

**ARIZONA STATE BOARD OF DENTAL EXAMINERS (F-16-0906)**

Title 4, Chapter 11, Article 1, Definitions; Article 2, Licensure by Credential; Article 4, Fees



**GOVERNOR'S REGULATORY REVIEW COUNCIL  
ANALYSIS OF FIVE-YEAR REVIEW REPORT**

**MEETING DATE:** November 1, 2016

**AGENDA ITEM:** F-2

---

**TO:** Members of the Governor's Regulatory Review Council ("Council")

**FROM:** Chris Kleminich, Staff Attorney

**DATE:** October 14, 2016

**SUBJECT:** **ARIZONA STATE BOARD OF DENTAL EXAMINERS (F-16-0906)**  
Title 4, Chapter 11, Article 1, Definitions; Article 2, Licensure by Credential;  
Article 4, Fees

---

This five-year-review report from the Arizona State Board of Dental Examiners (Board) covers ten rules in A.A.C. Title 4, Chapter 11, Articles 1, 2, and 4. Article 1 provides definitions, and was last amended in January 2014. Article 2 relates to the various licenses by credential issued by the Board, and was last amended in April 2016. Article 4 relates to fees, and was last amended in April 2005.

**Proposed Action**

The Board indicates that it intends to address all of the issues identified in the report when it becomes necessary to amend the rules for substantive reasons. With respect to Article 4, a Notice of Proposed Rulemaking was published on August 8, 2016.<sup>1</sup> The Board intends to complete that rulemaking by June 2017.

**Substantive or Procedural Concerns**

None.

**Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:**

**1. Has the agency certified that it is in compliance with A.R.S. § 41-1091?**

Yes. The Board has certified its compliance with A.R.S. § 41-1091.

---

<sup>i</sup> See 22 A.A.R. 2307, available at [http://apps.azsos.gov/public\\_services/register/2016/36/04\\_proposed.pdf](http://apps.azsos.gov/public_services/register/2016/36/04_proposed.pdf).

2. **Has the agency analyzed the rules' effectiveness in achieving their objectives?**

Yes. The Board indicates that the rules are effective in achieving their objectives.

3. **Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?**

No. The Board has received no written criticisms of these rules during the last five years.

4. **Has the agency analyzed whether the rules are authorized by statute?**

Yes. The Board cites to both general and specific authority for the rules. Most notably, as general authority, the Board cites to A.R.S. § 32-1207(A)(1), which requires, in relevant part, the Board to “[a]dopt rules not inconsistent with this chapter for the regulation of its own conduct, for holding examinations and for regulating the practice of dentists and supervised personnel and registered business entities....”

5. **Has the agency analyzed the rules' consistency with statutes and other rules?**

Yes. The Board indicates that the rules are consistent with statutes and other rules.

6. **Has the agency analyzed the current enforcement status of the rules?**

Yes. The Board indicates that the rules are enforced as written.

7. **Has the agency analyzed whether the rules are clear, concise, and understandable?**

Yes. The Board indicates that the rules are generally clear, concise, and understandable, with the following exceptions:

- In Section 101, definitions are provided for “nonsurgical periodontal treatment”, “patient of record”, “periodontal examination and assessment”, and “public member” that are no longer used elsewhere in the rules.
- Sections 201, 202, and 203 contain duplicative information and should be combined.
- Sections 402 and 406 have incorrect internal cross references due to statutory changes.
- Section 405 is titled as “Other Fees” though the Board believes that the charges listed do not constitute fees under A.R.S. § 41-1001(9).
- Section 406 should clarify that the fee for anesthesia and sedation permits is per licensee, per location.

8. **Stringency of the Rules:**

a. **Are the rules more stringent than corresponding federal law?**

No. No federal laws directly correspond to the rules.

b. **If so, is there statutory authority to exceed the requirements of federal law?**

Not applicable.

9. **For rules adopted after July 29, 2010:**

a. **Do the rules require issuance of a regulatory permit, license or agency authorization?**

Yes. Licenses, as well as certifications by credential, are issued under Sections 201-204.

b. **If so, are the general permit requirements of A.R.S. § 41-1037 met or does an exception apply?**

Yes. The Board indicates that the licenses and certifications are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals to conduct activities that are substantially similar in nature.

