

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 175

HOUSE BILL 2554

AN ACT

REPEALING SECTION 32-1263.02, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 11, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-1263.02; 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. Repeal

3 Section 32-1263.02, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 32, chapter 11, article 3, Arizona Revised Statutes, is
5 amended by adding a new section 32-1263.02, to read:

6 32-1263.02. Investigation and adjudication of complaints;
7 disciplinary action; civil penalty; immunity;
8 subpoena authority; definitions

9 A. THE BOARD ON ITS MOTION OR THE EXECUTIVE DIRECTOR, IF DELEGATED BY
10 THE BOARD, MAY INVESTIGATE ANY EVIDENCE THAT APPEARS TO SHOW THE EXISTENCE OF
11 ANY OF THE CAUSES OR GROUNDS FOR DISCIPLINARY ACTION AS PROVIDED IN SECTION
12 32-1263. THE BOARD MAY INVESTIGATE ANY COMPLAINT THAT ALLEGES THE EXISTENCE
13 OF ANY OF THE CAUSES OR GROUNDS FOR DISCIPLINARY ACTION AS PROVIDED IN
14 SECTION 32-1263. AT THE REQUEST OF THE COMPLAINANT, THE BOARD SHALL NOT
15 DISCLOSE TO THE RESPONDENT THE COMPLAINANT NAME UNLESS THE INFORMATION IS
16 ESSENTIAL TO PROCEEDINGS CONDUCTED PURSUANT TO THIS ARTICLE.

17 B. THE BOARD OR ITS DESIGNEES SHALL CONDUCT NECESSARY INVESTIGATIONS,
18 INCLUDING INTERVIEWS BETWEEN REPRESENTATIVES OF THE BOARD AND THE LICENSEE
19 WITH RESPECT TO ANY INFORMATION OBTAINED BY OR FILED WITH THE BOARD UNDER
20 SUBSECTION A OF THIS SECTION. THE RESULTS OF THE INVESTIGATION CONDUCTED BY
21 A DESIGNEE SHALL BE FORWARDED TO THE BOARD FOR ITS REVIEW.

22 C. IF THE BOARD FINDS, BASED ON THE INFORMATION IT RECEIVES UNDER
23 SUBSECTION A OF THIS SECTION, THAT THE PUBLIC HEALTH, SAFETY OR WELFARE
24 IMPERATIVELY REQUIRES EMERGENCY ACTION AND INCORPORATES A FINDING TO THAT
25 EFFECT IN ITS ORDER, THE BOARD MAY ORDER A SUMMARY SUSPENSION OF THE
26 RESPONDENT'S LICENSE PURSUANT TO SECTION 41-1092.11 PENDING PROCEEDINGS FOR
27 REVOCATION OR OTHER ACTION.

28 D. IF A COMPLAINT REFERS TO QUALITY OF CARE, THE PATIENT MAY BE
29 REFERRED FOR A CLINICAL EVALUATION AT THE DISCRETION OF THE BOARD.

30 E. IF, AFTER COMPLETING ITS INVESTIGATION, THE BOARD FINDS THAT THE
31 INFORMATION PROVIDED PURSUANT TO SUBSECTION A OF THIS SECTION IS INSUFFICIENT
32 TO MERIT DISCIPLINARY ACTION AGAINST THE LICENSEE, THE BOARD MAY TAKE ANY OF
33 THE FOLLOWING ACTIONS:

34 1. DISMISS THE COMPLAINT.

35 2. ISSUE A NONDISCIPLINARY LETTER OF CONCERN TO THE LICENSEE.

36 3. ISSUE A NONDISCIPLINARY ORDER REQUIRING THE LICENSEE TO COMPLETE A
37 PRESCRIBED NUMBER OF HOURS OF CONTINUING EDUCATION IN AN AREA OR AREAS
38 PRESCRIBED BY THE BOARD TO PROVIDE THE LICENSEE WITH THE NECESSARY
39 UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS, PROCEDURES OR TREATMENT.

40 4. ASSESS A NONDISCIPLINARY CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED
41 FIVE HUNDRED DOLLARS IF THE COMPLAINT INVOLVES A LICENSEE'S FAILURE TO
42 RESPOND TO A BOARD SUBPOENA.

43 F. IF, AFTER COMPLETING ITS INVESTIGATION, THE BOARD FINDS THAT THE
44 INFORMATION PROVIDED PURSUANT TO SUBSECTION A OF THIS SECTION IS SUFFICIENT
45 TO MERIT DISCIPLINARY ACTION AGAINST THE LICENSEE, THE BOARD MAY REQUEST THAT

1 THE LICENSEE PARTICIPATE IN A FORMAL INTERVIEW BEFORE THE BOARD. IF THE
2 LICENSEE REFUSES OR ACCEPTS THE INVITATION FOR A FORMAL INTERVIEW AND THE
3 RESULTS INDICATE THAT GROUNDS MAY EXIST FOR REVOCATION OR SUSPENSION, THE
4 BOARD SHALL ISSUE A FORMAL COMPLAINT AND ORDER THAT A HEARING BE HELD
5 PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. IF, AFTER COMPLETING A FORMAL
6 INTERVIEW, THE BOARD FINDS THAT THE PROTECTION OF THE PUBLIC REQUIRES
7 EMERGENCY ACTION, IT MAY ORDER A SUMMARY SUSPENSION OF THE LICENSE PURSUANT
8 TO SECTION 41-1092.11 PENDING FORMAL REVOCATION PROCEEDINGS OR OTHER ACTION
9 AUTHORIZED BY THIS SECTION.

