

Senate Engrossed

~~technical correction; home health agencies~~
(now: dentists; restricted permits; continuing education)

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1159

AN ACT

AMENDING SECTIONS 32-1201, 32-1231, 32-1232, 32-1237, 32-1238 AND 32-1239,
ARIZONA REVISED STATUTES; RELATING TO DENTISTRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1201, 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~~ \$2,000 for each violation of this chapter or
15 rules 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 20. "RECOGNIZED CONTINUING DENTAL EDUCATION" MEANS CONTINUING
32 DENTAL EDUCATION AS PRESCRIBED BY THE BOARD IN RULE.

33 ~~20.~~ 21. "Recognized dental hygiene school" means a school that has
34 a dental hygiene program with a minimum two academic year curriculum, or
35 the equivalent of four semesters, and that is approved by the board and
36 accredited by the American dental association commission on dental
37 accreditation.

38 ~~21.~~ 22. "Recognized dental school" means a dental school that is
39 accredited by the American dental association commission on dental
40 accreditation.

41 ~~22.~~ 23. "Recognized dental therapy school" means a school that is
42 accredited or that has received initial accreditation by the American
43 dental association commission on dental accreditation.

44 ~~23.~~ 24. "Recognized denturist school" means a denturist school
45 that maintains standards of entrance, study and graduation and that is

1 accredited by the United States department of education or the council on
2 higher education accreditation.

3 ~~24.~~ 25. "Supervised personnel" means all dental hygienists, dental
4 assistants, dental laboratory technicians, dental therapists, denturists,
5 dental x-ray laboratory technicians and other persons supervised by
6 licensed dentists.

7 ~~25.~~ 26. "Teledentistry" means the use of data transmitted through
8 interactive audio, video or data communications for the purposes of
9 examination, diagnosis, treatment planning, consultation and directing the
10 delivery of treatment by dentists and dental providers in settings
11 permissible under this chapter or specified in rules adopted by the board.

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

14 32-1231. Persons not required to be licensed

15 This chapter does not prohibit:

16 1. A dentist, dental therapist or dental hygienist who is
17 officially employed in the service of the United States from practicing
18 dentistry in the dentist's, dental therapist's or dental hygienist's
19 official capacity, within the scope of that person's authority, on persons
20 who are enlisted in, directly connected with or under the immediate
21 control of some branch of service of the United States.

22 2. A person, whether or not licensed by this state, from practicing
23 dental therapy either:

24 (a) In the discharge of official duties on behalf of the United
25 States government, including the United States department of veterans
26 affairs, the United States public health service and the Indian health
27 service.

28 (b) While employed by tribal health programs authorized pursuant to
29 Public Law 93-638 or urban Indian health programs.

30 3. An intern or student of dentistry, dental therapy or dental
31 hygiene from operating in the clinical departments or laboratories of a
32 recognized dental school, **RECOGNIZED** dental therapy school, **RECOGNIZED**
33 dental hygiene school or hospital under the supervision of a dentist.

34 4. An unlicensed person from performing for a licensed dentist
35 merely mechanical work on inert matter not within the oral cavity in the
36 construction, making, alteration or repairing of any artificial dental
37 substitute or any dental restorative or corrective appliance, if the casts
38 or impressions for that work have been furnished by a licensed dentist and
39 the work is directly supervised by the dentist for whom done or under a
40 written authorization signed by the dentist, but the burden of proving
41 that written authorization or direct supervision is on the person charged
42 with having violated this provision.

43 5. A clinician who is not licensed in this state from giving
44 demonstrations, before bona fide dental societies, study clubs and groups
45 of professional students, that are free to the persons on whom made.

1 6. The state director of dental public health from performing the
2 director's administrative duties as prescribed by law.

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

6 8. A dentist, dental therapist or dental hygienist from practicing
7 for educational purposes on behalf of a recognized dental school,
8 recognized dental therapy school or recognized dental hygiene school.

9 9. A DENTIST WHO HOLDS AN ACTIVE AND UNRESTRICTED LICENSE IN
10 ANOTHER STATE, TERRITORY OR POSSESSION OF THE UNITED STATES FROM
11 PRACTICING FOR EDUCATIONAL PURPOSES IN CONNECTION WITH RECOGNIZED
12 CONTINUING DENTAL EDUCATION. A DENTIST WHO PRACTICES UNDER THIS
13 PARAGRAPH:

14 (a) MAY NOT RECEIVE COMPENSATION FOR DENTAL SERVICES PROVIDED IN
15 CONNECTION WITH RECOGNIZED CONTINUING DENTAL EDUCATION.

16 (b) IS SUBJECT TO THE JURISDICTION AND DISCIPLINE OF THE BOARD TO
17 THE SAME EXTENT AS DENTISTS WHO ARE LICENSED IN THIS STATE.

