House Engrossed Senate Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

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Fifty-second Legislature
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2015

CHAPTER 196

SENATE BILL 1282

AN ACT

AMENDING SECTION 32-1201, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1201.01; AMENDING SECTIONS 32-1263, 32-1281 AND 32-1289, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 11, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-1289.01 AND 32-1291.01; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 36.1; RELATING TO DENTAL SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-1201, Arizona Revised Statutes, is amended to read:

32-1201. Definitions

In this chapter, unless the context otherwise requires:

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

2. "Board" means the state board of dental examiners.

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

4. "Dental assistant" means any person who acts as an assistant to a dentist or a dental hygienist by rendering personal services to a patient that involve close proximity to the patient while the patient is under treatment or observation or undergoing diagnostic procedures.

5. "Dental hygienist" means any person licensed and engaged in the general practice of dental hygiene and all related and associated duties, including educational, clinical and therapeutic dental hygiene procedures.

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

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

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

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

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

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

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

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

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

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

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

(a) Charges for services not rendered.

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

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

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

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

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

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

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

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

15. "Place of practice" means each physical location at which a person licensed pursuant to this chapter performs services subject to this chapter.

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

17. "Recognized dental hygiene school" means a school that has a dental hygiene program with a minimum two academic year curriculum, or the equivalent of four semesters, and that is approved by the board and accredited by the American dental association commission on dental accreditation.

18. "Recognized dental school" means a dental school accredited by the American dental association commission on dental accreditation.

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

20. "Supervised personnel" means all dental hygienists, dental assistants, dental laboratory technicians, denturists, dental x-ray laboratory technicians and other persons supervised by licensed dentists.

~~21. "Unprofessional conduct" means the following acts, whether occurring in this state or elsewhere:~~

~~(a) Intentional betrayal of a professional confidence or intentional violation of a privileged communication except as either of these may otherwise be required by law. This subdivision does not prevent members of the board from the full and free exchange of information with the licensing and disciplinary boards of other states, territories or districts of the United States or foreign countries, with the Arizona state dental association or any of its component societies or with the dental societies of other states, counties, districts, territories or foreign countries.~~

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

~~(c) Prescribing, dispensing or using drugs for other than accepted dental therapeutic purposes or for other than medically indicated supportive therapy in conjunction with managing a patient's dental needs.~~

~~(d) Gross malpractice, or repeated acts constituting malpractice.~~

~~(e) Acting or assuming to act as a member of the board if this is not true.~~

~~(f) Procuring or attempting to procure a certificate of the national board of dental examiners or a license to practice dentistry or dental hygiene by fraud or misrepresentation or by knowingly taking advantage of the mistake of another.~~

~~(g) Having professional connection with or lending one's name to an illegal practitioner of dentistry or any of the other healing arts.~~

~~(h) Representing that a manifestly not correctable condition, disease, injury, ailment or infirmity can be permanently corrected, or that a correctable condition, disease, injury, ailment or infirmity can be corrected within a stated time, if this is not true.~~

~~(i) Offering, undertaking or agreeing to correct, cure or treat a condition, disease, injury, ailment or infirmity by a secret means, method, device or instrumentality.~~

~~(j) Refusing to divulge to the board, on reasonable notice and demand, the means, method, device or instrumentality used in the treatment of a condition, disease, injury, ailment or infirmity.~~

~~(k) Dividing a professional fee or receiving any consideration for patient referrals among or between dental care providers or dental care institutions or entities. This subdivision does not prohibit the division of fees among licensees who are engaged in a bona fide employment, partnership, corporate or contractual relationship for the delivery of professional services.~~

~~(l) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of dentistry.~~

~~(m) Refusal, revocation or suspension of a license or any other disciplinary action taken against a dentist by, or the voluntary surrender of a license in lieu of disciplinary action to, any other state, territory, district or country, unless the board finds that this action was not taken for reasons that relate to the person's ability to safely and skillfully practice dentistry or to any act of unprofessional conduct.~~

~~(n) Any conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public.~~

~~(o) Obtaining a fee by fraud or misrepresentation, or wilfully or intentionally filing a fraudulent claim with a third party for services rendered or to be rendered to a patient.~~

~~(p) Repeated irregularities in billing.~~

~~(q) Employing unlicensed persons to perform or aiding and abetting unlicensed persons in the performance of work that can be done legally only by licensed persons.~~

~~(r) Practicing dentistry under a false or assumed name in this state, other than as allowed by section 32-1262.~~

~~(s) Wilfully or intentionally causing or permitting supervised personnel or auxiliary personnel operating under the licensee's supervision to commit illegal acts or perform an act or operation other than that permitted under article 4 of this chapter and rules adopted by the board pursuant to section 32-1282.~~

~~(t) The following advertising practices:~~

~~(i) The publication or circulation, directly or indirectly, of any false, fraudulent or misleading statements concerning the skill, methods or practices of the licensee or of any other person.~~

~~(ii) Advertising in any manner that tends to deceive or defraud the public.~~

~~(u) Failing to dispense drugs and devices in compliance with article 6 of this chapter.~~

~~(v) Failing to comply with a final board order, including an order of censure or probation.~~

~~(w) Failing to comply with a board subpoena in a timely manner.~~

~~(x) Failing or refusing to maintain adequate patient records.~~

~~(y) Failing to allow properly authorized board personnel, on demand, to inspect the place of practice and examine and have access to documents, books, reports and records maintained by the licensee or certificate holder that relate to the dental practice or dentally related activity.~~

~~(z) Refusing to submit to a body fluid examination as required through a monitored treatment program or pursuant to a board investigation into a licensee's or certificate holder's alleged substance abuse.~~

~~(aa) Failing to inform a patient of the type of material the dentist will use in the patient's dental filling and the reason why the dentist is using that particular filling.~~

~~(bb) Failing to report in writing to the board any evidence that a dentist, denturist or dental hygienist is or may be:~~

~~(i) Professionally incompetent.~~

~~(ii) Engaging in unprofessional conduct.~~

~~(iii) Impaired by drugs or alcohol.~~

~~(iv) Mentally or physically unable to safely engage in the activities of a dentist, denturist or dental hygienist pursuant to this chapter.~~

~~(cc) Filing a false report pursuant to subdivision (bb) of this paragraph.~~

~~(dd) Practicing dentistry, dental hygiene or denturism in a business entity that is not registered with the board as required by section 32-1213.~~

21. "TELEDENTISTRY" MEANS THE USE OF DATA TRANSMITTED THROUGH INTERACTIVE AUDIO, VIDEO OR DATA COMMUNICATIONS FOR THE PURPOSES OF DIAGNOSIS, TREATMENT PLANNING, CONSULTATION AND DIRECTING THE DELIVERY OF TREATMENT BY DENTISTS AND DENTAL PROVIDERS IN SETTINGS PERMISSIBLE UNDER THIS CHAPTER OR SPECIFIED IN RULES ADOPTED BY THE BOARD.