10. **Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?**

Yes. The Board indicates that, in its 2011 five-year-review report, it planned to amend Sections 204, 405, and 406. Section 204 was amended in April 2016, and Sections 405 and 406 have yet to be amended.

**Conclusion**

The report meets the requirements of A.R.S. § 41-1056 and R1-6-301. As noted above, the Board indicates that it intends to amend the rules in Article 4 by June 2017. This analyst recommends that the report be approved.



**GOVERNOR'S REGULATORY REVIEW COUNCIL  
M E M O R A N D U M**

**MEETING DATE:** November 1, 2016

**AGENDA ITEM:** F-2

---

**TO:** Members of the Governor's Regulatory Review Council ("Council")

**FROM:** GRRC Economic Team

**DATE:** October 14, 2016

**SUBJECT:** **ARIZONA STATE BOARD OF DENTAL EXAMINERS (F-16-0906)**  
Title 4, Chapter 11, Article 1, Definitions; Article 2, Licensure by Credential;  
Article 4, Fees

---

I reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with A.R.S. § 41-1056 and make the following comments.

**1. Economic Impact Comparison**

Economic, small business, and consumer impact statements (EIS) from the most recent rulemakings were available for the rules contained in the five-year-review report. The rules establish the requirements for examination and application to quality for dental licensure and the required fees that permit licensing of anesthesia and sedation, operation of a business entity, and renewal of a retired or disabled dentist or dental hygienist. As of August 2016, the Board licensed 4,463 dentists; 4,288 dental hygienists; 12 denturists; 14 dental consultants; and 337 registered business entities.

**2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?**

The Board has determined that the rules impose the least burden and costs. The cost to comply with these rules is minimal and necessary to protect public health and safety.

**3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?**

No analysis was submitted that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states under A.R.S. § 41-1056(A)(7).

**4. Conclusion**

After review, staff concludes that the report complies with A.R.S. § 41-1056 and recommends approval.



**ARIZONA STATE BOARD OF DENTAL EXAMINERS**

4205 North 7th Avenue, Suite 300 • Phoenix, Arizona 85013

Telephone (602) 242-1492 • Fax (602) 242-1445

[www.dentalboard.az.gov](http://www.dentalboard.az.gov)

July 14, 2016

Nicole A. Ong, Chair  
Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 402  
Phoenix, AZ 85007



RE: Five-year-review Report on 4 A.A.C. 11, Articles 1, 2, and 4

Dear Ms. Ong:

As required by A.R.S. § 41-1056, the State Board of Dental Examiners submits for your approval a report on a review of the referenced rules. The Board reviewed all referenced rules.

As required under A.R.S. § 41-1056(A), the Board certifies it is in compliance with A.R.S. § 41-1091 regarding a substantive policy directory.

If you have questions regarding this report, please contact me at (602) 542-4493. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Hugunin".

Elaine Hugunin  
Executive Director

# STATE BOARD OF DENTAL EXAMINERS

Five-year-review Report: A.A.C. Title 4, Chapter 11, Articles 1, 2, and 4

August 2016

## **Five-year-review Report**

### **A.A.C. Title 4. Professions and Occupations**

#### **Chapter 11. State Board of Dental Examiners**

##### INTRODUCTION

The Board protects the health, safety, and welfare of the public by licensing, regulating, and disciplining dental professionals. The mission of the Board is to provide professional, courteous service and information to dental professionals and the public. The Board currently regulates approximately 8,700 dental professionals and 300 business entities. The Board licenses dentists and dental hygienists by examination or credential. The Board certifies denturists and registers business entities that offer dental services. Dental assistants may be certified by the Board to take dental radiographs or perform coronal polishing. The Board also issues permits to dentists to administer anesthesia or sedation or to operate a mobile facility or portable dental unit.

