

REFERENCE TITLE: dental therapy; licensure; regulation

State of Arizona
Senate
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2018

SB 1377

Introduced by

Senators Barto: Farley, Gray, Kavanagh, Mendez, Miranda, Otondo,
Peshlakai, Quezada; Representatives Allen J, Barton, Bolding, Cardenas,
Chávez, Cook, Espinoza, Fernandez, Finchem, Gabaldón, Gonzales, John,
Lawrence, Leach, Martinez, Mitchell, Navarrete, Nutt, Payne, Powers
Hannley, Rios, Thorpe

AN ACT

AMENDING SECTIONS 32-1201, 32-1201.01, 32-1207, 32-1231, 32-1235, 32-1263,
32-1263.02 AND 32-1264, ARIZONA REVISED STATUTES; AMENDING TITLE 32,
CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; AMENDING
SECTIONS 32-1299, 41-619.51, 41-1758 AND 41-1758.01, ARIZONA REVISED
STATUTES; 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. Section 32-1201, Arizona Revised Statutes, is amended to
3 read:

4 32-1201. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Affiliated practice dental hygienist" means any licensed dental
7 hygienist who is able, pursuant to section 32-1289.01, to initiate
8 treatment based on the dental hygienist's assessment of a patient's needs
9 according to the terms of a written affiliated practice agreement with a
10 dentist, to treat the patient without the presence of a dentist and to
11 maintain a provider-patient relationship.

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

15 3. "Board" means the state board of dental examiners.

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

21 5. "Dental assistant" means any person who acts as an assistant to
22 a dentist, DENTAL THERAPIST or ~~a~~ dental hygienist by rendering personal
23 services to a patient that involve close proximity to the patient while
24 the patient is under treatment or observation or undergoing diagnostic
25 procedures.

26 6. "Dental hygienist" means any person WHO IS licensed and engaged
27 in the general practice of dental hygiene and all related and associated
28 duties, including educational, clinical and therapeutic dental hygiene
29 procedures.

30 7. "Dental incompetence" means lacking in sufficient dentistry
31 knowledge or skills, or both, in that field of dentistry in which the
32 dentist, DENTAL THERAPIST, denturist or dental hygienist concerned
33 engages, to a degree likely to endanger the health of that person's
34 patients.

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

42 9. "DENTAL THERAPIST" MEANS ANY PERSON WHO IS LICENSED AND ENGAGED
43 IN THE GENERAL PRACTICE OF DENTAL THERAPY AND ALL RELATED AND ASSOCIATED
44 DUTIES, INCLUDING EDUCATIONAL, CLINICAL AND THERAPEUTIC DENTAL THERAPY
45 PROCEDURES.

1 ~~9.~~ 10. "Dental x-ray laboratory technician" means any person,
2 other than a licensed dentist, who, pursuant to a written work order of a
3 dentist, performs dental and maxillofacial radiography, including
4 cephalometrics, panoramic and maxillofacial tomography and other dental
5 related ~~non-fluoroscopic~~ NONFLUOROSCOPIC diagnostic imaging modalities.

6 ~~10.~~ 11. "Dentistry", "dentist" and "dental" ~~means~~ MEAN the general
7 practice of dentistry and all specialties or restricted practices of
8 dentistry.

9 ~~11.~~ 12. "Denturist" means a person practicing denture technology
10 pursuant to article 5 of this chapter.

11 ~~12.~~ 13. "Disciplinary action" means regulatory sanctions that are
12 imposed by the board in combination with, or as an alternative to,
13 revocation or suspension of a license and that may include:

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

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

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

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

24 ~~13.~~ 14. "Irregularities in billing" means submitting any claim,
25 bill or government assistance claim to any patient, responsible party or
26 third-party payor for dental services rendered that is materially false
27 with the intent to receive unearned income as evidenced by any of the
28 following:

29 (a) Charges for services not rendered.

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

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

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

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

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

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

3 ~~14.~~ 15. "Letter of concern" means an advisory letter to notify a
4 licensee or a registered business entity that, while the evidence does not
5 warrant disciplinary action, the board believes that the licensee or
6 registered business entity should modify or eliminate certain practices
7 and that continuation of the activities that led to the information being
8 submitted to the board may result in board action against the
9 practitioner's license or the business entity's registration. A letter of
10 concern is not a disciplinary action. A letter of concern is a public
11 document and may be used in a future disciplinary action.

12 ~~15.~~ 16. "Licensed" means licensed pursuant to this chapter.

13 ~~16.~~ 17. "Place of practice" means each physical location at which
14 a person WHO IS licensed pursuant to this chapter performs services
15 subject to this chapter.

16 ~~17.~~ 18. "Primary mailing address" means the address on file with
17 the board and to which official board correspondence, notices or documents
18 are delivered in a manner determined by the board.

19 ~~18.~~ 19. "Recognized dental hygiene school" means a school that has
20 a dental hygiene program with a minimum two academic year curriculum, or
21 the equivalent of four semesters, and that is approved by the board and
22 accredited by the American dental association commission on dental
23 accreditation.

24 ~~19.~~ 20. "Recognized dental school" means a dental school
25 accredited by the American dental association commission on dental
26 accreditation.

27 ~~20.~~ 21. "Recognized denturist school" means a denturist school
28 that maintains standards of entrance, study and graduation and that is
29 accredited by the United States department of education or the council on
30 higher education accreditation.

31 ~~21.~~ 22. "Supervised personnel" means all dental hygienists, dental
32 assistants, dental laboratory technicians, denturists, dental x-ray
33 laboratory technicians and other persons supervised by licensed dentists.

34 ~~22.~~ 23. "Teledentistry" means the use of data transmitted through
35 interactive audio, video or data communications for the purposes of
36 examination, diagnosis, treatment planning, consultation and directing the
37 delivery of treatment by dentists and dental providers in settings
38 permissible under this chapter or specified in rules adopted by the board.

39 Sec. 2. Section 32-1201.01, Arizona Revised Statutes, is amended to
40 read:

41 32-1201.01. Definition of unprofessional conduct

42 For the purposes of this chapter, "unprofessional conduct" means the
43 following acts, whether occurring in this state or elsewhere:

44 1. ~~intentional betrayal of~~ INTENTIONALLY BETRAYING a professional
45 confidence or ~~intentional violation of~~ INTENTIONALLY VIOLATING a

1 privileged communication except as either of these may otherwise be
2 required by law. This paragraph does not prevent members of the board
3 from the full and free exchange of information with the licensing and
4 disciplinary boards of other states, territories or districts of the
5 United States or foreign countries, with the Arizona state dental
6 association or any of its component societies or with the dental societies
7 of other states, counties, districts, territories or foreign countries.

8 2. Using controlled substances as defined in section 36-2501,
9 narcotic drugs, dangerous drugs or marijuana as defined in section
10 13-3401, or hypnotic drugs, including acetylurea derivatives, barbituric
11 acid derivatives, chloral, paraldehyde, phenylhydantoin derivatives,
12 sulfonmethane derivatives or any compounds, mixtures or preparations that
13 may be used for producing hypnotic effects, or alcohol to the extent that
14 it affects the ability of the dentist, DENTAL THERAPIST, denturist or
15 dental hygienist to practice that person's profession.

16 3. Prescribing, dispensing or using drugs for other than accepted
17 dental therapeutic purposes or for other than medically indicated
18 supportive therapy in conjunction with managing a patient's dental needs.

19 4. COMMITTING gross malpractice or repeated acts constituting
20 malpractice.

21 5. Acting or assuming to act as a member of the board if this is
22 not true.

23 6. Procuring or attempting to procure a certificate of the national
24 board of dental examiners or a license to practice dentistry or dental
25 hygiene by fraud or misrepresentation or by knowingly taking advantage of
26 the mistake of another.

27 7. Having professional connection with or lending one's name to an
28 illegal practitioner of dentistry or any of the other healing arts.

29 8. Representing that a manifestly not correctable condition,
30 disease, injury, ailment or infirmity can be permanently corrected, or
31 that a correctable condition, disease, injury, ailment or infirmity can be
32 corrected within a stated time, if this is not true.

33 9. Offering, undertaking or agreeing to correct, cure or treat a
34 condition, disease, injury, ailment or infirmity by a secret means,
35 method, device or instrumentality.

36 10. Refusing to divulge to the board, on reasonable notice and
37 demand, the means, method, device or instrumentality used in the treatment
38 of a condition, disease, injury, ailment or infirmity.

39 11. Dividing a professional fee or offering, providing or receiving
40 any consideration for patient referrals among or between dental care
41 providers or dental care institutions or entities. This paragraph does
42 not prohibit the division of fees among licensees who are engaged in a
43 bona fide employment, partnership, corporate or contractual relationship
44 for the delivery of professional services.