Sec. 2. Title 32, chapter 11, article 1, Arizona Revised Statutes, is amended by adding section 32-1201.01, to read:

32-1201.01. Definition of unprofessional conduct

FOR THE PURPOSES OF THIS CHAPTER, "UNPROFESSIONAL CONDUCT" MEANS THE FOLLOWING ACTS, WHETHER OCCURRING IN THIS STATE OR ELSEWHERE:

1. INTENTIONAL BETRAYAL OF A PROFESSIONAL CONFIDENCE OR INTENTIONAL VIOLATION OF A PRIVILEGED COMMUNICATION EXCEPT AS EITHER OF THESE MAY OTHERWISE BE REQUIRED BY LAW. THIS PARAGRAPH DOES NOT PREVENT MEMBERS OF THE

BOARD FROM THE FULL AND FREE EXCHANGE OF INFORMATION WITH THE LICENSING AND DISCIPLINARY BOARDS OF OTHER STATES, TERRITORIES OR DISTRICTS OF THE UNITED STATES OR FOREIGN COUNTRIES, WITH THE ARIZONA STATE DENTAL ASSOCIATION OR ANY OF ITS COMPONENT SOCIETIES OR WITH THE DENTAL SOCIETIES OF OTHER STATES, COUNTIES, DISTRICTS, TERRITORIES OR FOREIGN COUNTRIES.

2. USING CONTROLLED SUBSTANCES AS DEFINED IN SECTION 36-2501, NARCOTIC DRUGS, DANGEROUS DRUGS OR MARIJUANA AS DEFINED IN SECTION 13-3401, OR HYPNOTIC DRUGS, INCLUDING ACETYLUREA DERIVATIVES, BARBITURIC ACID DERIVATIVES, CHLORAL, PARALDEHYDE, PHENYLHYDANTOIN DERIVATIVES, SULFONMETHANE DERIVATIVES OR ANY COMPOUNDS, MIXTURES OR PREPARATIONS THAT MAY BE USED FOR PRODUCING HYPNOTIC EFFECTS, OR ALCOHOL TO THE EXTENT THAT IT AFFECTS THE ABILITY OF THE DENTIST, DENTURIST OR DENTAL HYGIENIST TO PRACTICE THAT PERSON'S PROFESSION.

3. PRESCRIBING, DISPENSING OR USING DRUGS FOR OTHER THAN ACCEPTED DENTAL THERAPEUTIC PURPOSES OR FOR OTHER THAN MEDICALLY INDICATED SUPPORTIVE THERAPY IN CONJUNCTION WITH MANAGING A PATIENT'S DENTAL NEEDS.

4. GROSS MALPRACTICE OR REPEATED ACTS CONSTITUTING MALPRACTICE.

5. ACTING OR ASSUMING TO ACT AS A MEMBER OF THE BOARD IF THIS IS NOT TRUE.

6. PROCURING OR ATTEMPTING TO PROCURE A CERTIFICATE OF THE NATIONAL BOARD OF DENTAL EXAMINERS OR A LICENSE TO PRACTICE DENTISTRY OR DENTAL HYGIENE BY FRAUD OR MISREPRESENTATION OR BY KNOWINGLY TAKING ADVANTAGE OF THE MISTAKE OF ANOTHER.

7. HAVING PROFESSIONAL CONNECTION WITH OR LENDING ONE'S NAME TO AN ILLEGAL PRACTITIONER OF DENTISTRY OR ANY OF THE OTHER HEALING ARTS.

8. REPRESENTING THAT A MANIFESTLY NOT CORRECTABLE CONDITION, DISEASE, INJURY, AILMENT OR INFIRMITY CAN BE PERMANENTLY CORRECTED, OR THAT A CORRECTABLE CONDITION, DISEASE, INJURY, AILMENT OR INFIRMITY CAN BE CORRECTED WITHIN A STATED TIME, IF THIS IS NOT TRUE.

9. OFFERING, UNDERTAKING OR AGREEING TO CORRECT, CURE OR TREAT A CONDITION, DISEASE, INJURY, AILMENT OR INFIRMITY BY A SECRET MEANS, METHOD, DEVICE OR INSTRUMENTALITY.

10. REFUSING TO DIVULGE TO THE BOARD, ON REASONABLE NOTICE AND DEMAND, THE MEANS, METHOD, DEVICE OR INSTRUMENTALITY USED IN THE TREATMENT OF A CONDITION, DISEASE, INJURY, AILMENT OR INFIRMITY.

11. DIVIDING A PROFESSIONAL FEE OR OFFERING, PROVIDING OR RECEIVING ANY CONSIDERATION FOR PATIENT REFERRALS AMONG OR BETWEEN DENTAL CARE PROVIDERS OR DENTAL CARE INSTITUTIONS OR ENTITIES. THIS PARAGRAPH DOES NOT PROHIBIT THE DIVISION OF FEES AMONG LICENSEES WHO ARE ENGAGED IN A BONA FIDE EMPLOYMENT, PARTNERSHIP, CORPORATE OR CONTRACTUAL RELATIONSHIP FOR THE DELIVERY OF PROFESSIONAL SERVICES.

12. KNOWINGLY MAKING ANY FALSE OR FRAUDULENT STATEMENT, WRITTEN OR ORAL, IN CONNECTION WITH THE PRACTICE OF DENTISTRY.

13. REFUSAL, REVOCATION OR SUSPENSION OF A LICENSE OR ANY OTHER DISCIPLINARY ACTION TAKEN AGAINST A DENTIST BY, OR THE VOLUNTARY SURRENDER OF

A LICENSE IN LIEU OF DISCIPLINARY ACTION TO, ANY OTHER STATE, TERRITORY, DISTRICT OR COUNTRY, UNLESS THE BOARD FINDS THAT THIS ACTION WAS NOT TAKEN FOR REASONS THAT RELATE TO THE PERSON'S ABILITY TO SAFELY AND SKILLFULLY PRACTICE DENTISTRY OR TO ANY ACT OF UNPROFESSIONAL CONDUCT.

