board of physician assistants may discuss this
7 information with the Arizona regulatory board of physician assistants in
8 executive session. This disclosure of executive session information to
9 the Arizona regulatory board of physician assistants does not constitute a
10 waiver of confidentiality or any privilege, including the attorney-client
11 privilege.

12 H. The officers of the Arizona medical board and the Arizona
13 regulatory board of physician assistants shall meet twice a year to
14 discuss matters of mutual concern and interest.

15 I. The board may accept and expend grants, gifts, devises and other
16 contributions from any public or private source, including the federal
17 government. Monies received under this subsection do not revert to the
18 state general fund at the end of a fiscal year.

19 Sec. 5. Title 32, chapter 13, article 3, Arizona Revised Statutes,
20 is amended by adding section 32-1459, to read:

21 32-1459. Duty to report

22 IF A DEATH OR AN INCIDENT REQUIRING EMERGENCY MEDICAL RESPONSE
23 OCCURS IN A DENTAL OFFICE OR DENTAL CLINIC DURING THE ADMINISTRATION OF OR
24 RECOVERY FROM GENERAL ANESTHESIA OR SEDATION BY A DOCTOR OF MEDICINE, THE
25 DOCTOR OF MEDICINE SHALL, AND ANY OTHER PERSON MAY, REPORT THE DEATH OR
26 INCIDENT TO THE BOARD WITHIN SEVEN BUSINESS DAYS AFTER THE OCCURRENCE.

27 Sec. 6. Section 32-1606, Arizona Revised Statutes, is amended to
28 read:

29 32-1606. Powers and duties of board

30 A. The board may:

31 1. Adopt and revise rules necessary to carry into effect this
32 chapter.

33 2. Publish advisory opinions regarding registered and practical
34 nursing practice and nursing education.

35 3. Issue limited licenses or certificates if it determines that an
36 applicant or licensee cannot function safely in a specific setting or
37 within the full scope of practice.

38 4. Refer criminal violations of this chapter to the appropriate law
39 enforcement agency.

40 5. Establish a confidential program for monitoring licensees who
41 are chemically dependent and who enroll in rehabilitation programs that
42 meet the criteria established by the board. The board may take further
43 action if the licensee refuses to enter into a stipulated agreement or
44 fails to comply with its terms. In order to protect the public health and

1 safety, the confidentiality requirements of this paragraph do not apply if
2 the licensee does not comply with the stipulated agreement.

3 6. On the applicant's or regulated party's request, establish a
4 payment schedule with the applicant or regulated party.

5 7. Provide education regarding board functions.

6 8. Collect or assist in collecting workforce data.

7 9. Adopt rules to conduct pilot programs consistent with public
8 safety for innovative applications in nursing practice, education and
9 regulation.

10 10. Grant retirement status on request to retired nurses who are or
11 were licensed under this chapter, who have no open complaint or
12 investigation pending against them and who are not subject to discipline.

13 11. Accept and spend federal monies and private grants, gifts,
14 contributions and devises to assist in carrying out the purposes of this
15 chapter. These monies do not revert to the state general fund at the end
16 of the fiscal year.

17 B. The board shall:

18 1. Approve regulated training and educational programs that meet
19 the requirements of this chapter and rules adopted by the board.

20 2. By rule, establish approval and reapproval processes for nursing
21 and nursing assistant training programs that meet the requirements of this
22 chapter and board rules.

23 3. Prepare and maintain a list of approved nursing programs to
24 prepare registered **NURSES** and practical nurses whose graduates are
25 eligible for licensing under this chapter as registered nurses or as
26 practical nurses if they satisfy the other requirements of this chapter
27 and board rules.

28 4. Examine qualified registered **NURSE** and practical nurse
29 applicants.

30 5. License and renew the licenses of qualified registered **NURSE** and
31 practical nurse applicants and licensed nursing assistants who are not
32 qualified to be licensed by the executive director.