1 12. Knowingly making any false or fraudulent statement, written or
2 oral, in connection with the practice of dentistry.

3 13. ~~Refusal, revocation or suspension of~~ **HAVING** a license **REFUSED,**
4 **REVOKED OR SUSPENDED** or any other disciplinary action taken against a
5 dentist by, or ~~the voluntary surrender of~~ **VOLUNTARILY SURRENDERING** a
6 license in lieu of disciplinary action to, any other state, territory,
7 district or country, unless the board finds that this action was not taken
8 for reasons that relate to the person's ability to safely and skillfully
9 practice dentistry or to any act of unprofessional conduct.

10 14. **COMMITTING** any conduct or practice that constitutes a danger to
11 the health, welfare or safety of the patient or the public.

12 15. Obtaining a fee by fraud or misrepresentation, or wilfully or
13 intentionally filing a fraudulent claim with a third party for services
14 rendered or to be rendered to a patient.

15 16. **COMMITTING** repeated irregularities in billing.

16 17. Employing unlicensed persons to perform or aiding and abetting
17 unlicensed persons in the performance of work that can be done legally
18 only by licensed persons.

19 18. Practicing dentistry under a false or assumed name in this
20 state, other than as allowed by section 32-1262.

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

26 20. **COMMITTING** the following advertising practices:

27 (a) ~~The publication~~ **PUBLISHING** or ~~circulation~~ **CIRCULATING**, directly
28 or indirectly, ~~of~~ any false, fraudulent or misleading statements
29 concerning the skill, methods or practices of the licensee or of any other
30 person.

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

33 21. Failing to dispense drugs and devices in compliance with
34 article 6 of this chapter.

35 22. Failing to comply with a board order, including an order of
36 censure or probation.

37 23. Failing to comply with a board subpoena in a timely manner.

38 24. Failing or refusing to maintain adequate patient records.

39 25. Failing to allow properly authorized board personnel, on
40 demand, to inspect the place of practice and examine and have access to
41 documents, books, reports and records maintained by the licensee or
42 certificate holder that relate to the dental practice or dental-related
43 activity.

1 26. Refusing to submit to a body fluid examination as required
2 through a monitored treatment program or pursuant to a board investigation
3 into a licensee's or certificate holder's alleged substance abuse.

4 27. Failing to inform a patient of the type of material the dentist
5 will use in the patient's dental filling and the reason why the dentist is
6 using that particular filling.

7 28. Failing to report in writing to the board any evidence that a
8 dentist, DENTAL THERAPIST, denturist or dental hygienist is or may be:

9 (a) Professionally incompetent.

10 (b) Engaging in unprofessional conduct.

11 (c) Impaired by drugs or alcohol.

12 (d) Mentally or physically unable to safely engage in the
13 activities of a dentist, DENTAL THERAPIST, denturist or dental hygienist
14 pursuant to this chapter.

15 29. Filing a false report pursuant to paragraph 28 of this section.

16 30. Practicing dentistry, DENTAL THERAPY, dental hygiene or
17 denturism in a business entity that is not registered with the board as
18 required by section 32-1213.

19 31. PROVIDING SERVICES OR PROCEDURES AS A DENTAL THERAPIST BEYOND
20 THOSE AUTHORIZED IN THE WRITTEN COLLABORATIVE PRACTICE AGREEMENT.

21 Sec. 3. Section 32-1207, Arizona Revised Statutes, is amended to
22 read:

23 32-1207. Powers and duties; executive director; immunity;
24 fees; definition

25 A. The board shall:

26 1. Adopt rules THAT ARE not inconsistent with this chapter for ~~the~~
27 ~~regulation of~~ REGULATING its own conduct, for holding examinations and for
28 regulating the practice of dentists and supervised personnel and
29 registered business entities, provided:

30 (a) Regulation of supervised personnel is based on the degree of
31 education and training of the supervised personnel, the state of
32 scientific technology available and the necessary degree of supervision of
33 the supervised personnel by dentists.

34 (b) Except as provided pursuant to ~~section~~ SECTIONS 32-1276.02 AND
35 32-1281, only licensed dentists may perform diagnosis and treatment
36 planning, prescribe medication and perform surgical procedures on hard and
37 soft tissues.

38 (c) Only a licensed dentist, A DENTAL THERAPIST PURSUANT TO A
39 WRITTEN COLLABORATIVE PRACTICE AGREEMENT or A dental hygienist in
40 consultation with a dentist, ~~may~~ may perform examinations, oral health
41 assessments and treatment sequencing for dental hygiene procedures.

42 2. Adopt a seal.

43 3. Maintain a record that ~~shall remain~~ IS available to the board at
44 all times of its acts and proceedings, including the issuance, denial,
45 renewal, suspension or revocation of licenses and the disposition of

1 complaints. The existence of a pending complaint or investigation shall
2 not be disclosed to the public. Records of complaints shall be available
3 to the public, except only as follows:

4 (a) If the board dismisses or terminates a complaint, the record of
5 the complaint shall not be available to the public.

6 (b) If the board has issued a nondisciplinary letter of concern,
7 the record of the complaint shall be available to the public only for a
8 period of five years after the date the board issued the letter of
9 concern.

10 (c) If the board has required additional nondisciplinary continuing
11 education pursuant to section 32-1263.01 but has not taken further action,
12 the record of the complaint shall be available to the public only for a
13 period of five years after the licensee satisfies this requirement.

14 (d) If the board has assessed a nondisciplinary civil penalty
15 pursuant to section 32-1208 but has not taken further action, the record
16 of the complaint shall be available to the public only for a period of
17 five years after the licensee satisfies this requirement.

18 4. Establish a uniform and reasonable standard of minimum
19 educational requirements consistent with the accreditation standards of
20 the American dental association commission on dental accreditation to be
21 observed by dental schools, DENTAL THERAPY SCHOOLS and dental hygiene
22 schools in order to be classified as recognized dental schools, DENTAL
23 THERAPY SCHOOLS or dental hygiene schools.

24 5. Establish a uniform and reasonable standard of minimum
25 educational requirements that are consistent with the accreditation
26 standards of the United States department of education or the council on
27 higher education accreditation and that must be observed by denture
28 technology schools in order to be classified as recognized denture
29 technology schools.

30 6. Determine the reputability and classification of dental schools,
31 DENTAL THERAPY SCHOOLS, dental hygiene schools and denture technology
32 schools in accordance with their compliance with the standard set forth in
33 paragraph 4 or 5 of this subsection, whichever is applicable.

34 7. Issue licenses to ~~those it~~ PERSONS WHOM THE BOARD determines are
35 eligible for licensure pursuant to this chapter.

36 8. Determine the eligibility of applicants for restricted permits
37 and issue restricted permits to those found eligible.

38 9. Pursuant to section 32-1263.02, investigate charges of
39 misconduct on the part of licensees and persons to whom restricted permits
40 have been issued.

41 10. Issue a letter of concern, which is not a disciplinary action
42 but refers to practices that may lead to a violation and to disciplinary
43 action.

44 11. Issue decrees of censure, fix periods and terms of probation,
45 suspend or revoke licenses, certificates and restricted permits, as the

1 facts may warrant, and reinstate licenses, certificates and restricted
2 permits in proper cases.

3 12. Collect and disburse monies.

4 13. Perform all other duties that are necessary to enforce this
5 chapter and that are not specifically or by necessary implication
6 delegated to another person.

7 14. Establish criteria for the renewal of permits issued pursuant
8 to board rules relating to general anesthesia and sedation.

9 B. The board may:

10 1. Sue and be sued.

11 2. Issue subpoenas, including subpoenas to the custodian of patient
12 records, compel attendance of witnesses, administer oaths and take
13 testimony concerning all matters within ~~its~~ THE BOARD'S jurisdiction. If
14 a person refuses to obey a subpoena issued by the board, the refusal shall
15 be certified to the superior court and proceedings shall be instituted for
16 contempt of court.

17 3. Adopt rules:

18 (a) Prescribing requirements for continuing education for renewal
19 of all licenses issued pursuant to this chapter.

20 (b) Prescribing educational and experience prerequisites for the
21 administration of intravenous or intramuscular drugs for the purpose of
22 sedation or for use of general anesthetics in conjunction with a dental
23 treatment procedure.

24 (c) Prescribing requirements for obtaining licenses for ~~disabled or~~
25 retired licensees OR LICENSEES WHO HAVE A DISABILITY, including the
26 triennial license renewal fee.

27 4. Hire consultants to assist the board in the performance of its
28 duties and employ persons to provide investigative, professional and
29 clerical assistance as ~~it~~ THE BOARD deems necessary.