14. ANY CONDUCT OR PRACTICE THAT CONSTITUTES A DANGER TO THE HEALTH, WELFARE OR SAFETY OF THE PATIENT OR THE PUBLIC.

15. OBTAINING A FEE BY FRAUD OR MISREPRESENTATION, OR WILFULLY OR INTENTIONALLY FILING A FRAUDULENT CLAIM WITH A THIRD PARTY FOR SERVICES RENDERED OR TO BE RENDERED TO A PATIENT.

16. REPEATED IRREGULARITIES IN BILLING.

17. EMPLOYING UNLICENSED PERSONS TO PERFORM OR AIDING AND ABETTING UNLICENSED PERSONS IN THE PERFORMANCE OF WORK THAT CAN BE DONE LEGALLY ONLY BY LICENSED PERSONS.

18. PRACTICING DENTISTRY UNDER A FALSE OR ASSUMED NAME IN THIS STATE, OTHER THAN AS ALLOWED BY SECTION 32-1262.

19. WILFULLY OR INTENTIONALLY CAUSING OR PERMITTING SUPERVISED PERSONNEL OR AUXILIARY PERSONNEL OPERATING UNDER THE LICENSEE'S SUPERVISION TO COMMIT ILLEGAL ACTS OR PERFORM AN ACT OR OPERATION OTHER THAN THAT PERMITTED UNDER ARTICLE 4 OF THIS CHAPTER AND RULES ADOPTED BY THE BOARD PURSUANT TO SECTION 32-1282.

20. THE FOLLOWING ADVERTISING PRACTICES:

(a) THE PUBLICATION OR CIRCULATION, DIRECTLY OR INDIRECTLY, OF ANY FALSE, FRAUDULENT OR MISLEADING STATEMENTS CONCERNING THE SKILL, METHODS OR PRACTICES OF THE LICENSEE OR OF ANY OTHER PERSON.

(b) ADVERTISING IN ANY MANNER THAT TENDS TO DECEIVE OR DEFRAUD THE PUBLIC.

21. FAILING TO DISPENSE DRUGS AND DEVICES IN COMPLIANCE WITH ARTICLE 6 OF THIS CHAPTER.

22. FAILING TO COMPLY WITH A BOARD ORDER, INCLUDING AN ORDER OF CENSURE OR PROBATION.

23. FAILING TO COMPLY WITH A BOARD SUBPOENA IN A TIMELY MANNER.

24. FAILING OR REFUSING TO MAINTAIN ADEQUATE PATIENT RECORDS.

25. FAILING TO ALLOW PROPERLY AUTHORIZED BOARD PERSONNEL, ON DEMAND, TO INSPECT THE PLACE OF PRACTICE AND EXAMINE AND HAVE ACCESS TO DOCUMENTS, BOOKS, REPORTS AND RECORDS MAINTAINED BY THE LICENSEE OR CERTIFICATE HOLDER THAT RELATE TO THE DENTAL PRACTICE OR DENTAL-RELATED ACTIVITY.

26. REFUSING TO SUBMIT TO A BODY FLUID EXAMINATION AS REQUIRED THROUGH A MONITORED TREATMENT PROGRAM OR PURSUANT TO A BOARD INVESTIGATION INTO A LICENSEE'S OR CERTIFICATE HOLDER'S ALLEGED SUBSTANCE ABUSE.

27. FAILING TO INFORM A PATIENT OF THE TYPE OF MATERIAL THE DENTIST WILL USE IN THE PATIENT'S DENTAL FILLING AND THE REASON WHY THE DENTIST IS USING THAT PARTICULAR FILLING.

28. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT A DENTIST, DENTURIST OR DENTAL HYGIENIST IS OR MAY BE:

(a) PROFESSIONALLY INCOMPETENT.

(b) ENGAGING IN UNPROFESSIONAL CONDUCT.
(c) IMPAIRED BY DRUGS OR ALCOHOL.
(d) MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE ACTIVITIES OF A DENTIST, DENTURIST OR DENTAL HYGIENIST PURSUANT TO THIS CHAPTER.
29. FILING A FALSE REPORT PURSUANT TO PARAGRAPH 28 OF THIS SECTION.
30. PRACTICING DENTISTRY, DENTAL HYGIENE OR DENTURISM IN A BUSINESS ENTITY THAT IS NOT REGISTERED WITH THE BOARD AS REQUIRED BY SECTION 32-1213.

Sec. 3. Section 32-1263, Arizona Revised Statutes, is amended to read:

32-1263. Grounds for disciplinary action; definition

A. The board may invoke disciplinary action against any person licensed under this chapter for any of the following reasons:
1. Unprofessional conduct, as defined in section ~~32-1201~~ 32-1201.01.
2. Conviction of a felony or of a misdemeanor involving moral turpitude, in which case the record of conviction or a certified copy is conclusive evidence.
3. Physical or mental incompetence to practice pursuant to this chapter.
4. Committing or aiding, directly or indirectly, a violation of or noncompliance with any provision of this chapter or of any rules adopted by the board pursuant to this chapter.
5. Dental incompetence, as defined in section 32-1201.

B. This section does not establish a cause of action against a licensee or a registered business entity that makes a report of unprofessional conduct or unethical conduct in good faith.

C. The board may take disciplinary action against a business entity registered pursuant to this chapter for unethical conduct.

D. For the purposes of this section, "unethical conduct" means the following acts occurring in this state or elsewhere:
1. Failing to report in writing to the board any evidence that a dentist, denturist or dental hygienist is or may be professionally incompetent, is or may be guilty of unprofessional conduct, is or may be impaired by drugs or alcohol or is or may be mentally or physically unable to safely engage in the permissible activities of a dentist, denturist or dental hygienist.
2. Falsely reporting to the board that a dentist, denturist or dental hygienist is or may be guilty of unprofessional conduct, is or may be impaired by drugs or alcohol or is or may be mentally or physically unable to safely engage in the permissible activities of a dentist, denturist or dental hygienist.
3. Obtaining or attempting to obtain a registration or registration renewal by fraud or by misrepresentation.
4. Knowingly filing with the board any application, renewal or other document that contains false information.
5. Failing to register or failing to submit a renewal registration with the board pursuant to section 32-1213.