33 6. Adopt a seal, which the executive director shall keep.

34 7. Keep a record of all proceedings.

35 8. For proper cause, deny or rescind approval of a regulated
36 training or educational program for failure to comply with this chapter or
37 the rules of the board.

38 9. Adopt rules to approve credential evaluation services that
39 evaluate the qualifications of applicants who graduated from an
40 international nursing program.

41 10. Determine and administer appropriate disciplinary action
42 against all regulated parties who are found guilty of violating this
43 chapter or rules adopted by the board.

- 1 11. Perform functions necessary to carry out the requirements of
2 **THE** nursing assistant and nurse aide training and competency evaluation
3 program as set forth in the omnibus budget reconciliation act of 1987
4 (P.L. 100-203; 101 Stat. 1330), as amended by the medicare catastrophic
5 coverage act of 1988 (P.L. 100-360; 102 Stat. 683). These functions shall
6 include:
- 7 (a) Testing and registering certified nursing assistants.
 - 8 (b) Testing and licensing licensed nursing assistants.
 - 9 (c) Maintaining a list of board-approved training programs.
 - 10 (d) Maintaining a registry of nursing assistants for all certified
11 nursing assistants and licensed nursing assistants.
 - 12 (e) Assessing fees.
- 13 12. Adopt rules establishing ~~those~~ acts that may be performed by a
14 registered nurse practitioner or certified nurse midwife, except that the
15 board does not have authority to decide scope of practice relating to
16 abortion as defined in section 36-2151.
- 17 13. Adopt rules that prohibit registered nurse practitioners,
18 clinical nurse specialists or certified nurse midwives from dispensing a
19 schedule II controlled substance that is an opioid, except for an
20 implantable device or an opioid that is for medication-assisted treatment
21 for substance use disorders.
- 22 14. Adopt rules establishing educational requirements to certify
23 school nurses.
- 24 15. Publish copies of board rules and distribute these copies on
25 request.
- 26 16. Require each applicant for initial licensure or certification
27 to submit a full set of fingerprints to the board for the purpose of
28 obtaining a state and federal criminal records check pursuant to section
29 41-1750 and Public Law 92-544. The department of public safety may
30 exchange this fingerprint data with the federal bureau of investigation.
- 31 17. Except for a licensee who has been convicted of a felony that
32 has been designated a misdemeanor pursuant to section 13-604, revoke a
33 license of a person, revoke the multistate licensure privilege of a person
34 pursuant to section 32-1669 or not issue a license or renewal to an
35 applicant who has one or more felony convictions and who has not received
36 an absolute discharge from the sentences for all felony convictions three
37 or more years before the date of filing an application pursuant to this
38 chapter.
- 39 18. Establish standards to approve and reapprove **REGISTERED** nurse
40 practitioner and clinical nurse specialist programs and provide for
41 surveys of **REGISTERED** nurse practitioner and clinical nurse specialist
42 programs as ~~+~~ **THE BOARD** deems necessary.
- 43 19. Provide the licensing authorities of health care institutions,
44 facilities and homes with any information the board receives regarding
45 practices that place a patient's health at risk.

1 20. Limit the multistate licensure privilege of any person who
2 holds or applies for a license in this state pursuant to section 32-1668.

3 21. Adopt rules to establish competency standards for obtaining and
4 maintaining a license.

5 22. Adopt rules to qualify and certify clinical nurse specialists.

6 23. Adopt rules to approve and reapprove refresher courses for
7 nurses who are not currently practicing.

8 24. Maintain a list of approved medication assistant training
9 programs.

10 25. Test and certify medication assistants.

11 26. Maintain a registry and disciplinary record of medication
12 assistants who are certified pursuant to this chapter.

13 27. Adopt rules to establish the requirements for a clinical nurse
14 specialist to prescribe and dispense drugs and devices consistent with
15 section 32-1651 and within the clinical nurse specialist's population or
16 disease focus.