30 5. Contract with other state or federal agencies as required to
31 carry out the purposes of this chapter.

32 6. If determined by the board, order physical, psychological,
33 psychiatric and competency evaluations of licensed dentists, DENTAL
34 THERAPISTS and dental hygienists, certified denturists and applicants for
35 licensure and certification at the expense of those individuals.

36 C. The executive director or the executive director's designee may:

37 1. Issue and renew licenses, certificates and permits to applicants
38 who meet the requirements of this chapter.

39 2. Initiate an investigation if evidence appears to demonstrate
40 that a dentist, DENTAL THERAPIST, dental hygienist, denturist or
41 restricted permit holder may be engaged in unprofessional conduct or may
42 be unable to safely practice dentistry.

43 3. Initiate an investigation if evidence appears to demonstrate
44 that a business entity may be engaged in unethical conduct.

1 4. Subject to board approval, enter into a consent agreement with a
2 dentist, **DENTAL THERAPIST**, denturist, dental hygienist or restricted
3 permit holder if there is evidence of unprofessional conduct.

4 5. Subject to board approval, enter into a consent agreement with a
5 business entity if there is evidence of unethical conduct.

6 6. Refer cases to the board for a formal interview.

7 7. If delegated by the board, enter into a stipulation agreement
8 with a person under the board's jurisdiction for the treatment,
9 rehabilitation and monitoring of chemical substance abuse or misuse.

10 D. Members of the board are personally immune from liability with
11 respect to all acts done and actions taken in good faith and within the
12 scope of their authority.

13 E. The board by rule shall require that a licensee obtain a permit
14 for the application of general anesthesia, semiconscious sedation or
15 conscious sedation, shall establish and collect a fee of not more than
16 three hundred dollars to cover administrative costs connected with issuing
17 the permit and shall conduct inspections to ~~assure~~ **ENSURE** compliance.

18 F. The board by rule may establish and collect fees for license
19 verification, board meeting agendas and minutes, published lists and
20 mailing labels.

21 G. This section does not prohibit the board from conducting its
22 authorized duties in a public meeting.

23 H. For the purposes of this section, "record of complaint" means
24 the document reflecting the final disposition of a complaint or
25 investigation.

26 Sec. 4. Section 32-1231, Arizona Revised Statutes, is amended to
27 read:

28 **32-1231. Persons not required to be licensed**

29 This chapter does not prohibit:

30 1. A dentist, **DENTAL THERAPIST** or dental hygienist who is
31 officially employed in the service of the United States from practicing
32 dentistry in the dentist's, **DENTAL THERAPIST'S** or dental hygienist's
33 official capacity, within the scope of that person's authority, on persons
34 **WHO ARE** enlisted in, directly connected with or under the immediate
35 control of some branch of service of the United States.

36 2. **A PERSON FROM PRACTICING DENTAL THERAPY IN THE DISCHARGE OF
37 OFFICIAL DUTIES ON BEHALF OF THE UNITED STATES GOVERNMENT, INCLUDING THE
38 UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, THE UNITED STATES PUBLIC
39 HEALTH SERVICE AND THE INDIAN HEALTH SERVICE AND TRIBAL HEALTH PROGRAMS
40 AUTHORIZED PURSUANT TO PUBLIC LAW 93-638.**

41 ~~2.~~ 3. An intern or student of dentistry, **DENTAL THERAPY** or dental
42 hygiene from operating in the clinical departments or laboratories of a
43 recognized dental school, **DENTAL THERAPY SCHOOL**, dental hygiene school or
44 hospital under **THE** supervision of a dentist.

1 B. Except as provided in subsection C of this section, a person may
2 not submit an application for reinstatement less than five years after the
3 date of suspension, revocation or surrender.

4 C. The board shall vacate its previous order to suspend or revoke a
5 license or certificate if that suspension or revocation was based on a
6 conviction of a felony or an offense involving moral turpitude and that
7 conviction has been reversed on appeal. The person may submit an
8 application for reinstatement as soon as the court enters the reversal.

9 D. An applicant for reinstatement must comply with all initial
10 licensing or certification requirements prescribed by this chapter.

11 E. A person whose application for a license or certificate has been
12 denied for failure to meet academic requirements may apply for licensure
13 or certification not less than two years after the denial.

14 F. A person whose application for a license has been denied
15 pursuant to section 32-1232, subsection C may apply for licensure not less
16 than five years after the denial.

17 Sec. 6. Section 32-1263, Arizona Revised Statutes, is amended to
18 read:

19 32-1263. Grounds for disciplinary action; definition

20 A. The board may invoke disciplinary action against any person **WHO**
21 **IS** licensed under this chapter for any of the following reasons:

22 1. Unprofessional conduct, ~~as~~ as defined in section 32-1201.01.

23 2. Conviction of a felony or of a misdemeanor involving moral
24 turpitude, in which case the record of conviction or a certified copy is
25 conclusive evidence.

26 3. Physical or mental incompetence to practice pursuant to this
27 chapter.

28 4. Committing or aiding, directly or indirectly, a violation of or
29 noncompliance with any provision of this chapter or of any rules adopted
30 by the board pursuant to this chapter.

31 5. Dental incompetence, ~~as~~ as defined in section 32-1201.

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

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

37 D. For the purposes of this section, "unethical conduct" means the
38 following acts occurring in this state or elsewhere:

39 1. Failing to report in writing to the board any evidence that a
40 dentist, **DENTAL THERAPIST**, denturist or dental hygienist is or may be
41 professionally incompetent, is or may be guilty of unprofessional conduct,
42 is or may be impaired by drugs or alcohol or is or may be mentally or
43 physically unable to safely engage in the permissible activities of a
44 dentist, **DENTAL THERAPIST**, denturist or dental hygienist.

- 1 2. Falsely reporting to the board that a dentist, DENTAL THERAPIST,
2 denturist or dental hygienist is or may be guilty of unprofessional
3 conduct, is or may be impaired by drugs or alcohol or is or may be
4 mentally or physically unable to safely engage in the permissible
5 activities of a dentist, DENTAL THERAPIST, denturist or dental hygienist.
- 6 3. Obtaining or attempting to obtain a registration or registration
7 renewal by fraud or by misrepresentation.
- 8 4. Knowingly filing with the board any application, renewal or
9 other document that contains false information.
- 10 5. Failing to register or failing to submit a renewal registration
11 with the board pursuant to section 32-1213.
- 12 6. Failing to provide the following persons with access to any
13 place for which a registration has been issued or for which an application
14 for a registration has been submitted in order to conduct a site
15 investigation, inspection or audit:
 - 16 (a) The board or its employees or agents.
 - 17 (b) An authorized federal or state official.
- 18 7. Failing to notify the board of a change in officers and
19 directors, a change of address or a change in the dentists providing
20 services pursuant to section 32-1213, subsection E.
- 21 8. Failing to provide patient records pursuant to section 32-1264.
- 22 9. Obtaining a fee by fraud or misrepresentation or wilfully or
23 intentionally filing a fraudulent claim with a third party for services
24 rendered or to be rendered to a patient.
- 25 10. Engaging in repeated irregularities in billing.
- 26 11. Engaging in the following advertising practices:
 - 27 (a) ~~The publication~~ PUBLISHING or ~~circulation~~ CIRCULATING, directly
28 or indirectly, ~~of~~ any false or fraudulent or misleading statements
29 concerning the skill, methods or practices of a registered business
30 entity, a licensee or any other person.
 - 31 (b) Advertising in any manner that tends to deceive or defraud the
32 public.
- 33 12. Failing to comply with a board subpoena in a timely manner.
- 34 13. Failing to comply with a final board order, including a decree
35 of censure, a period or term of probation, a consent agreement or a
36 stipulation.
- 37 14. Employing or aiding and abetting unlicensed persons to perform
38 work that must be done by a person licensed pursuant to this chapter.
- 39 15. Engaging in any conduct or practice that constitutes a danger
40 to the health, welfare or safety of the patient or the public.
- 41 16. Engaging in a policy or practice that interferes with the
42 clinical judgment of a licensee providing dental services for a business
43 entity or compromising a licensee's ability to comply with this chapter.

1 Sec. 7. Section 32-1263.02, Arizona Revised Statutes, is amended to
2 read:

3 32-1263.02. Investigation and adjudication of complaints;
4 disciplinary action; civil penalty; immunity;
5 subpoena authority; definitions

6 A. The board on its motion, or the executive director if delegated
7 by the board, may investigate any evidence that appears to show the
8 existence of any of the causes or grounds for disciplinary action as
9 provided in section 32-1263. The board may investigate any complaint that
10 alleges the existence of any of the causes or grounds for disciplinary
11 action as provided in section 32-1263. The board shall not act on its own
12 motion or on a complaint received by the board if the allegation of
13 unprofessional conduct, unethical conduct or any other violation of this
14 chapter against a professional who holds an Arizona license occurred more
15 than four years before the complaint is received by the board. The
16 four-year time limitation does not apply to:

17 1. Medical malpractice settlements or judgments or allegations of
18 sexual misconduct or if an incident or occurrence involved a felony,
19 diversion of a controlled substance or impairment while practicing by the
20 licensee.

