

House Engrossed Senate Bill

~~dental board; access to records~~

(now: dental board; records; investigations; powers)

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 135
SENATE BILL 1240

AN ACT

AMENDING SECTIONS 32-1206, 32-1207, 32-1231, 32-1233, 32-1234, 32-1236, 32-1263.02, 32-1263.03, 32-1264, 32-1276.01, 32-1276.02, 32-1285, 32-1287, 32-1296 AND 32-1297.06, 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 32-1206, Arizona Revised Statutes, is amended to
3 read:

4 32-1206. Compensation of board members; investigation
5 committee members

6 A. Members of the board are entitled to receive compensation in the
7 amount of ~~two hundred fifty dollars~~ \$250 for each day actually spent in
8 performing necessary work authorized by the board and all expenses
9 necessarily and properly incurred while performing this work.

10 B. MEMBERS OF AN INVESTIGATION COMMITTEE ESTABLISHED BY THE BOARD
11 MAY RECEIVE COMPENSATION IN THE AMOUNT OF \$100 FOR EACH COMMITTEE MEETING.

12 Sec. 2. Section 32-1207, Arizona Revised Statutes, is amended to
13 read:

14 32-1207. Powers and duties; executive director; immunity;
15 fees; definitions

16 A. The board shall:

17 1. Adopt rules that are not inconsistent with this chapter for
18 regulating its own conduct, for holding examinations and for regulating
19 the practice of dentists and supervised personnel and registered business
20 entities, provided THAT:

21 (a) Regulation of supervised personnel is based on the degree of
22 education and training of the supervised personnel, the state of
23 scientific technology available and the necessary degree of supervision of
24 the supervised personnel by dentists.

25 (b) Except as provided pursuant to sections 32-1276.03 and 32-1281,
26 only licensed dentists may perform diagnosis and treatment planning,
27 prescribe medication and perform surgical procedures on hard and soft
28 tissues.

29 (c) Only a licensed dentist, a dental therapist either under the
30 direct supervision of a dentist or pursuant to a written collaborative
31 practice agreement or a dental hygienist in consultation with a dentist
32 may perform examinations, oral health assessments and treatment sequencing
33 for dental hygiene procedures.

34 2. Adopt a seal.

35 3. Maintain a record that is available to the board at all times of
36 its acts and proceedings, including the issuance, denial, renewal,
37 suspension or revocation of licenses and the disposition of complaints.
38 The existence of a pending complaint or investigation shall not be
39 disclosed to the public. Records of complaints shall be available to the
40 public, except only as follows:

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

43 (b) If the board has issued a nondisciplinary letter of concern,
44 the record of the complaint shall be available to the public only for a

1 period of five years after the date the board issued the letter of
2 concern.

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

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

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

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

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

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

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

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

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

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

41 12. Collect and disburse monies.

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

- 1 14. Establish criteria for the renewal of permits issued pursuant
2 to board rules relating to general anesthesia and sedation.
- 3 B. The board may:
- 4 1. Sue and be sued.
- 5 2. Issue subpoenas, including subpoenas to the custodian of patient
6 records, compel attendance of witnesses, administer oaths and take
7 testimony concerning all matters within the board's jurisdiction. If a
8 person refuses to obey a subpoena issued by the board, the refusal shall
9 be certified to the superior court and proceedings shall be instituted for
10 contempt of court.
- 11 3. Adopt rules:
- 12 (a) Prescribing requirements for continuing education for renewal
13 of all licenses issued pursuant to this chapter.
- 14 (b) Prescribing educational and experience prerequisites for ~~the~~
15 ~~administration of~~ ADMINISTERING intravenous or intramuscular drugs for the
16 purpose of sedation or for ~~use of~~ USING general anesthetics in conjunction
17 with a dental treatment procedure.
- 18 (c) Prescribing requirements for obtaining licenses for retired
19 licensees or licensees who have a disability, including the triennial
20 license renewal fee.
- 21 4. Hire consultants to assist the board in the performance of its
22 duties and employ persons to provide investigative, professional and
23 clerical assistance as the board deems necessary.
- 24 5. Contract with other state or federal agencies as required to
25 carry out the purposes of this chapter.
- 26 6. If determined by the board, order physical, psychological,
27 psychiatric and competency evaluations of licensed dentists, dental
28 therapists and dental hygienists, certified denturists and applicants for
29 licensure and certification at the expense of those individuals.
- 30 7. ESTABLISH AN INVESTIGATION COMMITTEE CONSISTING OF NOT MORE THAN
31 ELEVEN LICENSEES WHO ARE IN GOOD STANDING, WHO ARE APPOINTED BY THE BOARD
32 AND WHO SERVE AT THE PLEASURE OF THE BOARD TO INVESTIGATE ANY COMPLAINT
33 SUBMITTED TO THE BOARD, INITIATED BY THE BOARD OR DELEGATED BY THE BOARD
34 TO THE INVESTIGATION COMMITTEE PURSUANT TO THIS CHAPTER.
- 35 C. The executive director or the executive director's designee may:
- 36 1. Issue and renew licenses, certificates and permits to applicants
37 who meet the requirements of this chapter.
- 38 2. Initiate an investigation if evidence appears to demonstrate
39 that a dentist, dental therapist, dental hygienist, denturist or
40 restricted permit holder may be engaged in unprofessional conduct or may
41 be unable to safely practice dentistry.
- 42 3. Initiate an investigation if evidence appears to demonstrate
43 that a business entity may be engaged in unethical conduct.

