

REFERENCE TITLE: dental board; rules; assistance; repeal

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2036**

Introduced by  
Representative Bliss

AN ACT

AMENDING SECTIONS 32-1201.01, 32-1213, 32-1282 AND 32-1295, ARIZONA  
REVISED STATUTES; RELATING TO THE STATE BOARD OF DENTAL EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1201.01, Arizona Revised Statutes, is amended  
3 to read:

4 32-1201.01. Definition of unprofessional conduct

5 For the purposes of this chapter, "unprofessional conduct" means the  
6 following acts, whether occurring in this state or elsewhere:

7 1. Intentionally betraying a professional confidence or  
8 intentionally violating a privileged communication except as either of  
9 these may otherwise be required by law. This paragraph does not prevent  
10 members of the board from the full and free exchange of information with  
11 the licensing and disciplinary boards of other states, territories or  
12 districts of the United States or foreign countries, with the Arizona  
13 state dental association or any of its component societies or with the  
14 dental societies of other states, counties, districts, territories or  
15 foreign countries.

16 2. Using controlled substances as defined in section 36-2501,  
17 narcotic drugs, dangerous drugs or marijuana as defined in section  
18 13-3401, or hypnotic drugs, including acetylurea derivatives, barbituric  
19 acid derivatives, chloral, paraldehyde, phenylhydantoin derivatives,  
20 sulfonmethane derivatives or any compounds, mixtures or preparations that  
21 may be used for producing hypnotic effects, or alcohol to the extent that  
22 it affects the ability of the dentist, dental therapist, denturist or  
23 dental hygienist to practice that person's profession.

24 3. Prescribing, dispensing or using drugs for other than accepted  
25 dental therapeutic purposes or for other than medically indicated  
26 supportive therapy in conjunction with managing a patient's needs and in  
27 conjunction with the scope of practice prescribed in section 32-1202.

28 4. Committing gross malpractice or repeated acts constituting  
29 malpractice.

30 5. Acting or assuming to act as a member of the board if this is  
31 not true.

32 6. Procuring or attempting to procure a certificate of the national  
33 board of dental examiners or a license to practice dentistry or dental  
34 hygiene by fraud or misrepresentation or by knowingly taking advantage of  
35 the mistake of another.

36 7. Having professional connection with or lending one's name to an  
37 illegal practitioner of dentistry or any of the other healing arts.

38 8. Representing that a manifestly not correctable condition,  
39 disease, injury, ailment or infirmity can be permanently corrected, or  
40 that a correctable condition, disease, injury, ailment or infirmity can be  
41 corrected within a stated time, if this is not true.

42 9. Offering, undertaking or agreeing to correct, cure or treat a  
43 condition, disease, injury, ailment or infirmity by a secret means,  
44 method, device or instrumentality.

- 1           10. Refusing to divulge to the board, on reasonable notice and  
2 demand, the means, method, device or instrumentality used in treating a  
3 condition, disease, injury, ailment or infirmity.
- 4           11. Dividing a professional fee or offering, providing or receiving  
5 any consideration for patient referrals among or between dental care  
6 providers or dental care institutions or entities. This paragraph does  
7 not prohibit the division of fees among licensees who are engaged in a  
8 bona fide employment, partnership, corporate or contractual relationship  
9 for the delivery of professional services.
- 10          12. Knowingly making any false or fraudulent statement, written or  
11 oral, in connection with the practice of dentistry.
- 12          13. Having a license refused, revoked or suspended or any other  
13 disciplinary action taken against a dentist by, or voluntarily  
14 surrendering a license in lieu of disciplinary action to, any other state,  
15 territory, district or country, unless the board finds that this action  
16 was not taken for reasons that relate to the person's ability to safely  
17 and skillfully practice dentistry or to any act of unprofessional conduct.
- 18          14. Committing any conduct or practice that constitutes a danger to  
19 the health, welfare or safety of the patient or the public.
- 20          15. Obtaining a fee by fraud or misrepresentation, or wilfully or  
21 intentionally filing a fraudulent claim with a third party for services  
22 rendered or to be rendered to a patient.
- 23          16. Committing repeated irregularities in billing.
- 24          17. Employing unlicensed persons to perform or aiding and abetting  
25 unlicensed persons in performing work that can be done legally only by  
26 licensed persons.
- 27          18. Practicing dentistry under a false or assumed name in this  
28 state, other than as allowed by section 32-1262.
- 29          19. Wilfully or intentionally causing or allowing supervised  
30 personnel or auxiliary personnel operating under the licensee's  
31 supervision to commit illegal acts or perform an act or operation other  
32 than that allowed under article 4 of this chapter ~~and rules adopted by the~~  
33 ~~board pursuant to section 32-1282.~~
- 34          20. Committing the following advertising practices:  
35           (a) Publishing or circulating, directly or indirectly, any false,  
36 fraudulent or misleading statements concerning the skill, methods or  
37 practices of the licensee or of any other person.  
38           (b) Advertising in any manner that tends to deceive or defraud the  
39 public.
- 40          21. Failing to dispense drugs and devices in compliance with  
41 article 6 of this chapter.
- 42          22. Failing to comply with a board order, including an order of  
43 censure or probation.
- 44          23. Failing to comply with a board subpoena in a timely manner.
- 45          24. Failing or refusing to maintain adequate patient records.