21 2. A board's consideration of the specific unprofessional conduct
22 related to a licensee's failure to disclose conduct or a violation as
23 required by law.

24 B. At the request of the complainant, the board shall not disclose
25 to the respondent the complainant name unless the information is essential
26 to proceedings conducted pursuant to this article.

27 C. The board or its designees shall conduct necessary
28 investigations, including interviews between representatives of the board
29 and the licensee with respect to any information obtained by or filed with
30 the board under subsection A of this section. The results of the
31 investigation conducted by a designee shall be forwarded to the board for
32 its review.

33 D. If, based on the information it receives under subsection A of
34 this section, the board finds that the public health, safety or welfare
35 imperatively requires emergency action and incorporates a finding to that
36 effect in its order, the board may order a summary suspension of the
37 respondent's license pursuant to section 41-1092.11 pending proceedings
38 for revocation or other action.

39 E. If a complaint refers to quality of care, the patient may be
40 referred for a clinical evaluation at the discretion of the board.

41 F. If, after completing its investigation, the board finds that the
42 information provided pursuant to subsection A of this section is
43 insufficient to merit disciplinary action against the licensee, the board
44 may take any of the following actions:

- 45 1. Dismiss the complaint.

1 2. Issue a nondisciplinary letter of concern to the licensee.

2 3. Issue a nondisciplinary order requiring the licensee to complete
3 a prescribed number of hours of continuing education in an area or areas
4 prescribed by the board to provide the licensee with the necessary
5 understanding of current developments, skills, procedures or treatment.

6 4. Assess a nondisciplinary civil penalty in an amount not to
7 exceed five hundred dollars if the complaint involves the licensee's
8 failure to respond to a board subpoena.

9 G. If, after completing its investigation, the board finds that the
10 information provided pursuant to subsection A of this section is
11 sufficient to merit disciplinary action against the licensee, the board
12 may request that the licensee participate in a formal interview before the
13 board. If the licensee refuses or accepts the invitation for a formal
14 interview and the results indicate that grounds may exist for revocation
15 or suspension, the board shall issue a formal complaint and order that a
16 hearing be held pursuant to title 41, chapter 6, article 10. If, after
17 completing a formal interview, the board finds that the protection of the
18 public requires emergency action, it may order a summary suspension of the
19 license pursuant to section 41-1092.11 pending formal revocation
20 proceedings or other action authorized by this section.

21 H. If, after completing a formal interview, the board finds that
22 the information provided under subsection A of this section is
23 insufficient to merit suspension or revocation of the license, it may take
24 any of the following actions:

25 1. Dismiss the complaint.

26 2. Order disciplinary action pursuant to section 32-1263.01,
27 subsection A.

28 3. Enter into a consent agreement with the licensee for
29 disciplinary action.

30 4. Order nondisciplinary continuing education pursuant to section
31 32-1263.01, subsection B.

32 5. Issue a nondisciplinary letter of concern to the licensee.

33 I. A copy of the board's order issued pursuant to this section
34 shall be given to the complainant and to the licensee. Pursuant to title
35 41, chapter 6, article 10, the licensee may petition for rehearing or
36 review.

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

41 K. The board, through its president or the president's designee,
42 may issue subpoenas to compel the attendance of witnesses and the
43 production of documents and may administer oaths, take testimony and
44 receive exhibits in evidence in connection with an investigation initiated
45 by the board or a complaint filed with the board. In case of disobedience

1 to a subpoena, the board may invoke the aid of any court of this state in
2 requiring the attendance and testimony of witnesses and the production of
3 documentary evidence.

4 L. Patient records, including clinical records, medical reports,
5 laboratory statements and reports, files, films, reports or oral
6 statements relating to diagnostic findings or treatment of patients, any
7 information from which a patient or a patient's family may be identified
8 or information received and records kept by the board as a result of the
9 investigation procedures taken pursuant to this chapter, are not available
10 to the public.

11 M. The board may charge the costs of formal hearings conducted
12 pursuant to title 41, chapter 6, article 10 to a licensee it finds to be
13 in violation of this chapter.

14 N. The board may accept the surrender of an active license from a
15 licensee who is subject to a board investigation and who admits in writing
16 to any of the following:

- 17 1. Being unable to safely engage in the practice of dentistry.
- 18 2. Having committed an act of unprofessional conduct.
- 19 3. Having violated this chapter or a board rule.

20 O. In determining the appropriate disciplinary action under this
21 section, the board may consider any previous nondisciplinary and
22 disciplinary actions against a licensee.

23 P. If a licensee who is currently providing dental services for a
24 registered business entity believes that the registered business entity
25 has engaged in unethical conduct as defined pursuant to section 32-1263,
26 subsection D, paragraph 16, the licensee must do both of the following
27 before filing a complaint with the board:

28 1. Notify the registered business entity in writing that the
29 licensee believes that the registered business entity has engaged in a
30 policy or practice that interferes with the clinical judgment of the
31 licensee or that compromises the licensee's ability to comply with the
32 requirements of this chapter. The licensee shall specify in the notice
33 the reasons for this belief.

34 2. Provide the registered business entity with at least ten
35 calendar days to respond in writing to the assertions made pursuant to
36 paragraph 1 of this subsection.

37 Q. A licensee who files a complaint pursuant to subsection O of
38 this section shall provide the board with a copy of the licensee's
39 notification and the registered business entity's response, if any.

40 R. A registered business entity may not take any adverse employment
41 action against a licensee because the licensee complies with the
42 requirements of subsection O of this section.

43 S. For the purposes of this section:

44 1. "License" includes a certificate issued pursuant to this
45 chapter.

1 2. "Licensee" means a dentist, DENTAL THERAPIST, dental hygienist,
2 denturist, dental consultant, restricted permit holder or business entity
3 regulated pursuant to this chapter.

4 Sec. 8. Section 32-1264, Arizona Revised Statutes, is amended to
5 read:

6 32-1264. Maintenance of records

7 A. A person who is licensed or certified pursuant to this chapter
8 shall make and maintain legible written records concerning all ~~diagnosis~~
9 ~~DIAGNOSES~~, ~~evaluation~~ EVALUATIONS and ~~treatment~~ TREATMENTS of each patient
10 of record. A licensee or certificate holder shall maintain records THAT
11 ARE stored or produced electronically in retrievable paper form. These
12 records shall include:

13 1. All treatment notes, including current health history and
14 clinical examinations.

15 2. Prescription and dispensing information, including all drugs,
16 medicaments and dental materials used for patient care.

17 3. Diagnosis and treatment planning.

18 4. Dental and periodontal charting. Specialist charting must
19 include areas of requested care and notation of visual oral examination
20 describing any areas of potential pathology or radiographic
21 irregularities.

22 5. All radiographs.

23 B. Records are available for review and for treatment purposes to
24 the dentist, DENTAL THERAPIST, dental hygienist or denturist providing
25 care.

26 C. On request, the licensee or certificate holder shall allow
27 properly authorized board personnel to have access to the licensee's or
28 certificate holder's place of practice to conduct an inspection and must
29 make the licensee's or certificate holder's records, books and documents
30 available to the board as part of an investigation process.

31 D. Within fifteen business days ~~of~~ AFTER a patient's written
32 request, that patient's dentist, DENTAL THERAPIST, dental hygienist or
33 denturist or a registered business entity shall transfer legible and
34 diagnostic quality copies of that patient's records to another licensee or
35 certificate holder or that patient. The patient may be charged for the
36 reasonable costs of copying and forwarding these records. A dentist,
37 DENTAL THERAPIST, dental hygienist, denturist or registered business
38 entity may require that payment of reproduction costs be made in advance,
39 unless the records are necessary for continuity of care, in which case the
40 records shall not be withheld. Copies of records shall not be withheld
41 because of an unpaid balance for dental services.

42 E. Unless otherwise required by law, a person who is licensed or
43 certified pursuant to this chapter or a business entity that is registered
44 pursuant to this chapter must retain the original or a copy of a patient's
45 dental records as follows:

1 LICENSED DENTAL THERAPIST SHALL COMPLETE FOUR HUNDRED HOURS OF DENTAL
2 THERAPY CLINICAL PRACTICE UNDER THE DIRECT SUPERVISION OF A DENTIST.