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

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

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

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

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

13 E. The board by rule shall require that a licensee obtain a permit
14 for ~~the application of~~ APPLYING general anesthesia, semiconscious sedation
15 or conscious sedation, shall establish and collect a fee of not more than
16 ~~three hundred dollars~~ \$300 to cover administrative costs connected with
17 issuing the permit and shall conduct inspections to ensure compliance.

18 F. The board by rule may establish and collect fees for license
19 verification, board meeting agendas and minutes, published lists and
20 mailing labels.

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

23 H. For the purposes of this section: ~~—~~

24 1. "GOOD STANDING" MEANS THAT A PERSON HOLDS AN UNRESTRICTED AND
25 UNENCUMBERED LICENSE THAT HAS NOT BEEN SUSPENDED OR REVOKED PURSUANT TO
26 THIS CHAPTER.

27 2. "Record of complaint" means the document reflecting the final
28 disposition of a complaint or investigation.

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

31 32-1231. Persons not required to be licensed

32 This chapter does not prohibit:

33 1. A dentist, dental therapist or dental hygienist who is
34 officially employed in the service of the United States from practicing
35 dentistry in the dentist's, dental therapist's or dental hygienist's
36 official capacity, within the scope of that person's authority, on persons
37 who are enlisted in, directly connected with or under the immediate
38 control of some branch of service of the United States.

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

41 (a) In the discharge of official duties on behalf of the United
42 States government, including the United States department of veterans
43 affairs, the United States public health service and the Indian health
44 service.

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

3 3. An intern or student of dentistry, dental therapy or dental
4 hygiene from operating in the clinical departments or laboratories of a
5 recognized dental school, dental therapy school, dental hygiene school or
6 hospital under the supervision of a dentist.

7 4. An unlicensed person from performing for a licensed dentist
8 merely mechanical work on inert matter not within the oral cavity in the
9 construction, making, alteration or repairing of any artificial dental
10 substitute or any dental restorative or corrective appliance, if the casts
11 or impressions for that work have been furnished by a licensed dentist and
12 the work is directly supervised by the dentist for whom done or under a
13 written authorization signed by the dentist, but the burden of proving
14 that written authorization or direct supervision is on the person charged
15 with having violated this provision.

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

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

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

24 8. A dentist, dental therapist or dental hygienist ~~who is not~~
25 ~~practicing on the public at large~~ from practicing ~~in~~ FOR EDUCATIONAL
26 PURPOSES ON BEHALF OF a recognized dental school, recognized dental
27 therapy school or recognized dental hygiene school.

28 Sec. 4. Section 32-1233, Arizona Revised Statutes, is amended to
29 read:

30 32-1233. Applicants for licensure; examination requirements

31 A. An applicant for licensure shall have passed all of the
32 following:

33 1. The written national dental board examinations.

34 2. ~~The western regional examining board examination or~~ A clinical
35 examination administered by ~~another~~ A state or regional testing agency in
36 the United States within five years preceding filing the application.

37 3. The Arizona dental jurisprudence examination.

38 Sec. 5. Section 32-1234, Arizona Revised Statutes, is amended to
39 read:

40 32-1234. Dental consultant license

41 A. A person may apply for a dental consultant license if the
42 applicant demonstrates to the board's satisfaction that the applicant:

43 1. Has continuously held a license to practice dentistry for at
44 least twenty-five years issued by one or more states or territories of the

1 United States or the District of Columbia, but is not currently licensed
2 to practice dentistry in Arizona.

3 2. Is of good moral character.

4 3. Has not had a license to practice dentistry revoked by a dental
5 regulatory board in another jurisdiction in the United States for an act
6 that occurred in that jurisdiction and that constitutes unprofessional
7 conduct pursuant to this chapter.

8 4. Is not currently under suspension or restriction by a dental
9 regulatory board in another jurisdiction in the United States for an act
10 that occurred in that jurisdiction and that constitutes unprofessional
11 conduct pursuant to this chapter.

12 5. Has not surrendered, relinquished or given up a license to
13 practice dentistry in lieu of disciplinary action by a dental regulatory
14 board in another jurisdiction in the United States for an act that
15 occurred in that jurisdiction and that constitutes unprofessional conduct
16 pursuant to this chapter.