6. Failing to provide the following persons with access to any place for which a registration has been issued or for which an application for a registration has been submitted in order to conduct a site investigation, inspection or audit:

(a) The board or its employees or agents.

(b) An authorized federal or state official.

7. Failing to notify the board of a change in officers and directors, a change of address or a change in the dentists providing services pursuant to section 32-1213, subsection E.

8. Failing to provide patient records pursuant to section 32-1264.

9. Obtaining a fee by fraud or misrepresentation or wilfully or intentionally filing a fraudulent claim with a third party for services rendered or to be rendered to a patient.

10. Engaging in repeated irregularities in billing.

11. Engaging in the following advertising practices:

(a) The publication or circulation, directly or indirectly, of any false or fraudulent or misleading statements concerning the skill, methods or practices of a registered business entity, a licensee or any other person.

(b) Advertising in any manner that tends to deceive or defraud the public.

12. Failing to comply with a board subpoena in a timely manner.

13. Failing to comply with a final board order, including a decree of censure, a period or term of probation, a consent agreement or a stipulation.

14. Employing or aiding and abetting unlicensed persons to perform work that must be done by a person licensed pursuant to this chapter.

15. Engaging in any conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public.

16. Engaging in a policy or practice that interferes with the clinical judgment of a licensee providing dental services for a business entity or compromising a licensee's ability to comply with this chapter.

Sec. 4. Section 32-1281, Arizona Revised Statutes, is amended to read:

32-1281. Practicing as dental hygienist; supervision requirements; definitions

A. A person is deemed to be practicing as a dental hygienist if the person does any of the acts or performs any of the operations included in the general practice of dental hygienists, dental hygiene and all related and associated duties.

B. ~~Only~~ A licensed dental hygienist ~~or dentist~~ may perform the following:

1. Prophylaxis.

2. Scaling.

3. Closed subgingival curettage.

4. Root planing.

5. Administering local anesthetics and nitrous oxide.

~~6. Placing of periodontal sutures as prescribed in subsection F of this section.~~

~~7.~~ 6. ~~Examining~~ INSPECTING the oral cavity and surrounding structures FOR THE PURPOSES OF GATHERING CLINICAL DATA TO FACILITATE A DIAGNOSIS.

~~8.~~ 7. Periodontal ~~examination~~ SCREENING OR ASSESSMENT.

~~9.~~ 8. Recording of clinical findings.

~~10.~~ 9. Compiling case histories.

~~C. A licensed dental hygienist may:~~

~~1.~~ 10. ~~Expose~~ EXPOSING and ~~process~~ PROCESSING dental radiographs.

~~2.~~ 11. ~~Perform~~ All functions authorized and deemed appropriate for dental assistants.

12. THOSE RESTORATIVE FUNCTIONS PERMISSIBLE FOR AN EXPANDED FUNCTION DENTAL ASSISTANT IF QUALIFIED PURSUANT TO SECTION 32-1291.01.

~~D.~~ C. The board by rule shall prescribe the circumstances under which a licensed dental hygienist may:

1. Apply preventive and therapeutic agents, used in relation to dental hygiene procedures, to the hard and soft tissues.

2. Use emerging scientific technology and prescribe the necessary training, experience and supervision to operate newly developed scientific technology. A dentist who supervises a dental hygienist whose duties include the use of emerging scientific technology must have training on the use of the emerging technology that is equal to or greater than the training the dental hygienist is required to obtain.

3. Perform other procedures not specifically authorized by this section.

~~E.~~ D. Except as provided in subsections ~~F~~ E and ~~H~~ G of this section, a dental hygienist shall practice under the general supervision of a dentist licensed pursuant to this chapter.

~~F.~~ E. Dental hygienists shall practice under the direct supervision of a dentist licensed pursuant to this chapter when performing the following procedures and after completing a course of study recognized by the board:

1. Administering local anesthetics. A dental hygienist may administer local anesthetics to a patient of record under general supervision if all of the following are true:

(a) The patient is at least eighteen years of age.

(b) The patient has been examined by a dentist licensed pursuant to this chapter within the previous twelve months.

(c) There has been no change in the patient's medical history since the last examination. If there has been a change in the patient's medical history within that time, the dental hygienist must consult with the dentist before administering local anesthetics.

(d) The supervising dentist who performed the examination has approved the patient for the administration of local anesthetics by a dental hygienist under general supervision and documented this approval in the patient's record.

2. Administering nitrous oxide analgesia.

~~3. Placing an interrupted suture interdentally to secure soft tissue papillae that may have inadvertently become displaced during root planing or closed curettage procedures performed by the dental hygienist, except that a dental hygienist may not position and suture soft tissue flaps that are reflected for surgical access and treatment. This procedure applies only to a dental hygienist who is permitted to perform periodontal suturing on or before July 31, 2004.~~

~~G.~~ F. A dental hygienist may perform dental hygiene procedures in the following settings:

1. On a patient of record of a dentist within that dentist's office.

2. Except as prescribed in section 32-1289, in a health care facility, ~~nursing home~~ LONG-TERM CARE FACILITY, public health agency or institution, ~~or~~ public~~,~~ OR private ~~or charter~~ school OR HOMEBOUND SETTING on patients who have been examined by a dentist within the previous year.

~~3. In a homebound setting on patients who have been examined by a dentist within the previous year.~~

~~H.~~ G. A dental hygienist may provide dental hygiene services under an affiliated practice relationship with a dentist as prescribed in section ~~32-1289~~ 32-1289.01.

~~I.~~ H. For the purposes of this article:

1. "ASSESSMENT" MEANS A LIMITED, CLINICAL INSPECTION THAT IS PERFORMED TO IDENTIFY POSSIBLE SIGNS OF ORAL OR SYSTEMIC DISEASE, MALFORMATION OR INJURY AND THE POTENTIAL NEED FOR REFERRAL FOR DIAGNOSIS AND TREATMENT.

