House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 48

HOUSE BILL 2233

AN ACT

AMENDING TITLE 32, CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; RELATING TO MOBILE DENTAL FACILITIES AND PORTABLE DENTAL UNITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 32, chapter 11, Arizona Revised Statutes, is amended by adding article 8, to read:

ARTICLE 8. MOBILE DENTAL FACILITIES AND PORTABLE DENTAL UNITS

32-1299.21. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "MOBILE DENTAL FACILITY" MEANS A FACILITY IN WHICH DENTISTRY IS PRACTICED AND THAT IS ROUTINELY TOWED, MOVED OR TRANSPORTED FROM ONE LOCATION TO ANOTHER.

2. "PERMIT HOLDER" MEANS A DENTIST, DENTAL HYGIENIST, DENTURIST OR REGISTERED BUSINESS ENTITY THAT IS AUTHORIZED BY THIS CHAPTER TO OFFER DENTAL SERVICES IN THIS STATE OR A NONPROFIT ORGANIZATION, SCHOOL DISTRICT OR SCHOOL OR INSTITUTION OF HIGHER EDUCATION THAT MAY EMPLOY A LICENSEE TO PROVIDE DENTAL SERVICES AND THAT IS AUTHORIZED BY THIS ARTICLE TO OPERATE A MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT.

3. "PORTABLE DENTAL UNIT" MEANS A NONFACILITY IN WHICH DENTAL EQUIPMENT USED IN THE PRACTICE OF DENTISTRY IS TRANSPORTED TO AND USED ON A TEMPORARY BASIS AT AN OUT-OF-OFFICE LOCATION.

32-1299.22. Mobile dental facilities; portable dental units; permits; exceptions

A. BEGINNING JANUARY 1, 2012, EVERY MOBILE DENTAL FACILITY AND, EXCEPT AS PROVIDED IN SUBSECTION B, EVERY PROVIDER, PROGRAM OR ENTITY USING PORTABLE DENTAL UNITS IN THIS STATE MUST OBTAIN A PERMIT PURSUANT TO THIS ARTICLE.

B. A LICENSEE WHO DOES NOT HOLD A PERMIT FOR A MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT MAY PROVIDE DENTAL SERVICES IF:

1. OCCASIONAL SERVICES ARE PROVIDED TO A PATIENT OF RECORD OF A FIXED DENTAL OFFICE WHO IS TREATED OUTSIDE OF THE DENTAL OFFICE.

2. SERVICES ARE PROVIDED BY A FEDERAL, STATE OR LOCAL GOVERNMENT AGENCY.

3. OCCASIONAL SERVICES ARE PERFORMED OUTSIDE OF THE LICENSEE'S OFFICE WITHOUT CHARGE TO A PATIENT OR A THIRD PARTY.

4. SERVICES ARE PROVIDED TO A PATIENT BY AN ACCREDITED DENTAL OR DENTAL HYGIENE SCHOOL.

5. THE LICENSEE HOLDS A VALID PERMIT TO PROVIDE MOBILE DENTAL ANESTHESIA SERVICES.

6. THE LICENSEE IS AN AFFILIATED PRACTICE DENTAL HYGIENIST.

32-1299.23. Permit application; fees; renewal; notification of changes

A. AN INDIVIDUAL OR ENTITY THAT SEEKS A PERMIT TO OPERATE A MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT MUST SUBMIT AN APPLICATION ON A FORM PROVIDED BY THE BOARD AND PAY AN ANNUAL REGISTRATION FEE PRESCRIBED BY THE BOARD BY RULE. THE PERMIT MUST BE RENEWED ANNUALLY NOT LATER THAN THE LAST DAY OF THE MONTH IN WHICH THE PERMIT WAS ISSUED. PERMITS NOT RENEWED BY THE EXPIRATION DATE ARE SUBJECT TO A LATE FEE AS PRESCRIBED BY THE BOARD BY RULE.

