House Engrossed Senate Bill

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 170

SENATE BILL 1419

AN ACT

AMENDING TITLE 20, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-847; AMENDING TITLE 20, CHAPTER 4, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1057.12; AMENDING TITLE 20, CHAPTER 6, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1342.06; AMENDING TITLE 20, CHAPTER 6, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 20-1402.04 AND 20-1404.04; AMENDING SECTION 32-1289, ARIZONA REVISED STATUTES; RELATING TO DENTISTRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 20, chapter 4, article 3, Arizona Revised Statutes, is amended by adding section 20-847, to read:

20-847. Contracts; dentists; covered services; definition

A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011, BETWEEN A DENTAL SERVICE CORPORATION AND A DENTIST WHO IS LICENSED TO PRACTICE IN THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO AN INDIVIDUAL COVERED UNDER A SUBSCRIPTION CONTRACT BASED ON A FEE SET BY THE DENTAL SERVICE CORPORATION UNLESS THE SERVICE FOR WHICH THE FEE APPLIES IS A COVERED SERVICE UNDER THE INDIVIDUAL'S SUBSCRIPTION CONTRACT.

B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A DENTAL SERVICE CORPORATION TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY PLANS THAT ARE ADMINISTERED BUT NOT INSURED BY THE DENTAL SERVICE CORPORATION.

C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER A SUBSCRIPTION CONTRACT WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT, COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

Sec. 2. Title 20, chapter 4, article 9, Arizona Revised Statutes, is amended by adding section 20-1057.12, to read:

20-1057.12. Contracts; dentists; covered services; definition

A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011, BETWEEN A HEALTH CARE SERVICES ORGANIZATION AND A DENTIST WHO IS LICENSED TO PRACTICE IN THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO AN INDIVIDUAL COVERED UNDER AN EVIDENCE OF COVERAGE BASED ON A FEE SET BY THE HEALTH CARE SERVICES ORGANIZATION UNLESS THE SERVICES FOR WHICH THE FEE APPLIES IS A COVERED SERVICE UNDER THE INDIVIDUAL'S EVIDENCE OF COVERAGE.

B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A HEALTH CARE SERVICES ORGANIZATION TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY PLANS THAT ARE ADMINISTERED BUT NOT INSURED BY THE HEALTH CARE SERVICES ORGANIZATION.

C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER AN EVIDENCE OF COVERAGE WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT, COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

Sec. 3. Title 20, chapter 6, article 4, Arizona Revised Statutes, is amended by adding section 20-1342.06, to read:

20-1342.06. Contracts; dentists; covered services; definition

A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011, BETWEEN A DISABILITY INSURER AND A DENTIST WHO IS LICENSED TO PRACTICE IN THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO AN INDIVIDUAL COVERED UNDER A DISABILITY INSURANCE POLICY BASED ON A FEE SET BY THE DISABILITY INSURER UNLESS THE SERVICES FOR WHICH THE FEE APPLIES IS A COVERED SERVICE UNDER THE INDIVIDUAL'S DISABILITY INSURANCE POLICY.

B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A DISABILITY INSURER TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY PLANS THAT ARE ADMINISTERED BUT NOT INSURED BY THE DISABILITY INSURER.

C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER A DISABILITY INSURANCE POLICY WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT, COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

Sec. 4. Title 20, chapter 6, article 5, Arizona Revised Statutes, is amended by adding sections 20-1402.04 and 20-1404.04, to read:

20-1402.04. Contracts; dentists; covered services; definition

A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011, BETWEEN A GROUP DISABILITY INSURER AND A DENTIST WHO IS LICENSED TO PRACTICE IN THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO AN INDIVIDUAL COVERED UNDER A GROUP DISABILITY POLICY BASED ON A FEE SET BY THE GROUP DISABILITY INSURER UNLESS THE SERVICES FOR WHICH THE FEE APPLIES IS A COVERED SERVICE UNDER THE INDIVIDUAL'S GROUP DISABILITY POLICY.

B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A GROUP DISABILITY INSURER TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY PLANS THAT ARE ADMINISTERED BUT NOT INSURED BY THE GROUP DISABILITY INSURER.

C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER A GROUP DISABILITY POLICY WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT, COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

20-1404.04. Contracts; dentists; covered services; definition

A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011, BETWEEN A BLANKET DISABILITY INSURER AND A DENTIST WHO IS LICENSED TO PRACTICE IN THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO AN INDIVIDUAL COVERED UNDER A BLANKET DISABILITY POLICY BASED ON A FEE SET BY THE BLANKET DISABILITY INSURER UNLESS THE SERVICES FOR WHICH THE FEE APPLIES IS A COVERED SERVICE UNDER THE INDIVIDUAL'S BLANKET DISABILITY POLICY.

B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A BLANKET DISABILITY INSURER TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY PLANS THAT ARE ADMINISTERED BUT NOT INSURED BY THE BLANKET DISABILITY INSURER.

C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER A BLANKET DISABILITY POLICY WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT, COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

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

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

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.

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 ~~shall~~ 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 ~~shall~~ 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 ~~dental examination and cannot be billed or reimbursed as a dental examination~~ DIAGNOSIS OR TREATMENT PLAN BY A DENTIST.

8. Pursuant to ~~paragraphs~~ 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.

APPROVED BY THE GOVERNOR APRIL 26, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2010.

Passed the House April 13, 2010,

by the following vote: 36 Ayes,

20 Nays, 4 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 22, 2010,

by the following vote: 29 Ayes,

0 Nays, 1 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. 1419

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 22, 20 10

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting

Robert L. Burns
President of the Senate

Shannon Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 20 10

at 4:15 o'clock P. M.

Nicole Bendle
Secretary to the Governor

Approved this 26th day of

April

at 5:10 o'clock P. M.

Jan K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 27th day of April, 20 10

at 12:10 o'clock P M.

Ken Bennett
Secretary of State

S.B. 1419