17 28. **ISSUE REGISTRATIONS TO ADMINISTER GENERAL ANESTHESIA AND
18 SEDATION IN DENTAL OFFICES AND DENTAL CLINICS PURSUANT TO SECTION 32-1272
19 TO CERTIFIED REGISTERED NURSE ANESTHETISTS WHO HAVE NATIONAL BOARD
20 CERTIFICATION IN ANESTHESIOLOGY.**

21 C. The board may conduct an investigation on receipt of information
22 that indicates that a person or regulated party may have violated this
23 chapter or a rule adopted pursuant to this chapter. Following the
24 investigation, the board may take disciplinary action pursuant to this
25 chapter.

26 D. The board may limit, revoke or suspend the privilege of a nurse
27 to practice in this state granted pursuant to section 32-1668.

28 E. Failure to comply with any final order of the board, including
29 an order of censure or probation, is cause for suspension or revocation of
30 a license or a certificate.

31 F. The president or a member of the board designated by the
32 president may administer oaths in transacting the business of the board.

33 Sec. 7. Section 32-1664, Arizona Revised Statutes, is amended to
34 read:

35 32-1664. Investigation; hearing; notice

36 A. In connection with an investigation, the board or its duly
37 authorized agents or employees may obtain any documents, reports, records,
38 papers, books and materials, including hospital records, medical staff
39 records and medical staff review committee records, or any other physical
40 evidence that indicates that a person or regulated party may have violated
41 this chapter or a rule adopted pursuant to this chapter:

42 1. By entering the premises, at any reasonable time, and inspecting
43 and copying materials in the possession of a regulated party that relate
44 to nursing competence, unprofessional conduct or **THE** mental or physical
45 ability of a licensee to safely practice nursing.

1 2. By issuing a subpoena under the board's seal to require the
2 attendance and testimony of witnesses or to demand the production for
3 examination or copying of documents or any other physical evidence.
4 Within five days after a person is served with a subpoena, that person may
5 petition the board to revoke, limit or modify the subpoena. The board
6 shall do so if in its opinion the evidence required does not relate to
7 unlawful practices covered by this chapter, is not relevant to the charge
8 that is the subject matter of the hearing or investigation or does not
9 describe with sufficient particularity the physical evidence whose
10 production is required.

11 3. By submitting a written request for the information.

12 4. In the case of an applicant's or a regulated party's personal
13 medical records, as defined in section 12-2291, by any means ~~permitted~~
14 **ALLOWED** by this section if the board either:

15 (a) Obtains from the applicant or regulated party, or the health
16 care decision maker of the applicant or regulated party, a written
17 authorization that satisfies the requirements of title 12, chapter 13,
18 article 7.1.

19 (b) Reasonably believes that the records relate to information
20 already in the board's possession regarding the competence, unprofessional
21 conduct or mental or physical ability of the applicant or regulated party
22 as it pertains to safe practice. If the board adopts a substantive policy
23 statement pursuant to section 41-1091, it may authorize the executive
24 director, or a designee in the absence of the executive director, to make
25 the determination of reasonable belief.

26 B. A regulated party and a health care institution as defined in
27 section 36-401 shall, and any other person may, report to the board any
28 information the licensee, certificate holder, health care institution or
29 individual may have that appears to show that a regulated party or
30 applicant is, was or may be a threat to the public health or safety.

31 **C. IF A DEATH OR AN INCIDENT REQUIRING EMERGENCY MEDICAL RESPONSE**
32 **OCCURS IN A DENTAL OFFICE OR DENTAL CLINIC DURING THE ADMINISTRATION OF OR**
33 **RECOVERY FROM GENERAL ANESTHESIA OR SEDATION BY A CERTIFIED REGISTERED**
34 **NURSE ANESTHETIST, THE CERTIFIED REGISTERED NURSE ANESTHETIST SHALL, AND**
35 **ANY OTHER PERSON MAY, REPORT THE DEATH OR INCIDENT TO THE BOARD WITHIN**
36 **SEVEN BUSINESS DAYS AFTER THE OCCURRENCE.**

37 ~~C.~~ D. The board retains jurisdiction to proceed with an
38 investigation or a disciplinary proceeding against a regulated party whose
39 license or certificate expired not more than five years before the board
40 initiates the investigation.