B. A PERMIT HOLDER SHALL NOTIFY THE BOARD OF ANY CHANGE IN ADDRESS OR CONTACT PERSON WITHIN TEN DAYS AFTER THAT CHANGE. THE BOARD SHALL IMPOSE A PENALTY AS PRESCRIBED BY THE BOARD BY RULE IF THE PERMIT HOLDER FAILS TO NOTIFY THE BOARD OF THAT CHANGE WITHIN THAT TIME.

C. IF OWNERSHIP OF THE MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT CHANGES, THE PRIOR PERMIT IS INVALID AND A NEW PERMIT APPLICATION MUST BE SUBMITTED.

32-1299.24. Standards of operation and practice

A. A PERMIT HOLDER MUST:

1. COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES DEALING WITH RADIOGRAPHIC EQUIPMENT, FLAMMABILITY, SANITATION, ZONING AND CONSTRUCTION STANDARDS, INCLUDING CONSTRUCTION STANDARDS RELATING TO REQUIRED ACCESS FOR PERSONS WITH DISABILITIES.

2. ESTABLISH WRITTEN PROTOCOLS FOR FOLLOW-UP CARE FOR PATIENTS WHO ARE TREATED IN A MOBILE DENTAL FACILITY OR THROUGH A PORTABLE DENTAL UNIT. THE PROTOCOLS MUST INCLUDE REFERRALS FOR TREATMENT IN A DENTAL OFFICE THAT IS PERMANENTLY ESTABLISHED WITHIN A REASONABLE GEOGRAPHIC AREA AND MAY INCLUDE FOLLOW-UP CARE BY THE MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT.

3. ENSURE THAT EACH MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT HAS ACCESS TO COMMUNICATION EQUIPMENT THAT WILL ENABLE DENTAL PERSONNEL TO CONTACT APPROPRIATE ASSISTANCE IN AN EMERGENCY.

4. IDENTIFY A PERSON WHO IS LICENSED PURSUANT TO THIS CHAPTER, WHO IS RESPONSIBLE TO SUPERVISE TREATMENT AND WHO, IF REQUIRED BY LAW, WILL BE PRESENT WHEN DENTAL SERVICES ARE RENDERED. THIS PARAGRAPH DOES NOT PREVENT SUPERVISION BY A DENTIST PROVIDING SERVICES OR SUPERVISION PURSUANT TO THE EXCEPTIONS PRESCRIBED IN SECTION 32-1231.

5. DISPLAY IN OR ON THE MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT A CURRENT VALID PERMIT ISSUED PURSUANT TO THIS ARTICLE IN A MANNER THAT IS READILY OBSERVABLE BY PATIENTS OR VISITORS.

6. PROVIDE A MEANS OF COMMUNICATION DURING AND AFTER BUSINESS HOURS TO ENABLE THE PATIENT OR THE PARENT OR GUARDIAN OF A PATIENT TO CONTACT THE PERMIT HOLDER OF THE MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT FOR EMERGENCY CARE, FOLLOW-UP CARE OR INFORMATION ABOUT TREATMENT RECEIVED.

7. COMPLY WITH ALL REQUIREMENTS FOR MAINTENANCE OF RECORDS PURSUANT TO SECTION 32-1264 AND ALL OTHER STATUTORY REQUIREMENTS APPLICABLE TO HEALTH CARE PROVIDERS AND PATIENT RECORDS. ALL RECORDS, WHETHER IN PAPER OR ELECTRONIC FORM, IF NOT IN TRANSIT, MUST BE MAINTAINED IN A PERMANENT, SECURE FACILITY. RECORDS OF PRIOR TREATMENT MUST BE READILY AVAILABLE DURING SUBSEQUENT TREATMENT VISITS WHENEVER PRACTICABLE.