~~1.~~ 2. "Direct supervision" means that the dentist is present in the office while the dental hygienist is treating a patient and is available for consultation regarding procedures that the dentist authorizes and for which the dentist is responsible.

~~2.~~ 3. "General supervision" means that the dentist is available for consultation, whether or not the dentist is in the dentist's office, over procedures that the dentist has authorized and for which the dentist remains responsible.

4. "SCREENING" MEANS THE DETERMINATION OF AN INDIVIDUAL'S NEED TO BE SEEN BY A DENTIST FOR DIAGNOSIS AND DOES NOT INCLUDE AN EXAMINATION, DIAGNOSIS OR TREATMENT PLANNING.

Sec. 5. Section 32-1289, Arizona Revised Statutes, is amended to read:

32-1289. Employment of dental hygienist by public agency, institution or school

A. A public health agency or institution or a public or private school authority may employ dental hygienists to perform necessary dental hygiene procedures under either direct or general supervision pursuant to section 32-1281.

B. A dental hygienist employed by or working under contract or as a volunteer for a public health agency or institution or a public or private school authority before an examination by a dentist may ~~screen patients and~~

~~apply topical fluoride without entering into an affiliated practice relationship pursuant to this section~~ PERFORM A SCREENING OR ASSESSMENT AND APPLY SEALANTS AND TOPICAL FLUORIDE.

~~C. A public health agency or institution, a public or private school authority or a government sponsored program that provides dental services may enter into a contract for dental hygiene services with licensees who have entered into an affiliated practice relationship pursuant to this section.~~

~~D. The dental hygienist and the affiliated dentist must notify the board of the beginning of the affiliated practice relationship and provide the board with a copy of the agreement and any amendments to the agreement within thirty days after the effective date of the agreement or amendment. The dental hygienist and the affiliated dentist must also notify the board within thirty days after the termination date of the affiliated practice relationship if this date is different than the contract termination date.~~

~~E. A dental hygienist must satisfy all of the following to be eligible to enter into an affiliated practice relationship with a dentist to perform dental hygiene procedures in affiliated practice settings:~~

~~1. Hold an active license pursuant to this article.~~

~~2. Enter into an affiliated practice relationship with a specific dentist who is licensed pursuant to this chapter.~~

~~3. Have held a license as a dental hygienist for at least five years and actively engaged in dental hygiene practice for at least two thousand hours in the five years immediately preceding the affiliated practice relationship.~~

~~F. An affiliated practice relationship between a dental hygienist and a dentist must be in writing and must include at least the following:~~

~~1. An identification of the affiliated practice settings in which the dental hygienist may engage in dental hygiene practice pursuant to an affiliated practice relationship.~~

~~2. An identification of the procedures and standing orders the dental hygienist must follow. The standing orders must include the circumstances in which a patient may be seen by a dental hygienist.~~

~~3. A requirement that the patients who have been assessed by the dental hygienist be directed to the affiliated dentist for treatment or planning that is outside of the dental hygienist's scope of practice and that the affiliated dentist make any necessary referrals to other dentists.~~

~~4. A requirement that a patient be seen by a licensed dentist within twelve months of initial treatment by the dental hygienist. If the patient has not received an examination and a treatment plan by a licensed dentist, the dental hygienist shall not provide further treatment.~~

~~5. A requirement that a patient sixty-five years of age or older be seen by a licensed dentist after treatment by the dental hygienist. If the patient has not received an examination and a treatment plan by a licensed dentist, the dental hygienist shall not provide further treatment.~~

~~6. A requirement that if a patient presents with a complex medical history or medication regimen, the affiliated dental hygienist shall consult with the affiliated dentist prior to any treatment by the affiliated dental hygienist. The patient shall be directed to the affiliated dentist and the affiliated dentist shall make any necessary referrals to other licensed dentists.~~

~~7. A requirement that the patient be informed that the dental hygienist providing the care is a licensed dental hygienist and that the care does not take the place of a diagnosis or treatment plan by a dentist.~~

~~8. Pursuant to paragraph 3, 4 or 5 of this subsection, a requirement that the patient be informed that further dental hygiene services may not be provided unless the patient has been seen by a licensed dentist.~~

~~G. The board shall adopt rules regarding participation in affiliated practice relationships by dentists and dental hygienists that specify the following:~~

~~1. Additional continuing education requirements that must be satisfied by a dental hygienist.~~

~~2. Additional standards and conditions that may apply to affiliated practice relationships.~~

~~3. Compliance with the dental practice act and rules adopted by the board.~~

~~H. Each dentist in an affiliated practice relationship must:~~

~~1. Be available to provide an appropriate level of contact, communication and consultation with the affiliated dental hygienist.~~

~~2. Adopt standing orders applicable to dental hygiene procedures that may be performed and populations that may be treated by the dental hygienist under the terms of the applicable affiliated practice agreement and to be followed by the dental hygienist in each affiliated practice setting in which the dental hygienist performs dental hygiene services under the affiliated practice relationship.~~

~~3. Adopt procedures to provide timely referral of patients referred by the affiliated dental hygienist to a licensed dentist for examination and treatment planning. If the examination and treatment planning is to be provided by the dentist, that treatment shall be scheduled in an appropriate time frame. The dentist or the dentist to whom the patient is referred must be geographically available to see the patient.~~

~~I. Each affiliated dental hygienist when practicing under an affiliated practice relationship:~~

~~1. May perform only those duties within the terms of the affiliated practice relationship.~~

~~2. Must maintain an appropriate level of contact, communication and consultation with the affiliated dentist.~~

~~3. Is responsible and liable for all services rendered by the dental hygienist under the affiliated practice relationship.~~

~~J. Subject to the terms of the written affiliated practice agreement entered into between a dentist and a dental hygienist, a dental hygienist may perform all dental hygiene procedures authorized by this chapter except for the procedures identified in section 32-1281, subsection B, paragraphs 4, 5 and 6 or any diagnostic procedures that are required to be performed by a dentist.~~

~~K. Subject to the terms of the written affiliated practice agreement entered into between a dentist and a dental hygienist, a dental hygienist may perform dental hygiene procedures in affiliated practice settings only on a person who is any of the following:~~

~~1. Enrolled in a federal, state, county or local health care program.~~

~~2. Participating in the national school meal program.~~

~~3. From a family with a household income that is less than two hundred per cent of the federal poverty guidelines.~~