41 ~~D.~~ E. Any regulated party, health care institution or other person
42 that reports or provides information to the board in good faith is not
43 subject to civil liability. If requested the board shall not disclose the
44 name of the reporter unless the information is essential to proceedings
45 conducted pursuant to this section.

1 ~~F.~~ F. Any regulated party or person who is subject to an
2 investigation may obtain representation by counsel.

3 ~~F.~~ G. On determination of reasonable cause, the board, or if
4 delegated by the board the executive director, may require a licensee,
5 certificate holder or applicant to undergo at the expense of the licensee,
6 certificate holder or applicant any combination of mental, physical or
7 psychological examinations, assessments or skills evaluations necessary to
8 determine the person's competence or ability to practice safely. These
9 examinations may include bodily fluid testing and other examinations known
10 to detect the presence of alcohol or drugs. If the executive director
11 orders the licensee, applicant or certificate holder to undertake an
12 examination, assessment or evaluation pursuant to this subsection, and the
13 licensee, certificate holder or applicant fails to affirm to the board in
14 writing within fifteen days after receipt of the notice of the order that
15 the licensee, certificate holder or applicant intends to comply with the
16 order, the executive director shall refer the matter to the board to
17 ~~permit~~ ALLOW the board to determine whether to issue an order pursuant to
18 this subsection. At each regular meeting of the board the executive
19 director shall report to the board data concerning orders issued by the
20 executive director pursuant to this subsection since the last regular
21 meeting of the board and any other data requested by the board.

22 ~~G.~~ H. The board shall provide the investigative report if
23 requested pursuant to section 32-3206.

24 ~~H.~~ I. If after completing its investigation the board finds that
25 the information provided pursuant to this section is not of sufficient
26 seriousness to merit disciplinary action against the regulated party or
27 applicant, it may take either of the following actions:

28 1. Dismiss if in the opinion of the board the information is
29 without merit.

30 2. File a letter of concern if in the opinion of the board there is
31 insufficient evidence to support disciplinary action against the regulated
32 party or applicant but sufficient evidence for the board to notify the
33 regulated party or applicant of its concern.

34 ~~I.~~ J. Except as provided pursuant to section 32-1663, subsection F
35 and subsection ~~J.~~ K of this section, if the investigation in the opinion
36 of the board reveals reasonable grounds to support the charge, the
37 regulated party is entitled to an administrative hearing pursuant to title
38 41, chapter 6, article 10. If notice of the hearing is served by
39 certified mail, service is complete on the date the notice is placed in
40 the mail.

41 ~~J.~~ K. A regulated party shall respond in writing to the board
42 within thirty days after notice of the hearing is served as prescribed in
43 subsection ~~I.~~ J of this section. The board may consider a regulated
44 party's failure to respond within this time as an admission by default to

1 the allegations stated in the complaint. The board may then take
2 disciplinary actions allowed by this chapter without conducting a hearing.

3 ~~K.~~ L. An administrative law judge or a panel of board members may
4 conduct hearings pursuant to this section.

5 ~~L.~~ M. In any matters pending before it, the board may issue
6 subpoenas under its seal to compel the attendance of witnesses.

7 ~~M.~~ N. Patient records, including clinical records, medical
8 reports, laboratory statements and reports, any file, film, other report
9 or oral statement relating to diagnostic findings or treatment of
10 patients, any information from which a patient or a patient's family might
11 be identified or information received and records kept by the board as a
12 result of the investigation procedure outlined in this chapter are not
13 available to the public and are not subject to discovery in civil or
14 criminal proceedings.