8. ENSURE THAT ALL DENTISTS, DENTAL HYGIENISTS AND DENTURISTS WORKING IN THE MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT HOLD A VALID, CURRENT LICENSE ISSUED BY THE BOARD AND THAT ALL DELEGATED DUTIES ARE WITHIN THEIR RESPECTIVE SCOPES OF PRACTICE AS PRESCRIBED BY THE APPLICABLE LAWS OF THIS STATE.

9. MAINTAIN A WRITTEN OR ELECTRONIC RECORD DETAILING EACH LOCATION WHERE SERVICES ARE PROVIDED, INCLUDING:

(a) THE STREET ADDRESS OF THE SERVICE LOCATION.

(b) THE DATES OF EACH SESSION.

(c) THE NUMBER OF PATIENTS SERVED.

(d) THE TYPES OF DENTAL SERVICES PROVIDED AND THE QUANTITY OF EACH SERVICE PROVIDED.

10. PROVIDE TO THE BOARD OR ITS REPRESENTATIVE WITHIN TEN DAYS AFTER A REQUEST FOR A RECORD THE WRITTEN OR ELECTRONIC RECORD REQUIRED PURSUANT TO PARAGRAPH 9 OF THIS SUBSECTION.

11. COMPLY WITH CURRENT RECOMMENDED INFECTION CONTROL PRACTICES FOR DENTISTRY AS PUBLISHED BY THE NATIONAL CENTERS FOR DISEASE CONTROL AND PREVENTION AND AS ADOPTED BY THE BOARD.

B. A MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT MUST:

1. CONTAIN EQUIPMENT AND SUPPLIES THAT ARE APPROPRIATE TO THE SCOPE AND LEVEL OF TREATMENT PROVIDED.

2. HAVE READY ACCESS TO AN ADEQUATE SUPPLY OF POTABLE WATER.

C. A PERMIT HOLDER OR LICENSEE WHO FAILS TO COMPLY WITH APPLICABLE STATUTES AND RULES GOVERNING THE PRACTICE OF DENTISTRY, DENTAL HYGIENE AND DENTURISM, THE REQUIREMENTS FOR REGISTERED BUSINESS ENTITIES OR THE REQUIREMENTS OF THIS ARTICLE IS SUBJECT TO DISCIPLINARY ACTION FOR UNETHICAL OR UNPROFESSIONAL CONDUCT, AS APPLICABLE.

32-1299.25. <u>Informed consent; information for patients</u>

A. THE PERMIT HOLDER OF A MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT MUST OBTAIN APPROPRIATE INFORMED CONSENT, IN WRITING OR BY VERBAL COMMUNICATION, THAT IS RECORDED BY AN ELECTRONIC OR DIGITAL DEVICE FROM THE PATIENT OR THE PARENT OR GUARDIAN OF THE PATIENT AUTHORIZING SPECIFIC TREATMENT BEFORE IT IS PERFORMED. THE SIGNED CONSENT FORM OR VERBAL COMMUNICATION SHALL BE MAINTAINED AS PART OF THE PATIENT'S RECORD AS REQUIRED IN SECTION 32-1264.

B. IF SERVICES ARE PROVIDED TO A MINOR, THE SIGNED CONSENT FORM OR VERBAL COMMUNICATION MUST INFORM THE PARENT OR GUARDIAN THAT THE TREATMENT OF THE MINOR BY THE MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT MAY AFFECT FUTURE BENEFITS THE MINOR MAY RECEIVE UNDER PRIVATE INSURANCE, THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM OR THE CHILDREN'S HEALTH INSURANCE PROGRAM.

C. AT THE CONCLUSION OF EACH PATIENT'S VISIT, THE PERMIT HOLDER OF A MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT SHALL PROVIDE EACH PATIENT WITH AN INFORMATION SHEET THAT MUST CONTAIN:

1. PERTINENT CONTACT INFORMATION AS REQUIRED BY THIS SECTION.

2. THE NAME OF THE DENTIST OR DENTAL HYGIENIST, OR BOTH, WHO PROVIDED SERVICES.

3. A DESCRIPTION OF THE TREATMENT RENDERED, INCLUDING BILLED SERVICE CODES, FEES ASSOCIATED WITH TREATMENT AND TOOTH NUMBERS IF APPROPRIATE.