17 6. Meets the applicable requirements of section 32-1232.

18 7. Meets the requirements of section 32-1233, ~~paragraphs~~ PARAGRAPH
19 1 ~~and 3~~. If an applicant has taken a state written theory examination
20 instead of the written national dental board examinations, the applicant
21 must provide the board with official documentation of passing the written
22 theory examinations in the state where the applicant holds a current
23 license. The board shall then determine the applicant's eligibility for a
24 license pursuant to this section.

25 8. Meets the application requirements as prescribed in rule by the
26 board.

27 B. The board shall suspend an application for a dental consultant
28 license if the applicant is currently under investigation by a dental
29 regulatory board in another jurisdiction in the United States. The board
30 shall not issue or deny a license to the applicant until the investigation
31 is resolved.

32 C. A person to whom a dental consultant license is issued shall
33 practice dentistry only in the course of the person's employment or on
34 behalf of an entity licensed under title 20 with the practice limited to
35 supervising or conducting utilization review or other claims or case
36 management activity on behalf of the entity licensed pursuant to title 20.
37 A person who holds a dental consultant license is prohibited from
38 providing direct patient care.

39 D. This section ~~shall~~ DOES not ~~be deemed to~~ require a person to
40 apply for or hold a dental consultant license in order for that person to
41 serve as a consultant to or engage in claims review activity for an entity
42 licensed pursuant to title 20.

43 E. Except as provided in subsection B of this section, a dental
44 consultant licensee is subject to all of the provisions of this chapter
45 that are applicable to licensed dentists.

1 Sec. 6. Section 32-1236, Arizona Revised Statutes, is amended to
2 read:

3 32-1236. Dentist triennial licensure; continuing education;
4 license reinstatement; license for each place of
5 practice; notice of change of address or place of
6 practice; retired and disabled license status;
7 penalties

8 A. Except as provided in section 32-4301, a license expires thirty
9 days after the licensee's ~~birthday~~ BIRTH MONTH every third year. On or
10 before THE LAST DAY OF the licensee's ~~birthday~~ BIRTH MONTH every third
11 year, every licensed dentist shall submit to the board a complete renewal
12 application and pay a license renewal fee of not more than \$650,
13 established by a formal vote of the board. At least once every three
14 years, before establishing the fee, the board shall review the amount of
15 the fee in a public meeting. Any change in the amount of the fee shall be
16 applied prospectively to a licensee at the time of licensure renewal. The
17 fee prescribed by this subsection does not apply to a retired dentist or
18 to a dentist with a disability.

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

34 C. A person applying for licensure for the first time in this state
35 shall pay a prorated fee for the period remaining until the licensee's
36 next ~~birthday~~ BIRTH MONTH. This fee shall not exceed one-third of the fee
37 established pursuant to subsection A of this section. Subsequent
38 licensure renewal shall be conducted pursuant to this section.

39 D. An expired license may be reinstated by submitting a complete
40 renewal application within the twenty-four-month period immediately
41 following the expiration of the license with payment of the renewal fee
42 and a \$100 penalty. Whenever issued, reinstatement is as of the date of
43 application and entitles the applicant to licensure only for the remainder
44 of the applicable three-year period. If a person does not reinstate a

1 license pursuant to this subsection, the person must reapply for licensure
2 pursuant to this chapter.

3 E. Each licensee must provide to the board in writing both of the
4 following:

- 5 1. A primary mailing address.
- 6 2. The address for each place of practice.

7 F. A licensee maintaining more than one place of practice shall
8 obtain from the board a duplicate license for each office. A fee set by
9 the board shall be charged for each duplicate license. The licensee shall
10 notify the board in writing within ten days after opening the additional
11 place or places of practice. The board shall impose a penalty of \$50 for
12 failure to notify the board.

13 G. A licensee who is fully retired and a licensee who has a
14 permanent disability may contribute services to a recognized charitable
15 institution and still retain that classification for triennial
16 registration purposes on payment of a reduced renewal fee as prescribed by
17 the board by rule.

18 H. A licensee applying for retired or disabled status shall:

19 1. Relinquish any prescribing privileges and shall attest by
20 affidavit that the licensee has surrendered to the United States drug
21 enforcement administration any registration issued pursuant to the federal
22 controlled substances act and has surrendered to the board any
23 registration issued pursuant to section 36-2606.

24 2. If the licensee holds a permit to dispense drugs and devices
25 pursuant to section 32-1298, surrender that permit to the board.

26 3. Attest by affidavit that the licensee is not currently engaged
27 in the practice of dentistry.

28 I. A licensee who changes the licensee's primary mailing address or
29 place of practice address shall notify the board of that change in writing
30 within ten days. The board shall impose a penalty of \$50 if a licensee
31 fails to notify the board of the change within that time. The board shall
32 increase the penalty imposed to \$100 if a licensee fails to notify it of
33 the change within thirty days.