3 D. THE BOARD MAY DENY AN APPLICATION FOR LICENSURE OR LICENSE
4 RENEWAL IF THE APPLICANT:

5 1. HAS COMMITTED AN ACT THAT WOULD BE CAUSE FOR CENSURE, PROBATION
6 OR SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS CHAPTER.

7 2. WHILE UNLICENSED, COMMITTED OR AIDED AND ABETTED THE COMMISSION
8 OF AN ACT FOR WHICH A LICENSE IS REQUIRED BY THIS CHAPTER.

9 3. KNOWINGLY MADE ANY FALSE STATEMENT IN THE APPLICATION.

10 4. HAS HAD A LICENSE TO PRACTICE DENTAL THERAPY REVOKED BY A
11 REGULATORY BOARD IN ANOTHER JURISDICTION IN THE UNITED STATES FOR AN ACT
12 THAT OCCURRED IN THAT JURISDICTION AND THAT CONSTITUTES UNPROFESSIONAL
13 CONDUCT PURSUANT TO THIS CHAPTER.

14 5. IS CURRENTLY SUSPENDED OR RESTRICTED BY A REGULATORY BOARD IN
15 ANOTHER JURISDICTION IN THE UNITED STATES FOR AN ACT THAT OCCURRED IN THAT
16 JURISDICTION AND THAT CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO THIS
17 CHAPTER.

18 6. HAS SURRENDERED, RELINQUISHED OR GIVEN UP A LICENSE TO PRACTICE
19 DENTAL THERAPY INSTEAD OF DISCIPLINARY ACTION BY A REGULATORY BOARD IN
20 ANOTHER JURISDICTION IN THE UNITED STATES FOR AN ACT THAT OCCURRED IN THAT
21 JURISDICTION AND THAT CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO THIS
22 CHAPTER.

23 E. THE BOARD SHALL SUSPEND AN APPLICATION FOR LICENSURE IF THE
24 APPLICANT IS CURRENTLY UNDER INVESTIGATION BY A DENTAL REGULATORY BOARD IN
25 ANOTHER JURISDICTION. THE BOARD SHALL NOT ISSUE A LICENSE OR DENY AN
26 APPLICATION FOR LICENSURE UNTIL THE INVESTIGATION IS COMPLETED.

27 32-1276.01. Dental therapist triennial licensure; continuing
28 education; license renewal and reinstatement;
29 fees; civil penalties; retired licensees and
30 licensees with a disability; definition

31 A. EXCEPT AS PROVIDED IN SECTION 32-4301, A LICENSE ISSUED UNDER
32 THIS ARTICLE EXPIRES ON JUNE 30 OF EVERY THIRD YEAR. ON OR BEFORE JUNE 30
33 OF EVERY THIRD YEAR, EACH LICENSED DENTAL THERAPIST SHALL SUBMIT TO THE
34 BOARD A COMPLETE RENEWAL APPLICATION AND PAY A LICENSE RENEWAL FEE
35 ESTABLISHED BY A FORMAL VOTE OF THE BOARD. AT LEAST ONCE EVERY THREE
36 YEARS, BEFORE ESTABLISHING THE FEE, THE BOARD SHALL REVIEW THE AMOUNT OF
37 THE FEE IN A PUBLIC MEETING. ANY CHANGE IN THE AMOUNT OF THE FEE SHALL BE
38 APPLIED PROSPECTIVELY TO A LICENSEE AT THE TIME OF LICENSURE RENEWAL. THE
39 FEE PRESCRIBED BY THIS SUBSECTION DOES NOT APPLY TO A RETIRED DENTAL
40 THERAPIST OR TO A DENTAL THERAPIST WITH A DISABILITY.

41 B. A LICENSEE SHALL INCLUDE A WRITTEN AFFIDAVIT WITH THE RENEWAL
42 APPLICATION THAT AFFIRMS THAT THE LICENSEE COMPLIES WITH BOARD RULES
43 RELATING TO CONTINUING EDUCATION REQUIREMENTS. A LICENSEE IS NOT REQUIRED
44 TO COMPLETE THE WRITTEN AFFIDAVIT IF THE LICENSEE RECEIVED AN INITIAL
45 LICENSE WITHIN THE YEAR IMMEDIATELY PRECEDING THE EXPIRATION DATE OF THE

1 LICENSE OR THE LICENSEE IS IN DISABLED STATUS. IF THE LICENSEE IS NOT IN
2 COMPLIANCE WITH BOARD RULES RELATING TO CONTINUING EDUCATION, THE BOARD
3 MAY GRANT AN EXTENSION OF TIME TO COMPLETE THESE REQUIREMENTS IF THE
4 LICENSEE INCLUDES A WRITTEN REQUEST FOR AN EXTENSION WITH THE RENEWAL
5 APPLICATION INSTEAD OF THE WRITTEN AFFIDAVIT AND THE RENEWAL APPLICATION
6 IS RECEIVED ON OR BEFORE JUNE 30 OF THE EXPIRATION YEAR. THE BOARD SHALL
7 CONSIDER THE EXTENSION REQUEST BASED ON CRITERIA PRESCRIBED BY THE BOARD
8 BY RULE. IF THE BOARD DENIES AN EXTENSION REQUEST, THE LICENSE EXPIRES ON
9 AUGUST 30 OF THE EXPIRATION YEAR.

10 C. AN APPLICANT FOR A DENTAL THERAPY LICENSE FOR THE FIRST TIME IN
11 THIS STATE SHALL PAY A PRORATED FEE FOR THE PERIOD REMAINING UNTIL THE
12 NEXT JUNE 30. THIS FEE MAY NOT EXCEED ONE-THIRD OF THE FEE PRESCRIBED BY
13 SUBSECTION A OF THIS SECTION. SUBSEQUENT APPLICATIONS SHALL BE CONDUCTED
14 PURSUANT TO THIS SECTION.

15 D. AN EXPIRED LICENSE MAY BE REINSTATED BY SUBMITTING A COMPLETE
16 RENEWAL APPLICATION WITHIN THE TWENTY-FOUR-MONTH PERIOD IMMEDIATELY
17 FOLLOWING THE EXPIRATION OF THE LICENSE WITH PAYMENT OF THE RENEWAL FEE
18 AND A ONE HUNDRED DOLLAR PENALTY. WHEN THE LICENSE IS ISSUED,
19 REINSTATEMENT IS AS OF THE DATE OF APPLICATION AND ENTITLES THE APPLICANT
20 TO LICENSURE ONLY FOR THE REMAINDER OF THE APPLICABLE THREE-YEAR PERIOD.
21 IF A PERSON DOES NOT REINSTATE A LICENSE PURSUANT TO THIS SUBSECTION, THE
22 PERSON MUST REAPPLY FOR LICENSURE PURSUANT TO THIS ARTICLE.

23 E. A LICENSEE SHALL NOTIFY THE BOARD IN WRITING WITHIN TEN DAYS
24 AFTER THE LICENSEE CHANGES THE PRIMARY MAILING ADDRESS LISTED WITH THE
25 BOARD. THE BOARD SHALL IMPOSE A CIVIL PENALTY OF FIFTY DOLLARS IF A
26 LICENSEE FAILS TO NOTIFY THE BOARD OF THE CHANGE WITHIN THAT TIME. THE
27 BOARD SHALL INCREASE THE CIVIL PENALTY TO ONE HUNDRED DOLLARS IF A
28 LICENSEE FAILS TO NOTIFY THE BOARD OF THE CHANGE WITHIN THIRTY DAYS.

29 F. A LICENSEE WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE AND WHO IS
30 FULLY RETIRED AND A LICENSEE WHO HAS A PERMANENT DISABILITY MAY CONTRIBUTE
31 SERVICES TO A RECOGNIZED CHARITABLE INSTITUTION AND STILL RETAIN THAT
32 CLASSIFICATION FOR TRIENNIAL REGISTRATION PURPOSES BY PAYING A REDUCED
33 RENEWAL FEE AS PRESCRIBED BY THE BOARD BY RULE.

34 G. FOR THE PURPOSES OF THIS SECTION, "LICENSEE" MEANS A PERSON WHO
35 HOLDS A LICENSE TO PRACTICE DENTAL THERAPY IN THIS STATE.

36 32-1276.02. Practice of dental therapy; authorized
37 procedures; supervision requirements;
38 restrictions

39 A. A PERSON IS DEEMED TO BE A PRACTICING DENTAL THERAPIST IF THE
40 PERSON DOES ANY OF THE ACTS OR PERFORMS ANY OPERATIONS INCLUDED IN THE
41 GENERAL PRACTICE OF DENTAL THERAPISTS OR DENTAL THERAPY OR ANY RELATED AND
42 ASSOCIATED DUTIES.