Statute that generally authorizes the agency to make rules: A.R.S. § 32-1207(A)(1)

1. Specific statute authorizing the rule:

R4-11-101: A.R.S. § 32-1207(A)(1)

R4-11-201: A.R.S. §§ 32-1240(A) and 32-1292.01(A)

R4-11-202: A.R.S. § 32-1240

R4-11-203: A.R.S. § 32-1292.01

R4-11-204: A.R.S. § 32-1292.01

R4-11-205: A.R.S. § 32-1292.01

R4-11-401: A.R.S. § 32-1207(B)(3)(c)

R4-11-402: A.R.S. § 32-1213(B)(4)

R4-11-405: A.R.S. §§ 32-1207(F), 32-1236(F), 32-1262(G), 32-1297.04, and 32-1297.06(F)

R4-11-406: A.R.S. § 32-1207(E)

2. Objective of the rule including the purpose for the existence of the rule:

R4-11-101. Definitions: The objective of the rule is to define terms used in the rules in a manner that is not explained adequately by a dictionary definition. The definitions are designed to facilitate understanding by those who use the rules.

R4-11-201. Clinical Examination; Requirements: The objective of the rule is to specify the examination requirement for a dentist or dental hygienist who wishes to apply for licensure by credential in Arizona. This facilitates the licensing process by enabling potential applicants to know whether requirements are met.

R4-11-202. Dental Licensure by Credential; Application: The objective of this rule is to specify the information an applicant for licensure by credential as a dentist is required to submit to the Board. This increases efficiency in the licensing process by enabling applicants to submit all required information.

R4-11-203. Dental Hygienist Licensure by Credential; Application: The objective of this rule is to specify the information an applicant for licensure by credential as a dental hygienist is required to submit to the Board. This increases efficiency in the licensing process by enabling applicants to submit all required information.

R4-11-204. Dental Assistant Radiography Certification by Credential: The objective of this rule is to specify the prerequisite qualification for a dental assistant to be certified by credential to take dental radiographs. This facilitates the certification process by enabling potential applicants to know whether the prerequisite is met.

R4-11-205. Application for Dental Assistant Radiography Certification by Credential: The objective of this rule is to specify the information a dental assistant for a radiography certification by credential is required to submit to the Board. This increases efficiency in the certification process by enabling applicants to submit all required information.

R4-11-401. Retired or Disabled Licensure Fees: The objective of the rule is to specify the fees the Board charges for renewal of a dentist or dental hygienist license when the licensee is retired or disabled. This increases efficiency in the licensing process by enabling a retired or disabled licensee to submit the correct amount.

R4-11-402. Business Entity Fees: The objective of the rule is to specify the fee the Board charges for registration of a business entity. This increases efficiency in the registration process by enabling a business entity to submit the correct amount.

R4-11-405. Other fees: The objective of the rule is to specify the Board's charges for various services it provides to applicants, licensees, and members of the public. This increases efficiency and transparency in operation of the Board office.

R4-11-406. Fees for Anesthesia and Sedation Permits: The objective of the rule is to specify the fee the Board charges for issuance of an anesthesia and sedation permit. This increases efficiency in the licensing process by enabling a dentist who wishes to have an anesthesia and sedation permit to submit the correct amount.

3. Effectiveness of the rule in achieving the objective including a summary of any available data supporting the conclusion: The Board concluded the rules are effective in achieving their objectives. The Board based this conclusion on the fact it is able to fulfill its statutory responsibility to issue licenses by credential to qualified individuals and to collect specifically authorized fees and charges.
4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency: Except as noted, the Board determined the rules reviewed are consistent with both statutes and other Board rules. There are no federal statutes specifically applicable to the rules reviewed.

5. Agency enforcement policy including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement: The Board enforces the reviewed rules without difficulty.

6. Clarity, conciseness, and understandability of the rule: The rules are clear, concise, and understandable. However, the Board identified the following issues, which may have minimal negative impact on the clarity and understandability of the rules:

R4-11-101: This Section includes definitions of four terms that are not used elsewhere in the rules. The terms are: nonsurgical periodontal treatment, patient of record, periodontal examination and assessment, and public member.

R4-11-201 through R4-11-203: The information in these Sections is duplicative. The rules would be more concise if the Sections were combined.

R4-11-402 and R4-11-406: Because of statutory changes, the internal cross references in these Sections are incorrect.

R4-11-405: The Section is titled "Other Fees" but the charges listed are for services provided. They are not fees as defined at A.R.S. § 41-1001.

R4-11-406: The Section needs to clarify that the fee for anesthesia and sedation permits is per licensee per location.