18 (c) MAY NOT PROVIDE ANY DENTAL CARE OR SERVICES IN THIS STATE TO A
19 PERSON WHOSE PRIMARY RESIDENCE IS AN EMERGENCY SHELTER AS DEFINED IN
20 SECTION 46-241, AN INSTITUTION THAT PROVIDES A TEMPORARY RESIDENCE FOR
21 INDIVIDUALS INTENDED TO BE INSTITUTIONALIZED OR A PUBLIC OR PRIVATE PLACE
22 THAT IS NOT DESIGNED FOR, OR ORDINARILY USED AS A REGULAR SLEEPING
23 ACCOMMODATION FOR, HUMAN BEINGS. THIS SUBDIVISION DOES NOT PRECLUDE A
24 DENTIST WHO PRACTICES UNDER THIS PARAGRAPH FROM PROVIDING DENTAL CARE OR
25 SERVICES TO A PERSON WHO IS PARTICIPATING IN A LONG-TERM RECOVERY OR
26 REHABILITATIVE PROGRAM.

27 (d) SHALL FILE A RESTRICTED PERMIT APPLICATION ON A FORM APPROVED
28 BY THE BOARD WITH THE RECOGNIZED CONTINUING DENTAL EDUCATION BEFORE
29 PROVIDING ANY DENTAL CARE OR SERVICES IN THIS STATE. THE PROVIDER OF THE
30 RECOGNIZED CONTINUING DENTAL EDUCATION SHALL RETAIN THE DENTIST'S
31 RESTRICTED PERMIT APPLICATION FOR A PERIOD OF AT LEAST FIVE YEARS.

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

34 32-1232. Qualifications of applicant; application; fee;
35 fingerprint clearance card; exception

36 A. An applicant for licensure shall meet the requirements of
37 section 32-1233 and shall hold a diploma conferring a degree of doctor of
38 dental medicine or doctor of dental surgery from a recognized dental
39 school.

40 B. Each candidate shall submit a written application to the board
41 accompanied by a nonrefundable Arizona dental jurisprudence examination
42 fee of \$300. The board shall waive this fee for candidates who are
43 ~~holders of valid~~ APPLYING FOR A restricted ~~permits~~ PERMIT. Each candidate
44 shall also obtain a valid fingerprint clearance card issued pursuant to
45 section 41-1758.03. THE BOARD SHALL WAIVE THE FINGERPRINT CLEARANCE CARD

1 REQUIREMENT FOR RESTRICTED PERMIT APPLICANTS WHO WILL BE PRACTICING FOR
2 EDUCATIONAL PURPOSES IN CONNECTION WITH AND WHILE ENROLLED IN RECOGNIZED
3 CONTINUING DENTAL EDUCATION.

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

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

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

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

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

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

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

24 D. The board shall suspend an application for a license, for
25 license renewal or for a restricted permit if the applicant is currently
26 under investigation by a dental regulatory board in another jurisdiction.
27 The board shall not issue or deny a license to the applicant until the
28 investigation is resolved.

29 Sec. 4. Section 32-1237, Arizona Revised Statutes, is amended to
30 read:

31 32-1237. Restricted permit

32 A. A person may apply for a restricted permit if the applicant
33 demonstrates to the board's satisfaction that the applicant:

34 1. Has a pending contract with a recognized charitable dental
35 clinic or organization OR WILL BE PRACTICING FOR EDUCATIONAL PURPOSES IN
36 CONNECTION WITH AND WHILE ENROLLED IN RECOGNIZED CONTINUING DENTAL
37 EDUCATION that offers dental services without compensation or at a rate
38 that only reimburses the clinic for dental supplies and overhead costs and
39 the applicant will receive no compensation for dental services provided at
40 the clinic or organization OR IN CONNECTION WITH THE RECOGNIZED CONTINUING
41 DENTAL EDUCATION.

42 2. Has a license to practice dentistry issued by another state or
43 territory of the United States or the District of Columbia.

44 3. Has been actively engaged in one or more of the following for AT
45 LEAST three years immediately preceding the application:

- 1 (a) The practice of dentistry.
2 (b) An approved dental residency training program.
3 (c) Postgraduate training deemed by the board equivalent to an
4 approved dental residency training program.
5 4. Is competent and proficient to practice dentistry.
6 5. Meets the requirements of section 32-1232, subsection A, other
7 than the requirement to meet section 32-1233.

