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Senate Engrossed House Bill

State of Arizona
House of Representatives
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Second Regular Session
1996

FILED

Jane Dee Hull
Secretary of State

CHAPTER 254

HOUSE BILL 2051

AN ACT

AMENDING SECTIONS 32-1237, 32-1263.02 AND 32-1282, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF DENTAL EXAMINERS.

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

Section 1. Section 32-1237, Arizona Revised Statutes, is amended to read:

32-1237. Restricted permit

~~Any person meeting the following requirements, in addition to complying with subsection A of section 32-1232, may apply for a restricted permit, upon furnishing satisfactory evidence:~~

A PERSON MAY APPLY FOR A RESTRICTED PERMIT IF THE APPLICANT DEMONSTRATES TO THE BOARD'S SATISFACTION THAT THE APPLICANT:

1. ~~Of having~~ HAS a pending contract with a recognized charitable dental clinic or organization ~~offering~~ THAT OFFERS dental services without compensation or ~~which offers services~~ at a ~~minimum~~ rate ~~to provide reimbursement~~ THAT ONLY REIMBURSES THE CLINIC for dental supplies and overhead costs~~.~~

~~2. That he~~ AND THE APPLICANT will receive no compensation for ~~his~~ dental services ~~to be~~ provided at the ~~dental~~ clinic or organization ~~specified in paragraph 1~~.

~~3.~~ 2. ~~That he~~ Has a license to practice dentistry issued by another state or territory of the United States or the District of Columbia.

~~4.~~ 3. ~~That for the three years next preceding his application, he~~ Has been actively engaged in one or more of the following FOR THREE YEARS IMMEDIATELY PRECEDING THE APPLICATION:

(a) The ~~active~~ practice of dentistry.

(b) An approved dental residency training program.

(c) Postgraduate training deemed by the board equivalent to an approved dental residency training program. ~~; or~~

~~(d) That the board is otherwise satisfied of his competence and proficiency to practice dentistry.~~

4. IS COMPETENT AND PROFICIENT TO PRACTICE DENTISTRY.

5. MEETS THE REQUIREMENTS OF SECTION 32-1232, SUBSECTION A, OTHER THAN THE REQUIREMENT TO MEET SECTION 32-1233.

Sec. 2. Section 32-1263.02, Arizona Revised Statutes, is amended to read:

32-1263.02. Investigation and adjudication of complaints; subpoena authority

A. The board on its motion may investigate any evidence which appears to show the existence of any of the causes or grounds for disciplinary action as provided in section 32-1263.

B. The board shall investigate a complaint signed by the complainant which appears to show the existence of any of the causes or grounds for disciplinary action as provided in section 32-1263. If requested, the board shall inform the respondent of the name of the complainant unless the complaint involved a licensee's alcohol or drug impairment. Patient information pursuant to subsection I of this section shall not be disclosed unless such person's testimony is essential to the disciplinary proceedings conducted pursuant to this section. All investigative material, including dental records, is confidential and shall not be disclosed unless the information is essential to the disciplinary proceedings conducted pursuant to this section.

C. After a motion by the board or upon receipt of a complaint signed by the complainant, as provided in subsections A and B of this section, the president of the board or the president's designee shall request either an informal interview with the licensee against whom the complaint was filed or motion to investigate was made or shall refer the complaint or motion to investigate to an investigator appointed by the board, who need not be a member of the board. The board may appoint more than one investigator. If the circumstances warrant an emergency suspension pursuant to section 41-1064, the board may dispense with the procedures required by this section. If the licensee against whom the complaint was filed or motion to investigate was made refuses to cooperate with the board or if the license has been summarily suspended pursuant to section 41-1064, the matter shall be immediately advanced to a formal board hearing as provided in title 41, chapter 6, at which time the evidence supporting the imposition of disciplinary actions shall be presented and formal board action shall be taken. If the licensee chooses to cooperate with the board, the procedures shall be as follows:

1. If a complaint signed by the complainant refers to quality of care, the patient may be referred for a clinical evaluation, the results of which may be used for deliberation in an informal interview, for an investigator's recommendation or for a formal hearing.

2. If an informal interview is requested, the president or the president's designee shall appoint a member of the board to act as the informal interviewing officer and the board shall notify the licensee in writing of the reasons for the interview and the date of the interview. The date of the interview shall not be less than twenty days after notification. The informal interviewing officer shall, within ninety days of appointment, hold the interview and make a written recommendation to the board on whether disciplinary action is appropriate and, if it is appropriate, the type of disciplinary action which should be taken.

3. If the matter is referred to an investigator, the investigator shall within ten days begin to investigate the charges and shall exercise all the powers of the board in such an investigation. Within ninety days of referral, unless good cause requires longer, the investigator shall make a written recommendation to the board on whether disciplinary action is appropriate and, if it is appropriate, the type of disciplinary action which should be taken.

4. In cases in which the informal interviewing officer or the investigator recommends sanctions, a copy of the reports shall be made available to the licensee.

5. The board may refer the matter to mediation if the complaint does not appear to include dental incompetence, malpractice or grounds that involve criminal allegations. A mediator shall not be involved in any further investigation of the complaint. The board shall review and approve all mediation.

D. Within sixty days of receipt of the written report of the informal interviewing officer or the investigator, the board shall issue preliminary findings based on the written report. The findings shall be made as follows:

1. If the board finds that the evidence would, if proved true, warrant suspension or revocation of a license issued under this chapter, formal proceedings for the revocation or suspension of the license shall be immediately initiated as provided in title 41, chapter 6.

2. If the board finds that the evidence does not warrant suspension or revocation of a license, the preliminary order shall either dismiss the complaint or order other disciplinary action pursuant to section 32-1263.01, subsection A.

E. A copy of the preliminary order shall be given to the complainant and to the licensee. Within ten days of receipt of the copy, either party may petition for rehearing or review pursuant to title 41, chapter 6.

F. Any person who in good faith makes a report as provided in this section to the board or to any person or committee acting on behalf of the board is not subject to liability for civil damages as a result of the report.

G. The board, through its president or ~~any member of the board authorized by the president~~ THE PRESIDENT'S DESIGNEE, may issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths, take testimony, hear proof and receive exhibits in evidence in connection with an investigation initiated by the board or a complaint filed with the board. In case of disobedience to a subpoena the board may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of documentary evidence.

H. The person in charge of any disciplinary proceeding conducted pursuant to this section may require testimony to be given under oath. The person in charge of the proceeding shall administer the oath.

I. Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, reports or oral statements relating to diagnostic findings or treatment of patients, any information from which a patient or his family might be identified or information received and records kept by the board as a result of the investigation procedures taken pursuant to this chapter are not available to the public.

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

32-1282. Administration and enforcement

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

B. THE BOARD SHALL ADOPT RULES THAT PROVIDE A METHOD FOR THE BOARD TO RECEIVE THE ASSISTANCE AND ADVICE OF DENTAL HYGIENISTS LICENSED PURSUANT TO THIS CHAPTER IN ALL MATTERS RELATING TO THE REGULATION OF DENTAL HYGIENISTS.

APPROVED BY THE GOVERNOR APRIL 23,1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23,1996