34 Sec. 7. Section 32-1263.02, Arizona Revised Statutes, is amended to
35 read:

36 32-1263.02. Investigation and adjudication of complaints:
37 disciplinary action; civil penalty; immunity;
38 subpoena authority; definitions

39 A. The board on its OWN motion, or the ~~executive director~~
40 INVESTIGATION COMMITTEE if ~~delegated~~ ESTABLISHED by the board, may
41 investigate any evidence that appears to show the existence of any of the
42 causes or grounds for disciplinary action as provided in section 32-1263.
43 The board OR INVESTIGATION COMMITTEE may investigate any complaint that
44 alleges the existence of any of the causes or grounds for disciplinary
45 action as provided in section 32-1263. The board shall not act on its own

1 motion or on a complaint received by the board if the allegation of
2 unprofessional conduct, unethical conduct or any other violation of this
3 chapter against a ~~professional who holds an Arizona license~~ LICENSEE
4 occurred more than four years before the complaint is received by the
5 board. The four-year time limitation does not apply to:

6 1. Medical malpractice settlements or judgments, allegations of
7 sexual misconduct or an incident or occurrence that involved a felony,
8 diversion of a controlled substance or impairment while practicing by the
9 licensee.

10 2. The board's consideration of the specific unprofessional conduct
11 related to the licensee's failure to disclose conduct or a violation as
12 required by law.

13 B. At the request of the complainant, the board OR INVESTIGATION
14 COMMITTEE shall not disclose to the respondent the complainant name unless
15 the information is essential to proceedings conducted pursuant to this
16 article.

17 C. The board or ~~its designees~~ INVESTIGATION COMMITTEE shall conduct
18 necessary investigations, including interviews between representatives of
19 the board OR INVESTIGATION COMMITTEE and the licensee with respect to any
20 information obtained by or filed with the board under subsection A of this
21 section OR OBTAINED BY THE BOARD OR INVESTIGATION COMMITTEE DURING THE
22 COURSE OF AN INVESTIGATION. The results of the investigation conducted by
23 ~~a designee~~ THE INVESTIGATION COMMITTEE, INCLUDING ANY RECOMMENDATIONS FROM
24 THE INVESTIGATION COMMITTEE FOR DISCIPLINARY ACTION AGAINST ANY LICENSEE,
25 shall be forwarded to the board for its review.

26 D. THE BOARD OR INVESTIGATION COMMITTEE MAY DESIGNATE ONE OR MORE
27 PERSONS OF APPROPRIATE COMPETENCE TO ASSIST THE BOARD OR INVESTIGATION
28 COMMITTEE WITH ANY ASPECT OF AN INVESTIGATION.

29 ~~D.~~ E. If, based on the information ~~it~~ THE BOARD receives under
30 subsection A OR C of this section, the board finds that the public health,
31 safety or welfare imperatively requires emergency action and incorporates
32 a finding to that effect in its order, the board may order a summary
33 suspension of ~~the respondent's~~ A LICENSEE'S license pursuant to section
34 41-1092.11 pending proceedings for revocation or other action.

35 ~~E.~~ F. If a complaint refers to quality of care, the patient may be
36 referred for a clinical evaluation at the discretion of the board OR THE
37 INVESTIGATION COMMITTEE.

38 ~~F.~~ G. If, after completing its investigation OR REVIEW PURSUANT TO
39 THIS SECTION, the board finds that the information provided pursuant to
40 subsection A OR C of this section is insufficient to merit disciplinary
41 action against ~~the~~ A licensee, the board may take any of the following
42 actions:

- 43 1. Dismiss the complaint.
- 44 2. Issue a nondisciplinary letter of concern to the licensee.

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

5 4. Assess a nondisciplinary civil penalty in an amount not to
6 exceed ~~five hundred dollars~~ \$500 if the complaint involves the licensee's
7 failure to respond to a board subpoena.

8 ~~G.~~ H. If, after completing its investigation **OR REVIEW PURSUANT TO**
9 **THIS SECTION**, the board finds that the information provided pursuant to
10 subsection A **OR C** of this section is sufficient to merit disciplinary
11 action against ~~the A~~ licensee, the board may request that the licensee
12 participate in a formal interview before the board. If the licensee
13 refuses or accepts the invitation for a formal interview and the results
14 indicate that grounds may exist for revocation or suspension, the board
15 shall issue a formal complaint and order that a hearing be held pursuant
16 to title 41, chapter 6, article 10. If, after completing a formal
17 interview, the board finds that the protection of the public requires
18 emergency action, it may order a summary suspension of the license
19 pursuant to section 41-1092.11 pending formal revocation proceedings or
20 other action authorized by this section.