7. Summary of written criticisms of the rule received by the agency with the past five years, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and, written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute or beyond the authority of the agency to enact, and the result of the litigation of administrative proceedings: The Board received no written criticisms of its rules in the past five years.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule:

The Board currently licenses 4,463 dentists, 4,288 dental hygienists, and 14 dental consultants, certifies 12 denturists, and registers 337 business entities. The Board is authorized to have 11 FTEs and was appropriated \$1,215,100 during the last year.

#### 2000 Rulemaking

The only rule not amended since being made in 2000 is R4-11-405, Other Fees. The Economic, Small Business, and Consumer Impact Statement (EIS) prepared in 2000 was not available when preparing this report. The rule lists charges for services provided by the Board. Any economic impact is minimal and occurs only when an individual voluntarily asks for the service.

#### 2003 Rulemaking

R4-11-205, Application for Dental Assistant Radiography Certification by Credential, and R4-11-406, Fees for Anesthesia and Sedation Permits, have not been amended since being made in 2003. The EIS prepared in 2003 was available. The Board believes it correctly estimated the economic impact of these two rules would be minimal for applicants and licensees.

R4-11-205 was a new rule establishing how to apply for certification by credential in dental assistant radiography. Dental assistants are not licensed. They work under supervision. Under some circumstances a dental assistant is allowed to expose radiographs (See A.R.S. § 32-1291). During the last year, the Board received 40 applications for dental assistant radiography certification by credential.

R4-11-406 was amended in 2003 to include fees for a Section 1303 permit, which authorizes use of oral sedation, and to clarify the fees for anesthesia and sedation permits are per location rather than per licensee. Section 1303 permits are the most frequently issued of the anesthesia and sedation permits. Currently, 320 Section 1303 permits have been issued. This means the rulemaking resulted in holders of a Section 1303 permit being required to pay \$300 to obtain and renew the permit. However, having the permit enables permit holders to provide dental services using oral sedation. This is a cost of doing business that is probably passed to consumers of dental services performed under oral sedation.

#### 2005 Rulemaking

R4-11-401, Retired or Disabled Licensure Fees, and R4-11-402, Business Entity Fees, have not been amended since being made in 2005. The EIS prepared in 2005 was available.

R4-11-401 was amended to include only the fee for renewal of a license by a retired or disabled dentist or dental hygienist. The amount of the fee was not changed. The Board currently licenses 69 retired or disabled dentists and eight retired or disabled dental hygienists.

R4-11-402 was newly made in 2005. In 2003 the legislature enacted A.R.S. § 32-1213 requiring business entities that offer dental services to register with the Board and authorized the Board to prescribe a fee for the registration. The rule established a \$100 per year per location fee. There are currently 330 registered business entities, which is considerably more than the 93 the Board estimated would be affected by the statute and rule. The Board estimated the administrative cost of processing a registration to be \$25. The remaining \$75 was for implementation of statute and rule. The Board expected a net increase in revenue of \$6,045 annually. However, because of the number of registrations, the net increase in revenue is actually \$24,750.

#### 2014 Rulemaking

Only R4-11-101, Definitions, has not been amended since being made in 2014. The EIS from 2014 was available. The Board correctly estimated that repealing definitions made obsolete by a statutory change would have minimal economic impact.

### 2016 Rulemaking

R4-11-201 and R4-11-202, dealing with licensure by credential, were amended in a rulemaking approved by Council on February 2, 2016. They went into effect on April 3, 2016. The EIS prepared with the rulemaking was available. The Board correctly estimated the amendments to these rules would have minimal economic impact. The most important change made was to R4-11-201. The Board deleted the requirement that all applications for licensure by credential be considered at the Board meeting after the application is determined to be complete. This change was possible because the Board delegated to the Executive Director authority to determine which applications need to be brought to the Board's attention. During the last year, the Board received applications for licensure by credential from 133 dentists and 59 dental hygienists.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

No analysis has been submitted.