1           25. Failing to allow properly authorized board personnel, on  
2 demand, to inspect the place of practice and examine and have access to  
3 documents, books, reports and records maintained by the licensee or  
4 certificate holder that relate to the dental practice or dental-related  
5 activity.

6           26. Refusing to submit to a body fluid examination as required  
7 through a monitored treatment program or pursuant to a board investigation  
8 into a licensee's or certificate holder's alleged substance abuse.

9           27. Failing to inform a patient of the type of material the dentist  
10 will use in the patient's dental filling and the reason why the dentist is  
11 using that particular filling.

12           28. Failing to report in writing to the board any evidence that a  
13 dentist, dental therapist, denturist or dental hygienist is or may be:

14           (a) Professionally incompetent.

15           (b) Engaging in unprofessional conduct.

16           (c) Impaired by drugs or alcohol.

17           (d) Mentally or physically unable to safely engage in the  
18 activities of a dentist, dental therapist, denturist or dental hygienist  
19 pursuant to this chapter.

20           29. Filing a false report pursuant to paragraph 28 of this section.

21           30. Practicing dentistry, dental therapy, dental hygiene or  
22 denturism in a business entity that is not registered with the board as  
23 required by section 32-1213.

24           31. Dispensing a schedule II controlled substance that is an  
25 opioid.

26           32. Providing services or procedures as a dental therapist that  
27 exceed the scope of practice or exceed the services or procedures  
28 authorized in the written collaborative practice agreement.

29           Sec. 2. Section 32-1213, Arizona Revised Statutes, is amended to  
30 read:

31           32-1213. Business entities; registration; renewal; civil  
32                 penalty; exceptions

33           A. A business entity may not offer dental services pursuant to this  
34 chapter unless:

35           1. The entity is registered with the board pursuant to this  
36 section.

37           2. The services are conducted by a licensee pursuant to this  
38 chapter.

39           B. The business entity must file a registration application on a  
40 form provided by the board. The application must include:

41           1. A description of the entity's services offered to the public.

42           2. The name of any dentist who is authorized to provide and who is  
43 responsible for providing the dental services offered at each office.

44           3. The names and addresses of the officers and directors of the  
45 business entity.

- 1           4. A registration fee prescribed by the board in rule.  
2           C. A business entity must file a separate registration application  
3 and pay a fee for each branch office in this state.  
4           D. A registration expires three years after the date the board  
5 issues the registration. A business entity that wishes to renew a  
6 registration must submit an application for renewal as prescribed by the  
7 board on a triennial basis on a form provided by the board before the  
8 expiration date. An entity that fails to renew the registration before  
9 the expiration date is subject to a late fee as prescribed by the board by  
10 rule. The board may stagger the dates for renewal applications.  
11          E. The business entity must notify the board in writing within  
12 thirty days after any change:  
13           1. In the entity's name, address or telephone number.  
14           2. In the officers or directors of the business entity.  
15           3. In the name of any dentist who is authorized to provide and who  
16 is responsible for providing the dental services in any facility.  
17          F. The business entity shall establish a written protocol for the  
18 secure storage, transfer and access of the dental records of the business  
19 entity's patients. This protocol must include, at a minimum, procedures  
20 for:  
21           1. Notifying patients of the future locations of their records if  
22 the business entity terminates or sells the practice.  
23           2. Disposing of unclaimed dental records.  
24           3. The timely response to requests by patients for copies of their  
25 records.  
26          G. The business entity must notify the board within thirty days  
27 after the dissolution of any registered business entity or the closing or  
28 relocation of any facility and must disclose to the board the entity's  
29 procedure by which its patients may obtain their records.  
30          H. The board may do any of the following pursuant to its  
31 disciplinary procedures if an entity violates the board's statutes or  
32 rules:  
33           1. Refuse to issue a registration.  
34           2. Suspend or revoke a registration.  
35           3. Impose a civil penalty of not more than \$2,000 for each  
36 violation.  
37           4. Enter a decree of censure.  
38           5. Issue an order prescribing a period and terms of probation that  
39 are best adapted to protect the public welfare and that may include a  
40 requirement for restitution to a patient for a violation of this chapter  
41 or rules adopted pursuant to this chapter.  
42           6. Issue a letter of concern if a business entity's actions may  
43 cause the board to take disciplinary action.

1 I. The board shall deposit, pursuant to sections 35-146 and 35-147,  
2 civil penalties collected pursuant to this section in the state general  
3 fund.