21 ~~H.~~ I. If, after completing a formal interview, the board finds
22 that the information provided under subsection A **OR C** of this section is
23 insufficient to merit suspension or revocation of the license, it may take
24 any of the following actions:

25 1. Dismiss the complaint.

26 2. Order disciplinary action pursuant to section 32-1263.01,
27 subsection A.

28 3. Enter into a consent agreement with the licensee for
29 disciplinary action.

30 4. Order nondisciplinary continuing education pursuant to section
31 32-1263.01, subsection B.

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

33 ~~I.~~ J. A copy of the board's order issued pursuant to this section
34 shall be given to the complainant and to the licensee. Pursuant to title
35 41, chapter 6, article 10, the licensee may petition for rehearing or
36 review.

37 ~~J.~~ K. Any person who in good faith makes a report or complaint as
38 provided in this section to the board or to any person or committee acting
39 on behalf of the board is not subject to liability for civil damages as a
40 result of the report.

41 ~~K.~~ L. The board, through its president or the president's
42 designee, may issue subpoenas to compel the attendance of witnesses and
43 the production of documents and may administer oaths, take testimony and
44 receive exhibits in evidence in connection with an investigation initiated
45 by the board or a complaint filed with the board. In case of disobedience

1 to a subpoena, the board may invoke the aid of any court of this state in
2 requiring the attendance and testimony of witnesses and the production of
3 documentary evidence.

4 ~~T.~~ M. Patient records, including clinical records, medical
5 reports, laboratory statements and reports, files, films, reports or oral
6 statements relating to diagnostic findings or treatment of patients, any
7 information from which a patient or a patient's family may be identified
8 or information received and records kept by the board as a result of the
9 investigation procedures taken pursuant to this chapter, are not available
10 to the public.

11 ~~M.~~ N. The board may charge the costs of formal hearings conducted
12 pursuant to title 41, chapter 6, article 10 to a licensee it finds to be
13 in violation of this chapter.

14 ~~N.~~ O. The board may accept the surrender of an active license from
15 a licensee who is subject to a board investigation and who admits in
16 writing to any of the following:

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

20 ~~O.~~ P. In determining the appropriate disciplinary action under
21 this section, the board may consider any previous nondisciplinary and
22 disciplinary actions against a licensee.

23 ~~P.~~ Q. If a licensee who is currently providing dental services for
24 a registered business entity believes that the registered business entity
25 has engaged in unethical conduct as defined pursuant to section 32-1263,
26 subsection D, paragraph 16, the licensee must do both of the following
27 before filing a complaint with the board:

28 1. Notify the registered business entity in writing that the
29 licensee believes that the registered business entity has engaged in a
30 policy or practice that interferes with the clinical judgment of the
31 licensee or that compromises the licensee's ability to comply with the
32 requirements of this chapter. The licensee shall specify in the notice
33 the reasons for this belief.

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

37 ~~Q.~~ R. A licensee who files a complaint pursuant to subsection ~~P~~ Q
38 of this section shall provide the board with a copy of the licensee's
39 notification and the registered business entity's response, if any.

40 ~~R.~~ S. A registered business entity may not take any adverse
41 employment action against a licensee because the licensee complies with
42 the requirements of subsection ~~P~~ Q of this section.

43 ~~S.~~ T. For the purposes of this section:

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

1 2. "Licensee" means a dentist, dental therapist, dental hygienist,
2 dentist, dental consultant, restricted permit holder or business entity
3 regulated pursuant to this chapter.

4 Sec. 8. Section 32-1263.03, Arizona Revised Statutes, is amended to
5 read:

6 32-1263.03. Investigation committees; complaints;
7 termination; review

8 A. If ~~delegated~~ ESTABLISHED by the board, the ~~executive director,~~
9 ~~with the concurrence of the board's investigative staff,~~ INVESTIGATION
10 COMMITTEE may terminate a complaint if the ~~investigative staff's~~
11 INVESTIGATION COMMITTEE'S review indicates THAT the complaint is without
12 merit and that termination is appropriate.

13 B. The ~~executive director~~ INVESTIGATION COMMITTEE may not terminate
14 a complaint if a court has entered a medical malpractice judgment against
15 a ~~person licensed under this chapter~~ LICENSEE.

16 C. At each regularly scheduled board meeting, the ~~executive~~
17 ~~director~~ INVESTIGATION COMMITTEE shall provide to the board a list of each
18 complaint the ~~executive director~~ INVESTIGATION COMMITTEE terminated
19 pursuant to subsection A OF THIS SECTION since the preceding board
20 meeting. ON REVIEW, THE BOARD SHALL APPROVE, MODIFY OR REJECT THE
21 INVESTIGATION COMMITTEE'S ACTION.