43 B. PURSUANT TO A WRITTEN COLLABORATIVE PRACTICE AGREEMENT, A
44 LICENSED DENTAL THERAPIST MAY DO ANY OF THE FOLLOWING:

- 1 1. PERFORM ORAL EVALUATIONS AND ASSESSMENTS OF DENTAL DISEASE AND
2 FORMULATE INDIVIDUALIZED TREATMENT PLANS.
- 3 2. PERFORM COMPREHENSIVE CHARTING OF THE ORAL CAVITY.
- 4 3. PROVIDE ORAL HEALTH INSTRUCTION AND DISEASE PREVENTION
5 EDUCATION, INCLUDING MOTIVATIONAL INTERVIEWING, NUTRITIONAL COUNSELING AND
6 DIETARY ANALYSIS.
- 7 4. EXPOSE AND PROCESS DENTAL RADIOGRAPHIC IMAGES.
- 8 5. PERFORM DENTAL PROPHYLAXIS, INCLUDING SUBGINGIVAL SCALING AND
9 POLISHING PROCEDURES, BUT NOT INCLUDING ROOT PLANING.
- 10 6. DISPENSE AND ADMINISTER ORAL AND TOPICAL NONNARCOTIC ANALGESICS
11 AND ANTI-INFLAMMATORY AND ANTIBIOTIC MEDICATIONS AS PRESCRIBED BY A
12 LICENSED HEALTH CARE PROVIDER.
- 13 7. APPLY TOPICAL PREVENTIVE AND PROPHYLACTIC AGENTS, INCLUDING
14 FLUORIDE VARNISHES, ANTIMICROBIAL AGENTS, SILVER DIAMINE FLUORIDE AND PIT
15 AND FISSURE SEALANTS.
- 16 8. PERFORM PULP VITALITY TESTING.
- 17 9. APPLY DESENSITIZING MEDICAMENTS OR RESINS.
- 18 10. FABRICATE ATHLETIC MOUTH GUARDS AND SOFT OCCLUSAL GUARDS.
- 19 11. CHANGE PERIODONTAL DRESSINGS.
- 20 12. ADMINISTER NITROUS OXIDE ANALGESICS AND LOCAL ANESTHETICS.
- 21 13. EXTRACT ERUPTED PRIMARY TEETH.
- 22 14. PERFORM NONSURGICAL EXTRACTIONS OF PERIODONTALLY DISEASED
23 PERMANENT TEETH THAT EXHIBIT PLUS THREE OR GRADE THREE MOBILITY AND THAT
24 ARE NOT IMPACTED, FRACTURED, UNERUPTED OR IN NEED OF SECTIONING FOR
25 REMOVAL.
- 26 15. PERFORM EMERGENCY PALLIATIVE TREATMENTS OF DENTAL PAIN RELATED
27 TO A CARE OR SERVICE DESCRIBED IN THIS SECTION.
- 28 16. PREPARE AND PLACE DIRECT RESTORATIONS IN PRIMARY AND PERMANENT
29 TEETH.
- 30 17. FABRICATE AND PLACE SINGLE-TOOTH TEMPORARY CROWNS.
- 31 18. PREPARE AND PLACE PREFORMED CROWNS ON PRIMARY TEETH.
- 32 19. PERFORM INDIRECT AND DIRECT PULP CAPPING ON PERMANENT TEETH.
- 33 20. PERFORM INDIRECT PULP CAPPING ON PRIMARY TEETH.
- 34 21. PERFORM SUTURING AND SUTURE REMOVAL.
- 35 22. PROVIDE MINOR ADJUSTMENTS AND REPAIRS ON MOVABLE PROSTHESES.
- 36 23. PLACE AND REMOVE SPACE MAINTAINERS.
- 37 24. PERFORM ALL FUNCTIONS OF A DENTAL ASSISTANT AND EXPANDED
38 FUNCTION DENTAL ASSISTANT.
- 39 25. PERFORM OTHER RELATED SERVICES AND FUNCTIONS THAT ARE
40 AUTHORIZED BY THE SUPERVISING DENTIST WITHIN THE DENTAL THERAPIST'S SCOPE
41 OF PRACTICE AND FOR WHICH THE DENTAL THERAPIST IS TRAINED.
- 42 26. PROVIDE REFERRALS.
- 43 27. PERFORM ANY OTHER DUTIES OF A DENTAL THERAPIST THAT ARE
44 AUTHORIZED BY THE BOARD BY RULE.

1 C. A DENTAL THERAPIST MAY NOT DISPENSE OR ADMINISTER A NARCOTIC
2 DRUG.

3 D. A PERSON MAY NOT CLAIM TO BE A DENTAL THERAPIST UNLESS THAT
4 PERSON IS LICENSED AS A DENTAL THERAPIST UNDER THIS ARTICLE.

5 32-1276.03. Dental therapists; clinical practice; supervising
6 dentists; written collaborative practice
7 agreements

8 A. A DENTAL THERAPIST SHALL NOT ENTER INTO A WRITTEN COLLABORATIVE
9 PRACTICE AGREEMENT UNLESS THE DENTAL THERAPIST HAS COMPLETED FOUR HUNDRED
10 HOURS OF DENTAL THERAPY CLINICAL PRACTICE UNDER THE DIRECT SUPERVISION OF
11 A DENTIST.

12 B. A DENTAL THERAPIST SHALL NOT PRACTICE DENTAL THERAPY EXCEPT
13 UNDER AND PURSUANT TO A WRITTEN COLLABORATIVE PRACTICE AGREEMENT WITH A
14 SUPERVISING DENTIST. THE SUPERVISING DENTIST SHALL PROVIDE OR ARRANGE FOR
15 ANOTHER DENTIST OR SPECIALIST TO PROVIDE ANY SERVICE NEEDED BY THE DENTAL
16 THERAPIST'S PATIENT THAT EXCEEDS THE DENTAL THERAPIST'S AUTHORIZED SCOPE
17 OF PRACTICE.

18 C. A PRACTICING DENTIST WHO HOLDS AN ACTIVE LICENSE PURSUANT TO
19 THIS CHAPTER AND A LICENSED DENTAL THERAPIST WHO HOLDS AN ACTIVE LICENSE
20 PURSUANT TO THIS ARTICLE MAY ENTER INTO A WRITTEN COLLABORATIVE PRACTICE
21 AGREEMENT FOR THE DELIVERY OF DENTAL THERAPY SERVICES.

22 D. A WRITTEN COLLABORATIVE PRACTICE AGREEMENT BETWEEN A DENTIST AND
23 A DENTAL THERAPIST SHALL DO ALL OF THE FOLLOWING:

24 1. ADDRESS ANY LIMIT ON SERVICES AND PROCEDURES TO BE PERFORMED BY
25 THE DENTAL THERAPIST, INCLUDING TYPES OF POPULATIONS AND ANY AGE-SPECIFIC
26 OR PROCEDURE-SPECIFIC PRACTICE PROTOCOL, INCLUDING CASE SELECTION
27 CRITERIA, ASSESSMENT GUIDELINES AND IMAGING FREQUENCY.

28 2. ADDRESS ANY LIMIT ON PRACTICE SETTINGS ESTABLISHED BY THE
29 SUPERVISING DENTIST AND THE LEVEL OF SUPERVISION REQUIRED FOR VARIOUS
30 SERVICES OR TREATMENT SETTINGS.

31 3. ESTABLISH PRACTICE PROTOCOLS, INCLUDING PROTOCOLS FOR INFORMED
32 CONSENT, RECORDKEEPING, MANAGING MEDICAL EMERGENCIES AND PROVIDING CARE TO
33 PATIENTS WITH COMPLEX MEDICAL CONDITIONS, INCLUDING REQUIREMENTS FOR
34 CONSULTATION BEFORE INITIATING CARE.

35 4. ESTABLISH PROTOCOLS FOR QUALITY ASSURANCE, ADMINISTERING AND
36 DISPENSING MEDICATIONS AND SUPERVISION OF DENTAL ASSISTANTS.

37 5. INCLUDE SPECIFIC PROTOCOLS TO GOVERN SITUATIONS IN WHICH THE
38 DENTAL THERAPIST ENCOUNTERS A PATIENT REQUIRING TREATMENT THAT EXCEEDS THE
39 DENTAL THERAPIST'S AUTHORIZED SCOPE OF PRACTICE.