15 ~~N.~~ O. Hospital records, medical staff records, medical staff
16 review committee records, testimony concerning these records and
17 proceedings related to the creation of these records shall not be
18 available to the public. They shall be kept confidential by the board and
19 shall be subject to the same provisions concerning discovery and use in
20 legal actions as are the original records in the possession and control of
21 hospitals, their medical staffs and their medical staff review committees.
22 The board shall use these records and testimony during the course of
23 investigations and proceedings pursuant to this chapter.

24 ~~O.~~ P. If the regulated party is found to have committed an act of
25 unprofessional conduct or to have violated this chapter or a rule adopted
26 pursuant to this chapter, the board may take disciplinary action.

27 ~~P.~~ Q. The board may subsequently issue a denied license or
28 certificate and may reissue a revoked or voluntarily surrendered license
29 or certificate.

30 ~~Q.~~ R. On application by the board to any superior court judge, a
31 person who without just cause fails to comply with a subpoena issued
32 pursuant to this section may be ordered by the judge to comply with the
33 subpoena and punished by the court for failing to comply. Subpoenas shall
34 be served by regular or certified mail or in the manner required by the
35 Arizona rules of civil procedure.

36 ~~R.~~ S. The board may share investigative information that is
37 confidential under subsections ~~M.~~ N and ~~N.~~ O of this section with other
38 state, federal and international health care agencies and with state,
39 federal and international law enforcement authorities if the recipient is
40 subject to confidentiality requirements similar to those established by
41 this section. A disclosure made by the board pursuant to this subsection
42 is not a waiver of the confidentiality requirements established by this
43 section.

1 Sec. 8. Section 32-1803, Arizona Revised Statutes, is amended to
2 read:

3 32-1803. Powers and duties

4 A. The board shall:

5 1. Protect the public from unlawful, incompetent, unqualified,
6 impaired and unprofessional practitioners of osteopathic medicine.

7 2. Issue licenses, conduct hearings, place physicians on probation,
8 revoke or suspend licenses, enter into stipulated orders, issue letters of
9 concern or decrees of censure and administer and enforce this chapter.

10 3. Maintain a record of its acts and proceedings, including the
11 issuance, denial, renewal, suspension or revocation of licenses to
12 practice according to this chapter. The board shall delete records of
13 complaints only as follows:

14 (a) If the board dismisses a complaint, the board shall delete the
15 public record of the complaint five years after ~~it~~ THE BOARD dismissed the
16 complaint.

17 (b) If the board has issued a letter of concern but has taken no
18 further action on the complaint, the board shall delete the public record
19 of the complaint five years after ~~it~~ THE BOARD issued the letter of
20 concern.

21 (c) If the board has required additional continuing medical
22 education pursuant to section 32-1855 but has not taken further action,
23 the board shall delete the public record of the complaint five years after
24 the person satisfies this requirement.

25 4. Maintain a public directory of all ~~osteopathic~~ physicians and
26 surgeons who are or were licensed pursuant to this chapter that includes:

27 (a) The name of the physician.

28 (b) The physician's current or last known address of record.

29 (c) The date and number of the license issued to the physician
30 pursuant to this chapter.

31 (d) The date the license is scheduled to expire if not renewed or
32 the date the license expired or was revoked, suspended or canceled.

33 (e) Any disciplinary actions taken against the physician by the
34 board.

35 (f) Letters of concern, remedial continuing medical education
36 ordered and dismissals of complaints against the physician until deleted
37 from the public record pursuant to paragraph 3 of this subsection.

38 5. Adopt rules regarding the regulation, qualifications and
39 training of medical assistants. The training requirements for a medical
40 assistant may be satisfied through a training program that meets all of
41 the following:

42 (a) Is designed and offered by a physician.

43 (b) Meets or exceeds any of the approved training program
44 requirements specified in rule.

1 (c) Verifies the entry-level competencies of a medical assistant as
2 prescribed by rule.