22 D. A person who is aggrieved by an action taken by the ~~executive~~
23 ~~director~~ INVESTIGATION COMMITTEE pursuant to subsection A OF THIS SECTION
24 may file a written request that the board review that action. The request
25 must be filed within thirty days after that person is notified of the
26 ~~executive director's~~ INVESTIGATION COMMITTEE'S action by personal delivery
27 or, if the notification is mailed to that person's last known residence or
28 place of business, within thirty-five days after the date on the
29 notification. At the next regular board meeting, the board shall review
30 the ~~executive director's~~ INVESTIGATION COMMITTEE'S action. On review, the
31 board shall approve, modify or reject the ~~executive director's~~
32 INVESTIGATION COMMITTEE'S action.

33 Sec. 9. Section 32-1264, Arizona Revised Statutes, is amended to
34 read:

35 32-1264. Maintenance of records

36 A. A person who is licensed or certified pursuant to this chapter
37 shall make and maintain legible written records concerning all diagnoses,
38 evaluations and treatments of each patient of record. A licensee or
39 certificate holder shall maintain records that are stored or produced
40 electronically in retrievable paper form. These records shall include:

- 41 1. All treatment notes, including current health history and
42 clinical examinations.
- 43 2. Prescription and dispensing information, including all drugs,
44 medicaments and dental materials used for patient care.
- 45 3. Diagnosis and treatment planning.

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

5 5. All radiographs.

6 B. Records are available for review and for treatment purposes to
7 the dentist, dental therapist, dental hygienist or denturist providing
8 care.

9 C. On request, the licensee or certificate holder shall allow
10 properly authorized board personnel to have access to the licensee's or
11 certificate holder's place of practice to conduct an inspection and must
12 make the licensee's or certificate holder's records, books and documents
13 available to the board **FREE OF CHARGE** as part of an investigation process.

14 D. Within fifteen business days after a patient's written request,
15 that patient's dentist, dental therapist, dental hygienist or denturist or
16 a registered business entity shall transfer legible and diagnostic quality
17 copies of that patient's records to another licensee or certificate holder
18 or that patient. The patient may be charged for the reasonable costs of
19 copying and forwarding these records. A dentist, dental therapist, dental
20 hygienist, denturist or registered business entity may require that
21 payment of reproduction costs be made in advance, unless the records are
22 necessary for continuity of care, in which case the records shall not be
23 withheld. Copies of records shall not be withheld because of an unpaid
24 balance for dental services.

25 E. Unless otherwise required by law, a person who is licensed or
26 certified pursuant to this chapter or a business entity that is registered
27 pursuant to this chapter must retain the original or a copy of a patient's
28 dental records as follows:

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

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

35 Sec. 10. Section 32-1276.01, Arizona Revised Statutes, is amended
36 to read:

37 32-1276.01. Application for licensure; requirements;
38 fingerprint clearance card; denial or
39 suspension of application

40 A. An applicant for licensure as a dental therapist in this state
41 shall do all of the following:

42 1. Apply to the board on a form prescribed by the board.

43 2. Verify under oath that all statements in the application are
44 true to the applicant's knowledge.

- 1 3. Enclose with the application:
- 2 (a) A recent photograph of the applicant.
- 3 (b) The application fee established by the board by rule.
- 4 B. The board may grant a license to practice dental therapy to an
- 5 applicant who meets all of the following requirements:
- 6 1. Is licensed as a dental hygienist pursuant to article 4 of this
- 7 chapter.
- 8 2. Graduates from a dental therapy education program that is
- 9 accredited by or holds an initial accreditation from the American dental
- 10 association commission on dental accreditation and that is offered through
- 11 an accredited higher education institution recognized by the United States
- 12 department of education.
- 13 3. Successfully passes, both of the following:
- 14 (a) Within five years before filing the application, a clinical
- 15 examination ~~that is either:~~
- 16 ~~(i) The western regional examining board examination.~~
- 17 ~~(ii) An examination in dental therapy administered by another A~~
- 18 state or testing agency ~~that is substantially equivalent to the western~~
- 19 ~~regional examining board examination, as determined by the state board of~~
- 20 ~~dental examiners~~ IN THE UNITED STATES.
- 21 (b) The Arizona dental jurisprudence examination.
- 22 4. Is not subject to any grounds for denial of the application
- 23 under this chapter.
- 24 5. Obtains a valid fingerprint clearance card issued pursuant to
- 25 title 41, chapter 12, article 3.1.
- 26 6. Meets all requirements for licensure established by the board by
- 27 rule.
- 28 C. The board may deny an application for licensure or license
- 29 renewal if the applicant:
- 30 1. Has committed an act that would be cause for censure, probation
- 31 or suspension or revocation of a license under this chapter.
- 32 2. While unlicensed, committed or aided and abetted the commission
- 33 of an act for which a license is required by this chapter.
- 34 3. Knowingly made any false statement in the application.
- 35 4. Has had a license to practice dental therapy revoked by a
- 36 regulatory board in another jurisdiction in the United States for an act
- 37 that occurred in that jurisdiction and that constitutes unprofessional
- 38 conduct pursuant to this chapter.
- 39 5. Is currently suspended or restricted by a regulatory board in
- 40 another jurisdiction in the United States for an act that occurred in that
- 41 jurisdiction and that constitutes unprofessional conduct pursuant to this
- 42 chapter.
- 43 6. Has surrendered, relinquished or given up a license to practice
- 44 dental therapy instead of having disciplinary action taken against the
- 45 applicant by a regulatory board in another jurisdiction in the United

1 States for an act that occurred in that jurisdiction and that constitutes
2 unprofessional conduct pursuant to this chapter.