10 G. IF, AFTER COMPLETING A FORMAL INTERVIEW, THE BOARD FINDS THAT THE
11 INFORMATION PROVIDED UNDER SUBSECTION A OF THIS SECTION IS INSUFFICIENT TO
12 MERIT SUSPENSION OR REVOCATION OF THE LICENSE, IT MAY TAKE ANY OF THE
13 FOLLOWING ACTIONS:

14 1. DISMISS THE COMPLAINT.

15 2. ORDER DISCIPLINARY ACTION PURSUANT TO SECTION 32-1263.01,
16 SUBSECTION A.

17 3. ENTER INTO A CONSENT AGREEMENT WITH THE LICENSEE FOR DISCIPLINARY
18 ACTION.

19 4. ORDER NONDISCIPLINARY CONTINUING EDUCATION PURSUANT TO SECTION
20 32-1263.01, SUBSECTION B.

21 5. ISSUE A NONDISCIPLINARY LETTER OF CONCERN TO THE LICENSEE.

22 H. A COPY OF THE BOARD'S ORDER ISSUED PURSUANT TO THIS SECTION SHALL
23 BE GIVEN TO THE COMPLAINANT AND TO THE LICENSEE. PURSUANT TO TITLE 41,
24 CHAPTER 6, ARTICLE 10, THE LICENSEE MAY PETITION FOR REHEARING OR REVIEW.

25 I. ANY PERSON WHO IN GOOD FAITH MAKES A REPORT OR COMPLAINT AS
26 PROVIDED IN THIS SECTION TO THE BOARD OR TO ANY PERSON OR COMMITTEE ACTING ON
27 BEHALF OF THE BOARD IS NOT SUBJECT TO LIABILITY FOR CIVIL DAMAGES AS A RESULT
28 OF THE REPORT.

29 J. THE BOARD, THROUGH ITS PRESIDENT OR THE PRESIDENT'S DESIGNEE, MAY
30 ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF
31 DOCUMENTS AND MAY ADMINISTER OATHS, TAKE TESTIMONY AND RECEIVE EXHIBITS IN
32 EVIDENCE IN CONNECTION WITH AN INVESTIGATION INITIATED BY THE BOARD OR A
33 COMPLAINT FILED WITH THE BOARD. IN CASE OF DISOBEDIENCE TO A SUBPOENA, THE
34 BOARD MAY INVOKE THE AID OF ANY COURT OF THIS STATE IN REQUIRING THE
35 ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF DOCUMENTARY
36 EVIDENCE.

37 K. PATIENT RECORDS, INCLUDING CLINICAL RECORDS, MEDICAL REPORTS,
38 LABORATORY STATEMENTS AND REPORTS, FILES, FILMS, REPORTS OR ORAL STATEMENTS
39 RELATING TO DIAGNOSTIC FINDINGS OR TREATMENT OF PATIENTS, ANY INFORMATION
40 FROM WHICH A PATIENT OR A PATIENT'S FAMILY MAY BE IDENTIFIED OR INFORMATION
41 RECEIVED AND RECORDS KEPT BY THE BOARD AS A RESULT OF THE INVESTIGATION
42 PROCEDURES TAKEN PURSUANT TO THIS CHAPTER, ARE NOT AVAILABLE TO THE PUBLIC.

43 L. THE BOARD MAY CHARGE THE COSTS OF FORMAL HEARINGS CONDUCTED
44 PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10 TO A LICENSEE IT FINDS TO BE IN
45 VIOLATION OF THIS CHAPTER.

1 M. THE BOARD MAY ACCEPT THE SURRENDER OF AN ACTIVE LICENSE FROM A
2 LICENSEE WHO IS SUBJECT TO A BOARD INVESTIGATION AND WHO ADMITS IN WRITING TO
3 ANY OF THE FOLLOWING:
4 1. BEING UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF DENTISTRY.
5 2. HAVING COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT.
6 3. HAVING VIOLATED THIS CHAPTER OR A BOARD RULE.
7 N. IN DETERMINING THE APPROPRIATE DISCIPLINARY ACTION UNDER THIS
8 SECTION, THE BOARD MAY CONSIDER ANY PREVIOUS NONDISCIPLINARY AND DISCIPLINARY
9 ACTIONS AGAINST A LICENSEE.
10 O. FOR THE PURPOSES OF THIS SECTION:
11 1. "LICENSE" INCLUDES A CERTIFICATE ISSUED PURSUANT TO THIS CHAPTER.
12 2. "LICENSEE" MEANS A DENTIST, DENTAL HYGIENIST, DENTURIST, DENTAL
13 CONSULTANT, RESTRICTED PERMIT HOLDER OR BUSINESS ENTITY REGULATED PURSUANT TO
14 THIS CHAPTER.

APPROVED BY THE GOVERNOR APRIL 19, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2011.

Passed the House March 9, 20 11

by the following vote: 58 Ayes,

1 Nays, 1 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate April 13, 20 11

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate

Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

14 day of April, 20 11

at 8:32 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 19th day of

April

at 9:04 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 19th day of April, 20 11

at 11:12 o'clock 9 M.

[Signature]
Secretary of State

H.B. 2554