~~L. This section does not require any dentist or dental hygienist to enter into an affiliated practice relationship.~~

~~M. For the purposes of this section:~~

~~1. "Affiliated practice setting" means the delivery of dental hygiene services by a dental hygienist under an affiliated practice relationship through a public health agency or institution, a public or private school authority or a government sponsored program that provides dental services.~~

~~2. "Screen" means visually examining the teeth and hard or soft tissue of the mouth for obvious oral health problems for the purpose of advising the patient of the need for dental care, and shall not include an examination diagnosis or treatment planning.~~

Sec. 6. Title 32, chapter 11, article 4, Arizona Revised Statutes, is amended by adding sections 32-1289.01 and 32-1291.01, to read:

32-1289.01. Dental hygienists; affiliated practice relationships; rules; definition

A. A DENTIST WHO HOLDS AN ACTIVE LICENSE PURSUANT TO THIS CHAPTER AND A DENTAL HYGIENIST WHO HOLDS AN ACTIVE LICENSE PURSUANT TO THIS ARTICLE MAY ENTER INTO AN AFFILIATED PRACTICE RELATIONSHIP FOR THE DELIVERY OF DENTAL HYGIENE SERVICES.

B. A DENTAL HYGIENIST SHALL SATISFY ALL OF THE FOLLOWING TO BE ELIGIBLE TO ENTER INTO AN AFFILIATED PRACTICE RELATIONSHIP WITH A DENTIST PURSUANT TO THIS SECTION FOR THE DELIVERY OF DENTAL HYGIENE SERVICES IN AN AFFILIATED PRACTICE RELATIONSHIP:

1. HOLD AN ACTIVE LICENSE PURSUANT TO THIS ARTICLE.

2. ENTER INTO AN AFFILIATED PRACTICE RELATIONSHIP WITH A DENTIST WHO HOLDS AN ACTIVE LICENSE PURSUANT TO THIS CHAPTER.

3. MEET ONE OF THE FOLLOWING:

(a) HAVE HELD AN ACTIVE LICENSE AS A DENTAL HYGIENIST FOR AT LEAST FIVE YEARS AND BE ACTIVELY ENGAGED IN DENTAL HYGIENE PRACTICE FOR AT LEAST FIVE HUNDRED HOURS IN EACH OF THE TWO YEARS IMMEDIATELY PRECEDING THE AFFILIATED PRACTICE RELATIONSHIP.

(b) HOLD A BACHELOR'S DEGREE IN DENTAL HYGIENE, HAVE HELD AN ACTIVE LICENSE FOR AT LEAST THREE YEARS AND BE ACTIVELY ENGAGED IN DENTAL HYGIENE PRACTICE FOR AT LEAST FIVE HUNDRED HOURS IN EACH OF THE TWO YEARS PRECEDING THE AFFILIATED PRACTICE RELATIONSHIP.

C. AN AFFILIATED PRACTICE AGREEMENT BETWEEN A DENTAL HYGIENIST AND A DENTIST SHALL BE IN WRITING AND SHALL INCLUDE AT LEAST THE FOLLOWING:

1. AN IDENTIFICATION OF THE AFFILIATED PRACTICE SETTINGS IN WHICH THE DENTAL HYGIENIST MAY DELIVER SERVICES PURSUANT TO THE AFFILIATED PRACTICE RELATIONSHIP.

2. AN IDENTIFICATION OF THE SERVICES TO BE PROVIDED AND ANY PROCEDURES AND STANDING ORDERS THE DENTAL HYGIENIST MUST FOLLOW. THE STANDING ORDERS SHALL INCLUDE THE CIRCUMSTANCES IN WHICH A PATIENT MAY BE SEEN BY THE DENTAL HYGIENIST.

D. THE FOLLOWING REQUIREMENTS APPLY TO ALL DENTAL HYGIENE SERVICES PROVIDED THROUGH AN AFFILIATED PRACTICE RELATIONSHIP:

1. PATIENTS WHO HAVE BEEN ASSESSED BY THE DENTAL HYGIENIST SHALL BE DIRECTED TO THE AFFILIATED DENTIST FOR DIAGNOSIS, TREATMENT OR PLANNING THAT IS OUTSIDE THE DENTAL HYGIENIST'S SCOPE OF PRACTICE, AND THE AFFILIATED DENTIST MAY MAKE ANY NECESSARY REFERRALS TO OTHER DENTISTS.

2. THE AFFILIATED PRACTICE DENTAL HYGIENIST SHALL CONSULT WITH THE AFFILIATED PRACTICE DENTIST IF THE PROPOSED TREATMENT IS OUTSIDE THE SCOPE OF THE AGREEMENT.

3. THE AFFILIATED PRACTICE DENTAL HYGIENIST SHALL CONSULT WITH THE AFFILIATED PRACTICE DENTIST BEFORE INITIATING FURTHER TREATMENT ON PATIENTS WHO HAVE NOT BEEN SEEN BY A DENTIST WITHIN TWELVE MONTHS OF THE INITIAL TREATMENT BY THE DENTAL HYGIENIST.

4. THE AFFILIATED PRACTICE DENTAL HYGIENIST SHALL CONSULT WITH THE AFFILIATED PRACTICE DENTIST BEFORE INITIATING TREATMENT ON PATIENTS PRESENTING WITH A COMPLEX MEDICAL HISTORY OR MEDICATION REGIMEN.

5. THE PATIENT SHALL BE INFORMED IN WRITING THAT THE DENTAL HYGIENIST PROVIDING THE CARE IS A LICENSED DENTAL HYGIENIST AND THAT THE CARE DOES NOT TAKE THE PLACE OF A DIAGNOSIS OR TREATMENT PLAN BY A DENTIST.

E. A CONTRACT FOR DENTAL HYGIENE SERVICES WITH LICENSEES WHO HAVE ENTERED INTO AN AFFILIATED PRACTICE RELATIONSHIP PURSUANT TO THIS SECTION MAY BE ENTERED INTO ONLY BY:

1. A HEALTH CARE ORGANIZATION OR FACILITY.
2. A LONG-TERM CARE FACILITY.
3. A PUBLIC HEALTH AGENCY OR INSTITUTION.
4. A PUBLIC OR PRIVATE SCHOOL AUTHORITY.
5. A GOVERNMENT-SPONSORED PROGRAM.
6. A PRIVATE NONPROFIT OR CHARITABLE ORGANIZATION.
7. A SOCIAL SERVICE ORGANIZATION OR PROGRAM.