3 D. The board shall suspend an application for licensure if the
4 applicant is currently under investigation by a dental regulatory board in
5 another jurisdiction. The board shall not issue a license or deny an
6 application for licensure until the investigation is completed.

7 Sec. 11. Section 32-1276.02, Arizona Revised Statutes, is amended
8 to read:

9 32-1276.02. Dental therapist triennial licensure; continuing
10 education; license renewal and reinstatement;
11 fees; civil penalties; retired and disabled
12 license status

13 A. Except as provided in section 32-4301, a license issued under
14 this article expires thirty days after the licensee's ~~birthday~~ BIRTH MONTH
15 every third year. On or before THE LAST DAY OF the licensee's ~~birthday~~
16 BIRTH MONTH every third year, each licensed dental therapist shall submit
17 to the board a complete renewal application and pay a license renewal fee
18 established by a formal vote of the board. At least once every three
19 years, before establishing the fee, the board shall review the amount of
20 the fee in a public meeting. Any change in the amount of the fee shall be
21 applied prospectively to a licensee at the time of licensure renewal. The
22 fee prescribed by this subsection does not apply to a retired dental
23 therapist or to a dental therapist with a disability.

24 B. A licensee shall include a written affidavit with the renewal
25 application that affirms that the licensee complies with board rules
26 relating to continuing education requirements. A licensee is not required
27 to complete the written affidavit if the licensee received an initial
28 license within the year immediately preceding the expiration date of the
29 license or the licensee is in disabled status. If the licensee is not in
30 compliance with board rules relating to continuing education, the board
31 may grant an extension of time to complete these requirements if the
32 licensee includes a written request for an extension with the renewal
33 application instead of the written affidavit and the renewal application
34 is received on or before THE LAST DAY OF the licensee's ~~birthday~~ BIRTH
35 MONTH of the expiration year. The board shall consider the extension
36 request based on criteria prescribed by the board by rule. If the board
37 denies an extension request, the license expires thirty days after the
38 licensee's ~~birthday~~ BIRTH MONTH of the expiration year.

39 C. An applicant for a dental therapy license for the first time in
40 this state shall pay a prorated fee for the period remaining until the
41 licensee's next birthday. This fee may not exceed one-third of the fee
42 prescribed pursuant to subsection A of this section. Subsequent
43 applications shall be conducted pursuant to this section.

1 D. An expired license may be reinstated by submitting a complete
2 renewal application within the twenty-four-month period immediately
3 following the expiration of the license with payment of the renewal fee
4 and a \$100 penalty. When the license is issued, reinstatement is as of
5 the date of application and entitles the applicant to licensure only for
6 the remainder of the applicable three-year period. If a person does not
7 reinstate a license pursuant to this subsection, the person must reapply
8 for licensure pursuant to this article.

9 E. A licensee shall notify the board in writing within ten days
10 after the licensee changes the primary mailing address listed with the
11 board. The board shall impose a civil penalty of \$50 if a licensee fails
12 to notify the board of the change within that time. The board shall
13 increase the civil penalty to \$100 if a licensee fails to notify the board
14 of the change within thirty days.

15 F. A licensee who is at least sixty-five years of age and who is
16 fully retired and a licensee who has a permanent disability may contribute
17 services to a recognized charitable institution and still retain that
18 classification for triennial registration purposes by paying a reduced
19 renewal fee as prescribed by the board by rule.

20 G. A licensee is not required to maintain a dental hygienist
21 license.

22 Sec. 12. Section 32-1285, Arizona Revised Statutes, is amended to
23 read:

24 32-1285. Applicants for licensure; examination requirements

25 An applicant for licensure shall have passed all of the following:

- 26 1. The national dental hygiene board examination.
- 27 2. A clinical examination ~~that is completed~~ ADMINISTERED BY A STATE
28 OR REGIONAL TESTING AGENCY IN THE UNITED STATES within five years
29 preceding filing the application. ~~and that is either of the following:~~
30 ~~(a) The western regional examining board examination.~~
31 ~~(b) An examination administered by another state or testing agency~~
32 ~~that is substantially equivalent to the requirements of this state, as~~
33 ~~determined by the board.~~
- 34 3. The Arizona dental jurisprudence examination.