40 E. TO THE EXTENT AUTHORIZED BY THE SUPERVISING DENTIST IN THE
41 WRITTEN COLLABORATIVE PRACTICE AGREEMENT, A DENTAL THERAPIST MAY PRACTICE
42 DENTAL THERAPY PROCEDURES AUTHORIZED UNDER THIS ARTICLE IN A PRACTICE
43 SETTING IN WHICH THE SUPERVISING DENTIST IS NOT ON-SITE AND HAS NOT
44 PREVIOUSLY EXAMINED THE PATIENT OR RENDERED A DIAGNOSIS.

1 F. THE WRITTEN COLLABORATIVE PRACTICE AGREEMENT MUST BE SIGNED AND
2 MAINTAINED BY BOTH THE SUPERVISING DENTIST AND THE DENTAL THERAPIST AND
3 MAY BE UPDATED AND AMENDED AS NECESSARY BY BOTH THE SUPERVISING DENTIST
4 AND DENTAL THERAPIST. THE SUPERVISING DENTIST AND DENTAL THERAPIST SHALL
5 SUBMIT THE AGREEMENT AND ANY AMENDMENT TO THE AGREEMENT TO THE BOARD.

6 32-1276.04. Dental therapists; dentists; collaborative
7 practice relationships

8 A. A DENTIST WHO HOLDS AN ACTIVE LICENSE PURSUANT TO THIS CHAPTER
9 AND A DENTAL THERAPIST WHO HOLDS AN ACTIVE LICENSE PURSUANT TO THIS
10 ARTICLE MAY ENTER INTO A COLLABORATIVE PRACTICE RELATIONSHIP THROUGH A
11 WRITTEN COLLABORATIVE PRACTICE AGREEMENT FOR THE DELIVERY OF DENTAL
12 THERAPY SERVICES.

13 B. EACH DENTIST IN A COLLABORATIVE PRACTICE RELATIONSHIP SHALL:

14 1. BE AVAILABLE TO PROVIDE APPROPRIATE CONTACT, COMMUNICATION AND
15 CONSULTATION WITH THE DENTAL THERAPIST.

16 2. ADOPT PROCEDURES TO PROVIDE TIMELY REFERRAL OF PATIENTS WHOM THE
17 DENTAL THERAPIST REFERS TO A LICENSED DENTIST FOR EXAMINATION. THE
18 DENTIST TO WHOM THE PATIENT IS REFERRED SHALL BE GEOGRAPHICALLY AVAILABLE
19 TO SEE THE PATIENT.

20 C. EACH DENTAL THERAPIST IN A COLLABORATIVE PRACTICE RELATIONSHIP
21 SHALL:

22 1. PERFORM ONLY THOSE DUTIES WITHIN THE TERMS OF THE WRITTEN
23 COLLABORATIVE PRACTICE AGREEMENT.

24 2. SHALL MAINTAIN AN APPROPRIATE LEVEL OF CONTACT WITH THE DENTIST.

25 D. THE DENTAL THERAPIST AND THE DENTIST SHALL NOTIFY THE BOARD OF
26 THE BEGINNING OF THE COLLABORATIVE PRACTICE RELATIONSHIP AND PROVIDE THE
27 BOARD WITH A COPY OF THE WRITTEN COLLABORATIVE PRACTICE AGREEMENT AND ANY
28 AMENDMENTS TO THE AGREEMENT WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF
29 THE AGREEMENT OR AMENDMENT. THE DENTAL THERAPIST AND DENTIST SHALL ALSO
30 NOTIFY THE BOARD WITHIN THIRTY DAYS AFTER THE TERMINATION DATE OF THE
31 WRITTEN COLLABORATIVE PRACTICE AGREEMENT IF THE DATE IS DIFFERENT THAN THE
32 TERMINATION DATE PROVIDED IN THE AGREEMENT.

33 E. SUBJECT TO THE TERMS OF THE WRITTEN COLLABORATIVE PRACTICE
34 AGREEMENT, A DENTAL THERAPIST MAY PERFORM ALL DENTAL THERAPY PROCEDURES
35 AUTHORIZED IN SECTION 32-1276.02. THE DENTIST'S PRESENCE, EXAMINATION,
36 DIAGNOSIS AND TREATMENT PLAN ARE NOT REQUIRED UNLESS SPECIFIED BY THE
37 WRITTEN COLLABORATIVE PRACTICE AGREEMENT.

38 32-1276.05. Practicing without a license; violation;
39 classification

40 IT IS A CLASS 6 FELONY FOR A PERSON TO PRACTICE DENTAL THERAPY IN
41 THIS STATE UNLESS THE PERSON HAS OBTAINED A LICENSE FROM THE BOARD AS
42 PROVIDED IN THIS ARTICLE.

1 4. Immediate reporting to the board of the name of an impaired
2 practitioner whom the treating organization believes to be a danger to
3 self or others.

4 5. Immediate reporting to the board of the name of a practitioner
5 who refuses to submit to treatment or whose impairment is not
6 substantially alleviated through treatment.

7 C. The board may allocate an amount of not more than twenty dollars
8 annually or sixty dollars triennially from each fee it collects from the
9 renewal of active licenses for the operation of the program established by
10 this section.

11 D. A dentist, **DENTAL THERAPIST**, denturist or hygienist who, in the
12 opinion of the board, is impaired by alcohol or drug abuse shall agree to
13 enter into a confidential nondisciplinary stipulation agreement with the
14 board. The board shall place a licensee or certificate holder on
15 probation if the licensee or certificate holder refuses to enter into a
16 stipulation agreement with the board and may take other action as provided
17 by law. The board may also refuse to issue a license or certificate to an
18 applicant if the applicant refuses to enter into a stipulation agreement
19 with the board.

20 E. In the case of a licensee or certificate holder who is impaired
21 by alcohol or drug abuse after completing a second monitoring program
22 pursuant to a stipulation agreement under subsection D of this section,
23 the board shall determine whether:

24 1. To refer the matter for a formal hearing for the purpose of
25 suspending or revoking the license or certificate.

26 2. The licensee or certificate holder should be placed on probation
27 for a minimum of one year with restrictions necessary to ensure public
28 safety.

29 3. To enter into another stipulation agreement under subsection D
30 of this section with the licensee or certificate holder.

31 Sec. 11. Section 41-619.51, Arizona Revised Statutes, is amended to
32 read:

33 41-619.51. **Definitions**

34 In this article, unless the context otherwise requires:

35 1. "Agency" means the supreme court, the department of economic
36 security, the department of child safety, the department of education, the
37 department of health services, the department of juvenile corrections, the
38 department of emergency and military affairs, the department of public
39 safety, the department of transportation, the state real estate
40 department, the department of financial institutions, the Arizona game and
41 fish department, the board of examiners of nursing care institution
42 administrators and assisted living facility managers, the state board of
43 dental examiners, the Arizona state board of pharmacy or the board of
44 physical therapy or the state board of technical registration.

45 2. "Board" means the board of fingerprinting.

1 3. "Central registry exception" means notification to the
2 department of economic security, the department of child safety or the
3 department of health services, as appropriate, pursuant to section
4 41-619.57 that the person is not disqualified because of a central
5 registry check conducted pursuant to section 8-804.

6 4. "Expedited review" means an examination, in accordance with
7 board rule, of the documents an applicant submits by the board or its
8 hearing officer without the applicant being present.

9 5. "Good cause exception" means the issuance of a fingerprint
10 clearance card to an employee pursuant to section 41-619.55.

11 6. "Person" means a person who is required to be fingerprinted
12 pursuant to this article or who is subject to a central registry check and
13 any of the following:

- 14 (a) Section 8-105.
- 15 (b) Section 8-322.
- 16 (c) Section 8-463.
- 17 (d) Section 8-509.
- 18 (e) Section 8-802.
- 19 (f) Section 8-804.
- 20 (g) Section 15-183.
- 21 (h) Section 15-503.
- 22 (i) Section 15-512.
- 23 (j) Section 15-534.
- 24 (k) Section 15-763.01.
- 25 (l) Section 15-782.02.
- 26 (m) Section 15-1330.
- 27 (n) Section 15-1881.
- 28 (o) Section 17-215.
- 29 (p) Section 28-3228.
- 30 (q) Section 28-3413.
- 31 (r) Section 32-122.05.
- 32 (s) Section 32-122.06.
- 33 (t) Section 32-1232.
- 34 (u) SECTION 32-1276.
- 35 ~~(u)~~ (v) Section 32-1284.
- 36 ~~(v)~~ (w) Section 32-1297.01.
- 37 ~~(w)~~ (x) Section 32-1904.
- 38 ~~(x)~~ (y) Section 32-1941.
- 39 ~~(y)~~ (z) Section 32-2022.
- 40 ~~(z)~~ (aa) Section 32-2108.01.
- 41 ~~(aa)~~ (bb) Section 32-2123.
- 42 ~~(bb)~~ (cc) Section 32-2371.
- 43 ~~(cc)~~ (dd) Section 32-3620.
- 44 ~~(dd)~~ (ee) Section 32-3668.
- 45 ~~(ee)~~ (ff) Section 32-3669.