4. IF NECESSARY, REFERRAL INFORMATION TO ANOTHER DENTIST AS REQUIRED BY THIS ARTICLE.

D. IF THE PATIENT OR THE MINOR PATIENT'S PARENT OR GUARDIAN HAS PROVIDED WRITTEN CONSENT TO AN INSTITUTIONAL FACILITY TO ACCESS THE PATIENT'S DENTAL HEALTH RECORDS, THE PERMIT HOLDER SHALL PROVIDE THE INSTITUTION WITH A COPY OF THE INFORMATION SHEET PROVIDED IN SUBSECTION C.

32-1299.26. Disciplinary actions; cessation of operation

A. A PERMIT HOLDER FOR A MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT THAT PROVIDES DENTAL SERVICES TO A PATIENT SHALL REFER THE PATIENT FOR FOLLOW-UP TREATMENT WITH A LICENSED DENTIST OR THE PERMIT HOLDER IF TREATMENT IS CLINICALLY INDICATED. A PERMIT HOLDER OR LICENSEE WHO FAILS TO COMPLY WITH THIS SUBSECTION COMMITS AN ACT OF UNPROFESSIONAL CONDUCT OR UNETHICAL CONDUCT AND IS SUBJECT TO DISCIPLINARY ACTION PURSUANT TO SECTION 32-1263, SUBSECTION A, PARAGRAPH 1 OR SUBSECTION C.

B. THE BOARD MAY DO ANY OF THE FOLLOWING PURSUANT TO ITS DISCIPLINARY PROCEDURES IF A MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT VIOLATES ANY STATUTE OR BOARD RULE:

1. REFUSE TO ISSUE A PERMIT.

2. SUSPEND OR REVOKE A PERMIT.

3. IMPOSE A CIVIL PENALTY OF NOT MORE THAN TWO THOUSAND DOLLARS FOR EACH VIOLATION.

C. IF A MOBILE DENTAL FACILITY OR PORTABLE DENTAL UNIT CEASES OPERATIONS, THE PERMIT HOLDER MUST NOTIFY THE BOARD WITHIN THIRTY DAYS AFTER THE LAST DAY OF OPERATION AND MUST REPORT ON THE DISPOSITION OF PATIENT RECORDS AND CHARTS. IN ACCORDANCE WITH APPLICABLE LAWS AND RULES, THE PERMIT HOLDER MUST ALSO NOTIFY ALL ACTIVE PATIENTS OF THE DISPOSITION OF RECORDS AND MAKE REASONABLE ARRANGEMENTS FOR THE TRANSFER OF PATIENT RECORDS, INCLUDING COPIES OF RADIOGRAPHS, TO A SUCCEEDING PRACTITIONER OR, IF REQUESTED, TO THE PATIENT. FOR THE PURPOSES OF THIS SUBSECTION, "ACTIVE PATIENT" MEANS ANY PERSON WHOM THE PERMIT HOLDER HAS EXAMINED, TREATED, CARED FOR OR CONSULTED WITH DURING THE TWO YEAR PERIOD BEFORE THE DISCONTINUATION OF PRACTICE.

APPROVED BY THE GOVERNOR APRIL 12, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2011.

Passed the House March 9, 2011

by the following vote: 51 Ayes,

8 Nays, 1 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 5, 2011

by the following vote: 14 Ayes,

12 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

6 day of April, 2011

at 10:30 o'clock A. M.

Nicole Bondie

Secretary to the Governor

Approved this 12th day of

April

at 9:07 o'clock A. M.

Jennifer K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 12th day of April, 2011

at 4:01 o'clock P M.

Ken Bennett

Secretary of State

H.B. 2233