35 Sec. 13. Section 32-1287, Arizona Revised Statutes, is amended to
36 read:

37 32-1287. Dental hygienist triennial licensure; continuing
38 education; license reinstatement; notice of change
39 of address; penalties; retired and disabled
40 license status

41 A. Except as provided in section 32-4301, a license expires thirty
42 days after the licensee's ~~birthday~~ BIRTH MONTH every third year. On or
43 before THE LAST DAY OF the licensee's ~~birthday~~ BIRTH MONTH every third
44 year, every licensed dental hygienist shall submit to the board a complete
45 renewal application and pay a license renewal fee of not more than \$325,

1 established by a formal vote of the board. At least once every three
2 years, before establishing the fee, the board shall review the amount of
3 the fee in a public meeting. Any change in the amount of the fee shall be
4 applied prospectively to a licensee at the time of licensure renewal. The
5 fee prescribed by this section does not apply to a retired hygienist or a
6 hygienist with a disability.

7 B. A licensee shall include a written affidavit with the renewal
8 application that affirms that the licensee complies with board rules
9 relating to continuing education requirements. A licensee is not required
10 to complete the written affidavit if the licensee received an initial
11 license within the year immediately preceding the expiration date of the
12 license or the licensee is in disabled status. If the licensee is not in
13 compliance with board rules relating to continuing education, the board
14 may grant an extension of time to complete these requirements if the
15 licensee includes a written request for an extension with the renewal
16 application instead of the written affidavit and the renewal application
17 is received on or before **THE LAST DAY OF** the licensee's **birthday BIRTH**
18 **MONTH** of the expiration year. The board shall consider the extension
19 request based on criteria prescribed by the board by rule. If the board
20 denies an extension request, the license expires thirty days after the
21 licensee's **birthday BIRTH MONTH** of the expiration year.

22 C. A person applying for a license for the first time in this state
23 shall pay a prorated fee for the period remaining until the licensee's
24 next **birthday BIRTH MONTH**. This fee shall not exceed one-third of the fee
25 established pursuant to subsection A of this section. Subsequent
26 registrations shall be conducted pursuant to this section.

27 D. An expired license may be reinstated by submitting a complete
28 renewal application within the twenty-four-month period immediately
29 following the expiration of the license with payment of the renewal fee
30 and a \$100 penalty. Whenever issued, reinstatement is as of the date of
31 application and entitles the applicant to licensure only for the remainder
32 of the applicable three-year period. If a person does not reinstate a
33 license pursuant to this subsection, the person must reapply for licensure
34 pursuant to this chapter.

35 E. A licensee shall notify the board in writing within ten days
36 after the licensee changes the primary mailing address listed with the
37 board. The board shall impose a penalty of \$50 if a licensee fails to
38 notify the board of the change within that time. The board shall increase
39 the penalty imposed to \$100 if a licensee fails to notify it of the change
40 within thirty days.

41 F. A licensee who is over sixty-five years of age and who is fully
42 retired and a licensee who has a permanent disability may contribute
43 services to a recognized charitable institution and still retain that
44 classification for triennial registration purposes on payment of a reduced
45 renewal fee as prescribed by the board by rule.

1 consider the extension request based on criteria prescribed by the board
2 by rule. If the board denies an extension request, the certificate
3 expires thirty days after the certificate holder's ~~birthday~~ BIRTH MONTH of
4 the expiration year.

5 C. A person applying for a certificate for the first time in this
6 state shall pay a prorated fee for the period remaining until the
7 certificate holder's next ~~birthday~~ BIRTH MONTH. This fee shall not exceed
8 one-third of the fee established pursuant to subsection A of this section.
9 Subsequent certifications shall be conducted pursuant to this section.

10 D. An expired certificate may be reinstated by submitting a
11 complete renewal application within the twenty-four-month period
12 immediately following the expiration of the certificate with payment of
13 the renewal fee and a \$100 penalty. Whenever issued, reinstatement is as
14 of the date of application and entitles the applicant to certification
15 only for the remainder of the applicable three-year period. If a person
16 does not reinstate a certificate pursuant to this subsection, the person
17 must reapply for certification pursuant to this chapter.

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

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

22 F. A certificate holder maintaining more than one place of practice
23 shall obtain from the board a duplicate certificate for each office. The
24 board shall set and charge a fee for each duplicate certificate. A
25 certificate holder shall notify the board in writing within ten days after
26 opening an additional place of practice.

27 G. A certificate holder shall notify the board in writing within
28 ten days after changing a primary mailing address or place of practice
29 address listed with the board. The board shall impose a \$50 penalty if a
30 certificate holder fails to notify the board of the change within that
31 time. The board shall increase the penalty imposed to \$100 if a
32 certificate holder fails to notify it of the change within thirty days.

APPROVED BY THE GOVERNOR APRIL 13, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2022.