- 1 ~~(ff)~~ (gg) Section 36-207.
- 2 ~~(gg)~~ (hh) Section 36-411.
- 3 ~~(hh)~~ (ii) Section 36-425.03.
- 4 ~~(ii)~~ (jj) Section 36-446.04.
- 5 ~~(jj)~~ (kk) Section 36-594.01.
- 6 ~~(kk)~~ (ll) Section 36-594.02.
- 7 ~~(ll)~~ (mm) Section 36-882.
- 8 ~~(mm)~~ (nn) Section 36-883.02.
- 9 ~~(nn)~~ (oo) Section 36-897.01.
- 10 ~~(oo)~~ (pp) Section 36-897.03.
- 11 ~~(pp)~~ (qq) Section 36-3008.
- 12 ~~(qq)~~ (rr) Section 41-619.53.
- 13 ~~(rr)~~ (ss) Section 41-1964.
- 14 ~~(ss)~~ (tt) Section 41-1967.01.
- 15 ~~(tt)~~ (uu) Section 41-1968.
- 16 ~~(uu)~~ (vv) Section 41-1969.
- 17 ~~(vv)~~ (ww) Section 41-2814.
- 18 ~~(ww)~~ (xx) Section 46-141, subsection A.
- 19 ~~(xx)~~ (yy) Section 46-321.

20 Sec. 12. Section 41-1758, Arizona Revised Statutes, is amended to
21 read:

22 41-1758. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Agency" means the supreme court, the department of economic
25 security, the department of child safety, the department of education, the
26 department of health services, the department of juvenile corrections, the
27 department of emergency and military affairs, the department of public
28 safety, the department of transportation, the state real estate
29 department, the department of financial institutions, the board of
30 fingerprinting, the Arizona game and fish department, the board of
31 examiners of nursing care institution administrators and assisted living
32 facility managers, the state board of dental examiners, the Arizona state
33 board of pharmacy or the board of physical therapy or the state board of
34 technical registration.

35 2. "Division" means the fingerprinting division in the department
36 of public safety.

37 3. "Electronic or internet-based fingerprinting services" means a
38 secure system for digitizing applicant fingerprints and transmitting the
39 applicant data and fingerprints of a person or entity submitting
40 fingerprints to the department of public safety for any authorized purpose
41 under this title. For the purposes of this paragraph, "secure system"
42 means a system that complies with the information technology security
43 policy approved by the department of public safety.

44 4. "Good cause exception" means the issuance of a fingerprint
45 clearance card to an applicant pursuant to section 41-619.55.

- 1 5. "Person" means a person who is required to be fingerprinted
2 pursuant to any of the following:
- 3 (a) Section 8-105.
 - 4 (b) Section 8-322.
 - 5 (c) Section 8-463.
 - 6 (d) Section 8-509.
 - 7 (e) Section 8-802.
 - 8 (f) Section 15-183.
 - 9 (g) Section 15-503.
 - 10 (h) Section 15-512.
 - 11 (i) Section 15-534.
 - 12 (j) Section 15-763.01.
 - 13 (k) Section 15-782.02.
 - 14 (l) Section 15-1330.
 - 15 (m) Section 15-1881.
 - 16 (n) Section 17-215.
 - 17 (o) Section 28-3228.
 - 18 (p) Section 28-3413.
 - 19 (q) Section 32-122.05.
 - 20 (r) Section 32-122.06.
 - 21 (s) Section 32-1232.
 - 22 (t) [SECTION 32-1276.](#)
 - 23 ~~(t)~~ (u) Section 32-1284.
 - 24 ~~(u)~~ (v) Section 32-1297.01.
 - 25 ~~(v)~~ (w) Section 32-1904.
 - 26 ~~(w)~~ (x) Section 32-1941.
 - 27 ~~(x)~~ (y) Section 32-2022.
 - 28 ~~(y)~~ (z) Section 32-2108.01.
 - 29 ~~(z)~~ (aa) Section 32-2123.
 - 30 ~~(aa)~~ (bb) Section 32-2371.
 - 31 ~~(bb)~~ (cc) Section 32-3620.
 - 32 ~~(cc)~~ (dd) Section 32-3668.
 - 33 ~~(dd)~~ (ee) Section 32-3669.
 - 34 ~~(ee)~~ (ff) Section 36-207.
 - 35 ~~(ff)~~ (gg) Section 36-411.
 - 36 ~~(gg)~~ (hh) Section 36-425.03.
 - 37 ~~(hh)~~ (ii) Section 36-446.04.
 - 38 ~~(ii)~~ (jj) Section 36-594.01.
 - 39 ~~(jj)~~ (kk) Section 36-594.02.
 - 40 ~~(kk)~~ (ll) Section 36-882.
 - 41 ~~(ll)~~ (mm) Section 36-883.02.
 - 42 ~~(mm)~~ (nn) Section 36-897.01.
 - 43 ~~(nn)~~ (oo) Section 36-897.03.
 - 44 ~~(oo)~~ (pp) Section 36-3008.
 - 45 ~~(pp)~~ (qq) Section 41-619.52.

- 1 ~~(qq)~~ (rr) Section 41-619.53.
- 2 ~~(rr)~~ (ss) Section 41-1964.
- 3 ~~(ss)~~ (tt) Section 41-1967.01.
- 4 ~~(tt)~~ (uu) Section 41-1968.
- 5 ~~(uu)~~ (vv) Section 41-1969.
- 6 ~~(vv)~~ (ww) Section 41-2814.
- 7 ~~(ww)~~ (xx) Section 46-141, subsection A.
- 8 ~~(xx)~~ (yy) Section 46-321.

9 6. "Vulnerable adult" has the same meaning prescribed in section
10 13-3623.

11 Sec. 13. Section 41-1758.01, Arizona Revised Statutes, is amended
12 to read:

13 41-1758.01. Fingerprinting division; powers and duties

14 A. The fingerprinting division is established in the department of
15 public safety and shall:

16 1. Conduct fingerprint background checks for persons and applicants
17 who are seeking licenses from state agencies, employment with licensees,
18 contract providers and state agencies or employment or educational
19 opportunities with agencies that require fingerprint background checks
20 pursuant to sections 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503,
21 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3228,
22 28-3413, 32-122.05, 32-122.06, 32-1232, 32-1276, 32-1284, 32-1297.01,
23 32-1904, 32-1941, 32-2022, 32-2108.01, 32-2123, 32-2371, 32-3620, 32-3668,
24 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02,
25 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53,
26 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141,
27 subsection A and section 46-321.

28 2. Issue fingerprint clearance cards. On issuance, a fingerprint
29 clearance card becomes the personal property of the cardholder and the
30 cardholder shall retain possession of the fingerprint clearance card.

31 3. On submission of an application for a fingerprint clearance
32 card, collect the fees established by the board of fingerprinting pursuant
33 to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147,
34 the monies collected in the board of fingerprinting fund.

35 4. Inform in writing each person who submits fingerprints for a
36 fingerprint background check of the right to petition the board of
37 fingerprinting for a good cause exception pursuant to section 41-1758.03,
38 41-1758.04 or 41-1758.07.

39 5. If after conducting a state and federal criminal history records
40 check the division determines that it is not authorized to issue a
41 fingerprint clearance card to a person, inform the person in writing that
42 the division is not authorized to issue a fingerprint clearance card. The
43 notice shall include the criminal history information on which the denial
44 was based. This criminal history information is subject to dissemination
45 restrictions pursuant to section 41-1750 and Public Law 92-544.

1 6. Notify the person in writing if the division suspends, revokes
2 or places a driving restriction notation on a fingerprint clearance card
3 pursuant to section 41-1758.04. The notice shall include the criminal
4 history information on which the suspension, revocation or placement of
5 the driving restriction notation was based. This criminal history
6 information is subject to dissemination restrictions pursuant to section
7 41-1750 and Public Law 92-544.

8 7. Administer and enforce this article.

9 B. The fingerprinting division may contract for electronic or
10 internet-based fingerprinting services through an entity or entities for
11 the acquisition and transmission of applicant fingerprint and data
12 submissions to the department, including identity verified fingerprints
13 pursuant to section 15-106. The entity or entities contracted by the
14 department of public safety may charge the applicant a fee for services
15 provided pursuant to this article. The entity or entities contracted by
16 the department of public safety shall comply with:

17 1. All information privacy and security measures and submission
18 standards established by the department of public safety.

19 2. The information technology security policy approved by the
20 department of public safety.