4 J. This section does not apply to:

5 1. A sole proprietorship or partnership that consists exclusively  
6 of dentists who are licensed pursuant to this chapter.

7 2. Any of the following entities licensed under title 20:

8 (a) A service corporation.

9 (b) An insurer authorized to transact disability insurance.

10 (c) A prepaid dental plan organization that does not provide  
11 directly for prepaid dental services.

12 (d) A health care services organization that does not provide  
13 directly for dental services.

14 3. A professional corporation or professional limited liability  
15 company, the shares of which are exclusively owned by dentists who are  
16 licensed pursuant to this chapter and that is formed to engage in the  
17 practice of dentistry pursuant to title 10, chapter 20 or title 29  
18 relating to professional limited liability companies.

19 4. A facility regulated by the federal government or a state,  
20 district or territory of the United States.

21 5. An administrator or executor of the estate of a deceased dentist  
22 or a person who is legally authorized to act for a dentist who has been  
23 adjudicated to be mentally incompetent for not more than one year after  
24 the date the board receives notice of the dentist's death or  
25 incapacitation pursuant to section 32-1270.

26 K. A facility that offers dental services to the public by persons  
27 licensed under this chapter shall be registered by the board unless the  
28 facility is any of the following:

29 1. Owned by a dentist who is licensed pursuant to this chapter.

30 2. Regulated by the federal government or a state, district or  
31 territory of the United States.

32 L. Except for issues relating to insurance coding and billing that  
33 require the name, signature and license number of the dentist providing  
34 treatment, this section does not:

35 1. Authorize a licensee in the course of providing dental services  
36 for an entity registered pursuant to this section to disregard or  
37 interfere with a policy or practice established by the entity for the  
38 operation and management of the business.

39 2. Authorize an entity registered pursuant to this section to  
40 establish or enforce a business policy or practice that may interfere with  
41 the clinical judgment of the licensee in providing dental services for the  
42 entity or may compromise a licensee's ability to comply with this chapter.

1 ~~M. The board shall adopt rules that provide a method for the board~~  
2 ~~to receive the assistance and advice of business entities licensed~~  
3 ~~pursuant to this chapter in all matters relating to the regulation of~~  
4 ~~business entities.~~

5 ~~N.~~ M. An individual currently holding a surrendered or revoked  
6 license to practice dentistry or dental hygiene in any state or  
7 jurisdiction in the United States may not have a majority ownership  
8 interest in the business entity registered pursuant to this section.  
9 Revocation and surrender of licensure shall be limited to disciplinary  
10 actions resulting in loss of license or surrender of license instead of  
11 disciplinary action. Dentists or dental hygienists affected by this  
12 subsection shall have one year after the surrender or revocation to divest  
13 themselves of their ownership interest. This subsection does not apply to  
14 publicly held companies. For the purposes of this subsection, "majority  
15 ownership interest" means an ownership interest greater than fifty  
16 percent.

17 Sec. 3. Section 32-1282, Arizona Revised Statutes, is amended to  
18 read:

19 32-1282. Administration and enforcement

20 ~~A. So far~~ As applicable, the board shall have the same powers and  
21 duties in administering and enforcing this article that it has under  
22 section 32-1207 in administering and enforcing articles 1, 2 and 3 of this  
23 chapter.

24 ~~B. The board shall adopt rules that provide a method for the board~~  
25 ~~to receive the assistance and advice of dental hygienists licensed~~  
26 ~~pursuant to this chapter in all matters relating to the regulation of~~  
27 ~~dental hygienists.~~

28 Sec. 4. Section 32-1295, Arizona Revised Statutes, is amended to  
29 read:

30 32-1295. Board of dental examiners; additional powers and  
31 duties

32 A. In addition to other powers and duties prescribed by this  
33 chapter, the board shall:

34 1. As ~~far as~~ applicable, exercise the same powers and duties in  
35 administering and enforcing this article as it exercises under section  
36 32-1207 in administering and enforcing other articles of this chapter.

37 2. Determine the eligibility of applicants for certification and  
38 issue certificates to applicants who it determines are qualified for  
39 certification.

40 3. Investigate charges of misconduct on the part of certified  
41 denturists.

42 4. Issue decrees of censure, fix periods and terms of probation,  
43 suspend or revoke certificates as the facts may warrant and reinstate  
44 certificates in proper cases.

1 B. The board may:

2 1. Adopt rules prescribing requirements for continuing education  
3 for renewal of all certificates issued pursuant to this article.

4 2. Hire consultants to assist the board in ~~the performance of~~  
5 **PERFORMING** its duties.

6 ~~C. In all matters relating to discipline and certifying of~~  
7 ~~denturists and the approval of examinations, the board, by rule, shall~~  
8 ~~provide for receiving the assistance and advice of denturists who have~~  
9 ~~been previously certified pursuant to this chapter.~~