3 (d) Provides written verification to the individual of successful
4 completion of the program.

5 6. Discipline and rehabilitate osteopathic physicians.

6 7. Determine whether a prospective or current Arizona licensed
7 physician has the training or experience to demonstrate the physician's
8 ability to treat and manage opiate-dependent patients as a qualifying
9 physician pursuant to 21 United States Code section 823(g)(2)(G)(ii).

10 8. ISSUE REGISTRATIONS TO ADMINISTER GENERAL ANESTHESIA AND
11 SEDATION IN DENTAL OFFICES AND DENTAL CLINICS PURSUANT TO SECTION 32-1272
12 TO PHYSICIANS WHO HAVE COMPLETED RESIDENCY TRAINING IN ANESTHESIOLOGY.

13 B. The public records of the board are open to inspection at all
14 times during office hours.

15 C. The board may:

16 1. Adopt rules necessary or proper to administer this chapter.

17 2. Appoint one of its members to the jurisdiction arbitration panel
18 pursuant to section 32-2907, subsection B.

19 3. Accept and spend federal monies and private grants, gifts,
20 contributions and devises. These monies do not revert to the state
21 general fund at the end of a fiscal year.

22 4. Develop and publish advisory opinions and standards governing
23 the profession.

24 D. The board shall adopt and use a seal, the imprint of which,
25 together with the signature of either the president, vice president or
26 executive director, is evidence of its official acts.

27 E. In conducting investigations pursuant to this chapter, the board
28 may receive and review confidential internal staff reports relating to
29 complaints and malpractice claims.

30 F. The board may make available to academic and research
31 organizations public records regarding statistical information on doctors
32 of osteopathic medicine and applicants for licensure.

33 Sec. 9. Title 32, chapter 17, article 3, Arizona Revised Statutes,
34 is amended by adding section 32-1855.02, to read:

35 32-1855.02. Physicians; duty to report

36 IF A DEATH OR AN INCIDENT REQUIRING EMERGENCY MEDICAL RESPONSE
37 OCCURS IN A DENTAL OFFICE OR DENTAL CLINIC DURING THE ADMINISTRATION OF OR
38 RECOVERY FROM GENERAL ANESTHESIA OR SEDATION BY A PHYSICIAN, THE PHYSICIAN
39 SHALL, AND ANY OTHER PERSON MAY, REPORT THE DEATH OR INCIDENT TO THE BOARD
40 WITHIN SEVEN BUSINESS DAYS AFTER THE OCCURRENCE.

41 Sec. 10. State board of dental examiners; anesthesia and
42 sedation committee; recommendations; rulemaking
43 exemption; delayed repeal

44 A. On or before September 1, 2023, the state board of dental
45 examiners' anesthesia and sedation committee shall submit to the state

1 board of dental examiners its final recommendations to improve the general
2 anesthesia and sedation permit requirements as provided in the state board
3 of dental examiners' existing administrative rules for the purpose of
4 increasing patient safety when general anesthesia or sedation is being
5 administered by an anesthesia provider within a dental practice or a
6 similar setting that is under the jurisdiction of the state board of
7 dental examiners. The committee shall consider ways to create equitable
8 access for all qualified anesthesia providers and improve access to dental
9 anesthesia services for patients. Within sixty days after receipt of the
10 anesthesia and sedation committee's final recommendations, the state board
11 of dental examiners shall approve, modify or reject the recommendations.

12 B. Notwithstanding any other law, for the purposes of this act and
13 to address general anesthesia and sedation permit requirements, the state
14 board of dental examiners is exempt from the rulemaking requirements of
15 title 41, chapter 6, Arizona Revised Statutes, for one year after the
16 effective date of this act.

17 C. This section is repealed from and after December 31, 2024.

18 Sec. 11. Emergency

19 This act is an emergency measure that is necessary to preserve the
20 public peace, health or safety and is operative immediately as provided by
21 law.