8 B. FOR THE PURPOSES OF MEETING THE REQUIREMENTS OF SUBSECTION A OF
9 THIS SECTION, THE PROVIDER OF THE RECOGNIZED CONTINUING DENTAL EDUCATION,
10 BEFORE THE COMMENCEMENT OF THE RECOGNIZED CONTINUING DENTAL EDUCATION,
11 SHALL NOTIFY THE BOARD OF THE RESTRICTED PERMIT APPLICANTS THE PROVIDER
12 HAS ACCEPTED THAT MEET THE REQUIREMENTS OF SECTION 32-1231, PARAGRAPH 9.
13 THE BOARD SHALL ACKNOWLEDGE RECEIPT OF THE NOTIFICATION WITHIN FIVE
14 BUSINESS DAYS.

15 Sec. 5. Section 32-1238, Arizona Revised Statutes, is amended to
16 read:

17 32-1238. Issuance of restricted permit

18 A. THE BOARD SHALL ISSUE A RESTRICTED PERMIT WITHIN THIRTY DAYS
19 AFTER THE DATE THE BOARD RECEIVES A COMPLETE APPLICATION THAT MEETS THE
20 REQUIREMENTS OF SECTION 32-1232, SUBSECTION B FROM AN APPLICANT THAT MEETS
21 THE REQUIREMENTS OF SECTION 32-1237.

22 B. A restricted permit may be issued by the board without
23 examination or payment of fee for a period not to exceed one year ~~or until~~
24 ~~June 30th, whichever is lesser,~~ and shall automatically expire at that
25 time. The board may, in its discretion and pursuant to rules or
26 regulations not inconsistent with this chapter, renew such restricted
27 permit for periods not to exceed one year.

28 C. FOR THE PURPOSES OF THIS SECTION, THE ACKNOWLEDGMENT FROM THE
29 BOARD PURSUANT TO SECTION 32-1237, SUBSECTION B SERVES AS THE ISSUANCE OF
30 A RESTRICTED PERMIT TO AN APPLICANT WHO WILL BE PRACTICING FOR EDUCATIONAL
31 PURPOSES IN CONNECTION WITH AND WHILE ENROLLED IN RECOGNIZED CONTINUING
32 DENTAL EDUCATION.

33 Sec. 6. Section 32-1239, Arizona Revised Statutes, is amended to
34 read:

35 32-1239. Practice under restricted permit

36 A person to whom a restricted permit is issued ~~shall be entitled to~~
37 MAY practice dentistry only in the course of ~~his~~ THE PERSON'S employment
38 by a recognized charitable dental clinic or organization OR FOR
39 EDUCATIONAL PURPOSES IN CONNECTION WITH AND WHILE ENROLLED IN RECOGNIZED
40 CONTINUING DENTAL EDUCATION as approved by the board. ~~; on the following~~
41 ~~conditions:~~

42 ~~1. He~~ THE PERSON shall file a copy of ~~his~~ THE PERSON'S employment
43 contract OR CONFIRMATION OF ENROLLMENT WITH RECOGNIZED CONTINUING DENTAL
44 EDUCATION with the board, and ~~such~~ THE contract OR CONFIRMATION shall
45 contain the following provisions:

1 ~~(a)~~ 1. ~~That~~ THE applicant understands and acknowledges that if ~~his~~
2 THE APPLICANT'S employment by the charitable dental clinic or organization
3 OR ENROLLMENT IN THE RECOGNIZED CONTINUING DENTAL EDUCATION is terminated
4 ~~prior to~~ BEFORE the expiration of ~~his~~ THE APPLICANT'S restricted permit,
5 ~~his~~ THE APPLICANT'S restricted permit will be automatically revoked and ~~he~~
6 THE APPLICANT will voluntarily surrender the permit to the board and will
7 no longer be eligible to practice unless or until ~~he~~ THE APPLICANT has
8 satisfied the requirements of section 32-1237 or has successfully passed
9 the examination as provided in this article.

10 ~~(b)~~ 2. ~~He shall~~ THE PERSON MUST be EITHER:

11 (a) Employed by a dental clinic or organization THAT IS organized
12 and operated for charitable purposes offering dental services without
13 compensation. The term "employed" as used in this subdivision ~~shall~~
14 ~~include~~ INCLUDES the performance of dental services without compensation.

15 (b) ENROLLED IN A RECOGNIZED CONTINUING DENTAL EDUCATION AND
16 PROVIDING CHARITABLE DENTAL SERVICES, FOR WHICH THE PERSON MAY NOT RECEIVE
17 ANY COMPENSATION, IN CONNECTION WITH RECOGNIZED CONTINUING DENTAL
18 EDUCATION WITH AN ORGANIZATION THAT IS EXEMPT FROM TAXATION PURSUANT TO
19 SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE.

20 ~~(c)~~ 3. ~~He shall be~~ THE PERSON IS subject to all the provisions of
21 this chapter applicable to licensed dentists AND TO THE JURISDICTION AND
22 DISCIPLINE OF THE BOARD FOR ALL DENTAL CARE AND SERVICES PROVIDED UNDER
23 THE RESTRICTED PERMIT.