F. AN AFFILIATED PRACTICE DENTAL HYGIENIST MAY NOT PROVIDE DENTAL HYGIENE SERVICES IN A SETTING NOT LISTED IN SUBSECTION E OF THIS SECTION.

G. EACH DENTIST IN AN AFFILIATED PRACTICE RELATIONSHIP SHALL:

1. BE AVAILABLE TO PROVIDE AN APPROPRIATE LEVEL OF CONTACT, COMMUNICATION AND CONSULTATION WITH THE AFFILIATED DENTAL HYGIENIST DURING THE BUSINESS HOURS OF THE AFFILIATED PRACTICE DENTAL HYGIENIST.

2. ADOPT STANDING ORDERS APPLICABLE TO DENTAL HYGIENE PROCEDURES THAT MAY BE PERFORMED AND POPULATIONS THAT MAY BE TREATED BY THE DENTAL HYGIENIST UNDER THE TERMS OF THE APPLICABLE AFFILIATED PRACTICE AGREEMENT AND TO BE FOLLOWED BY THE DENTAL HYGIENIST IN EACH AFFILIATED PRACTICE SETTING IN WHICH THE DENTAL HYGIENIST PERFORMS DENTAL HYGIENE SERVICES UNDER THE AFFILIATED PRACTICE RELATIONSHIP.

3. ADOPT PROCEDURES TO PROVIDE TIMELY REFERRAL OF PATIENTS REFERRED BY THE AFFILIATED PRACTICE DENTAL HYGIENIST TO A LICENSED DENTIST FOR EXAMINATION AND TREATMENT PLANNING. IF THE EXAMINATION AND TREATMENT PLANNING IS TO BE PROVIDED BY THE DENTIST, THAT TREATMENT SHALL BE SCHEDULED IN AN APPROPRIATE TIME FRAME. THE AFFILIATED PRACTICE DENTIST OR THE DENTIST TO WHOM THE PATIENT IS REFERRED SHALL BE GEOGRAPHICALLY AVAILABLE TO SEE THE PATIENT.

4. NOT PERMIT THE PROVISION OF DENTAL HYGIENE SERVICES BY MORE THAN THREE AFFILIATED PRACTICE DENTAL HYGIENISTS AT ANY ONE TIME.

H. EACH AFFILIATED DENTAL HYGIENIST, WHEN PRACTICING UNDER AN AFFILIATED PRACTICE RELATIONSHIP:

1. MAY PERFORM ONLY THOSE DUTIES WITHIN THE TERMS OF THE AFFILIATED PRACTICE RELATIONSHIP.

2. SHALL MAINTAIN AN APPROPRIATE LEVEL OF CONTACT, COMMUNICATION AND CONSULTATION WITH THE AFFILIATED DENTIST.

3. IS RESPONSIBLE AND LIABLE FOR ALL SERVICES RENDERED BY THE DENTAL HYGIENIST UNDER THE AFFILIATED PRACTICE RELATIONSHIP.

I. THE DENTAL HYGIENIST AND THE AFFILIATED DENTIST SHALL NOTIFY THE BOARD OF THE BEGINNING OF THE AFFILIATED PRACTICE RELATIONSHIP AND PROVIDE THE BOARD WITH A COPY OF THE AGREEMENT AND ANY AMENDMENTS TO THE AGREEMENT WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE AGREEMENT OR AMENDMENT. THE DENTAL HYGIENIST AND THE AFFILIATED DENTIST SHALL ALSO NOTIFY THE BOARD WITHIN THIRTY DAYS AFTER THE TERMINATION DATE OF THE AFFILIATED PRACTICE RELATIONSHIP IF THIS DATE IS DIFFERENT THAN THE CONTRACT TERMINATION DATE.

J. SUBJECT TO THE TERMS OF THE WRITTEN AFFILIATED PRACTICE AGREEMENT ENTERED INTO BETWEEN A DENTIST AND A DENTAL HYGIENIST, A DENTAL HYGIENIST MAY PERFORM ALL DENTAL HYGIENE PROCEDURES AUTHORIZED BY THIS CHAPTER EXCEPT FOR ANY DIAGNOSTIC PROCEDURES THAT ARE REQUIRED TO BE PERFORMED BY A DENTIST. PROCEDURES IDENTIFIED IN SECTION 32-1281, SUBSECTION B, PARAGRAPHS 4 AND 5 ARE SUBJECT TO THE CONDITIONS PRESCRIBED IN SECTION 32-1281, SUBSECTION E, PARAGRAPH 1.

K. THE BOARD SHALL ADOPT RULES REGARDING PARTICIPATION IN AFFILIATED PRACTICE RELATIONSHIPS BY DENTISTS AND DENTAL HYGIENISTS THAT SPECIFY THE FOLLOWING:

1. ADDITIONAL CONTINUING EDUCATION REQUIREMENTS THAT MUST BE SATISFIED BY A DENTAL HYGIENIST.

2. ADDITIONAL STANDARDS AND CONDITIONS THAT MAY APPLY TO AFFILIATED PRACTICE RELATIONSHIPS.

3. COMPLIANCE WITH THE DENTAL PRACTICE ACT AND RULES ADOPTED BY THE BOARD.

L. FOR THE PURPOSES OF THIS SECTION, "AFFILIATED PRACTICE RELATIONSHIP" MEANS THE DELIVERY OF DENTAL HYGIENE SERVICES, PURSUANT TO AN AGREEMENT, BY A DENTAL HYGIENIST WHO IS LICENSED PURSUANT TO THIS ARTICLE AND WHO REFERS THE PATIENT TO A DENTIST LICENSED PURSUANT TO THIS CHAPTER FOR ANY NECESSARY FURTHER DIAGNOSIS, TREATMENT AND RESTORATIVE CARE.

32-1291.01. Expanded function dental assistants; training and examination requirements; duties

A. A DENTAL ASSISTANT MAY PERFORM EXPANDED FUNCTIONS ON SUCCESSFUL COMPLETION OF A BOARD-APPROVED EXPANDED FUNCTION DENTAL ASSISTANT TRAINING PROGRAM COMPLETED AT AN INSTITUTION ACCREDITED BY THE COMMISSION ON DENTAL ACCREDITATION OF THE AMERICAN DENTAL ASSOCIATION AND ON SUCCESSFUL COMPLETION OF AN EXAMINATION IN DENTAL ASSISTANT EXPANDED FUNCTIONS THAT IS APPROVED BY THE BOARD.

B. EXPANDED FUNCTIONS INCLUDE THE PLACEMENT, CONTOURING AND FINISHING OF DIRECT RESTORATIONS OR THE PLACEMENT AND CEMENTATION OF PREFABRICATED CROWNS FOLLOWING THE PREPARATION OF THE TOOTH BY A LICENSED DENTIST. THE RESTORATIVE MATERIALS USED SHALL BE DETERMINED BY THE DENTIST.

C. AN EXPANDED FUNCTION DENTAL ASSISTANT MAY PLACE INTERIM THERAPEUTIC RESTORATIONS UNDER THE GENERAL SUPERVISION AND DIRECTION OF A LICENSED DENTIST FOLLOWING A CONSULTATION CONDUCTED THROUGH TELEDENTISTRY.

D. AN EXPANDED FUNCTION DENTAL ASSISTANT MAY APPLY SEALANTS AND FLUORIDE VARNISH UNDER THE GENERAL SUPERVISION AND DIRECTION OF A LICENSED DENTIST.

E. A LICENSED DENTAL HYGIENIST MAY ENGAGE IN EXPANDED FUNCTIONS PURSUANT TO SECTION 32-1281, SUBSECTION B, PARAGRAPH 12 FOLLOWING A COURSE OF STUDY AND EXAMINATION EQUIVALENT TO THAT REQUIRED FOR AN EXPANDED FUNCTION DENTAL ASSISTANT AS SPECIFIED BY THE BOARD.

Sec. 7. Title 36, Arizona Revised Statutes, is amended by adding chapter 36.1, to read:

CHAPTER 36.1

TELEDENTISTRY

ARTICLE 1. GENERAL PROVISIONS

36-3611. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE STATE BOARD OF DENTAL EXAMINERS.

2. "DENTAL PROVIDER" MEANS A DENTAL HYGIENIST, AFFILIATED PRACTICE DENTAL HYGIENIST OR DENTAL ASSISTANT WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 11.

3. "DENTIST" MEANS A PERSON WHO IS LICENSED IN THE GENERAL PRACTICE OF DENTISTRY PURSUANT TO TITLE 32, CHAPTER 11.

4. "HEALTH CARE DECISION MAKER" HAS THE SAME MEANING PRESCRIBED IN SECTION 12-2801.

5. "TELEDENTISTRY" MEANS THE USE OF DATA TRANSMITTED THROUGH INTERACTIVE AUDIO, VIDEO OR DATA COMMUNICATIONS FOR THE PURPOSES OF DIAGNOSIS, TREATMENT PLANNING, CONSULTATION AND DIRECTING THE DELIVERY OF TREATMENT BY DENTISTS AND DENTAL PROVIDERS IN SETTINGS PERMISSIBLE UNDER TITLE 32, CHAPTER 11 OR SPECIFIED IN RULES ADOPTED BY THE BOARD.

36-3612. Delivery of care through teledentistry; requirements; exceptions

A. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, BEFORE A DENTIST OR DENTAL PROVIDER DELIVERS CARE THROUGH TELEDENTISTRY, THE DENTIST OR DENTAL PROVIDER SHALL OBTAIN VERBAL OR WRITTEN INFORMED CONSENT FROM THE PATIENT OR THE PATIENT'S HEALTH CARE DECISION MAKER. IF THE INFORMED CONSENT IS OBTAINED VERBALLY, THE DENTIST OR DENTAL PROVIDER SHALL DOCUMENT THE CONSENT ON THE PATIENT'S RECORD.

B. IN ANY TELEDENTISTRY INTERACTION, THE PATIENT IS ENTITLED TO ALL EXISTING CONFIDENTIALITY PROTECTIONS PURSUANT TO SECTION 12-2292.

C. ALL REPORTS RESULTING FROM A TELEDENTISTRY CONSULTATION ARE PART OF A PATIENT'S DENTAL RECORD AS PRESCRIBED IN SECTION 32-1264.

D. IN ANY TELEDENTISTRY INTERACTION, THE DISSEMINATION OF ANY IMAGES OR INFORMATION IDENTIFIABLE TO A SPECIFIC PATIENT FOR RESEARCH OR EDUCATIONAL PURPOSES MAY NOT OCCUR WITHOUT THE PATIENT'S CONSENT, UNLESS AUTHORIZED BY STATE OR FEDERAL LAW.

E. THE CONSENT REQUIREMENTS OF THIS SECTION DO NOT APPLY TO THE TRANSMISSION OF DIAGNOSTIC IMAGES TO ANOTHER HEALTH CARE PROVIDER OR DENTAL SPECIALIST OR THE REPORTING OF DIAGNOSTIC TEST RESULTS BY THAT SPECIALIST.

36-3613. Scope of article

THIS ARTICLE APPLIES TO THE PRACTICE OF TELEDENTISTRY WITHIN THIS STATE. THIS ARTICLE DOES NOT EXPAND, REDUCE OR OTHERWISE AMEND THE LICENSING REQUIREMENTS OF TITLE 32, CHAPTER 11 FOR DENTISTS OR DENTAL PROVIDERS.

Sec. 8. Arizona health care cost containment system; teledentistry

In addition to services provided pursuant to section 36-2907, subsection A, paragraph 7, Arizona Revised Statutes, the Arizona health care cost containment system administration shall implement teledentistry services for enrolled members who are under twenty-one years of age.

APPROVED BY THE GOVERNOR APRIL 6, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2015.

Passed the House April 1, 2015,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate March 5, 2015,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1282

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 2, **20** 15

by the following vote: 30 **Ayes,**

0 **Nays,** 0 **Not Voting**

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

2nd **day of** April, **20** 15

at 12:03 **o'clock** P. **M.**

Secretary to the Governor

Approved this 6th **day of**

April

at 1:39 **o'clock** P **M.**

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 7 **day of** April, **20** 15

at 8:30 **o'clock** A **M.**

Secretary of State

S.B. 1282