10. How the agency completed the course of action indicated in the agency's previous 5YRR:

In a 5YRR approved by Council on October 4, 2011, the Board indicated it would amend R4-11-204, R4-11-405, and R4-11-406. It completed the amendment of R4-11-204 in a rulemaking approved by Council on February 2, 2016. It has yet to amend R4-11-405 and R4-11-406. The Board had a rulemaking amending these two rules almost complete (See 20 A.A.R. 2842 and 2928) when Governor Ducey issued Executive Order 2015-01. The Board's request for an exemption following the order was initially denied. An exemption was granted on June 24, 2016, in an e-mail from Christina Corieri, Policy Advisor for Health and Human Services in the Governor's Office.

11. A determination after analysis that the probable benefits of the rule outweigh within this state the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Board believes the following provisions, which impose a cost on applicants or licensees, impose the least burden possible and are necessary to enable the Board to fulfill its statutory responsibilities:

A.R.S. §§ 32-1240 and 32-1292.01 require the Board to establish a minimum number of active practice hours within a specific time period that an applicant for licensure by credential must complete before making application. For a dentist, the Board established the minimum at 5,000 hours in the five years immediately preceding application. For a dental hygienist, the Board established the minimum at 1,000 hours in the two years immediately preceding application.

The rules require that some documents submitted to the Board be certified.

The Board is specifically authorized to establish fees. In these rules, it establishes a fee for license renewal by a retired or disabled dentist or dental hygienist and for registration of a business entity. The rules also establish a charge for various services provided by the Board.

12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:

No federal law is directly applicable to the subject matter of the rules.

13. For a rule made after July 29, 2010, that require issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037:

R4-11-101 and R4-11-201 through R4-11-204 were made after July 29, 2010. The licenses and certifications by credential issued under R4-11-201 through R4-11-204 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals to conduct activities that are substantially similar in nature.

14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule or to make a new rule. If no issues are identified for a rule in the report, the agency may indicate that no action is necessary for the rule:

The Board believes none of the issues identified in this 5YRR is substantive and none interferes with the Board's ability to license, regulate, and discipline dental professionals. The Board will address the issues identified when it becomes necessary to amend the rules for substantive reasons.

Because the Board was recently granted an exemption for a rulemaking on Article 4, the issues in that Article will be addressed when the rulemaking is done. The Board expects to have the rulemaking done by June 2017.

**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS**

(Authority: A.R.S. § 32-1203 et seq.)

**ARTICLE 1. DEFINITIONS**

Section

R4-11-101. Definitions

**ARTICLE 2. LICENSURE BY CREDENTIAL**

Section

R4-11-201. Clinical Examination; Requirements

R4-11-202. Dental Licensure by Credential; Application

R4-11-203. Dental Hygienist Licensure by Credential; Application

R4-11-204. Dental Assistant Radiography Certification by Credential

R4-11-205. Application for Dental Assistant Radiography Certification by Credential

**ARTICLE 4. FEES**

Section

R4-11-401. Retired or Disabled Licensure Fees

R4-11-402. Business Entity Fees

R4-11-405. Other Fees

R4-11-406. Fees for Anesthesia and Sedation Permits

## ARTICLE 1. DEFINITIONS

### R4-11-101. Definitions

The following definitions, and definitions in A.R.S. § 32-1201, apply to this Chapter:

“Analgesia” means a state of decreased sensibility to pain produced by using nitrous oxide (N<sub>2</sub>O) and oxygen (O<sub>2</sub>) with or without local anesthesia.

“Application” means, for purposes of Article 3 only, forms designated as applications and all documents and additional information the Board requires to be submitted with an application.

“Business Entity” means a business organization that offers to the public professional services regulated by the Board and is established under the laws of any state or foreign country, including a sole practitioner, partnership, limited liability partnership, corporation, and limited liability company, unless specifically exempted by A.R.S. § 32-1213(J).

“Calculus” means a hard mineralized deposit attached to the teeth.

“Certificate holder” means a denturist who practices denture technology under A.R.S. Title 32, Chapter 11, Article 5.

“Charitable Dental Clinic or Organization” means a non-profit organization meeting the requirements of 26 U.S.C. 501(c)(3) and providing dental or dental hygiene services.

“Clinical evaluation” means a dental examination of a patient named in a complaint regarding the patient's dental condition as it exists at the time the examination is performed.

“Closed subgingival curettage” means the removal of the inner surface of the soft tissue wall of a periodontal pocket in a situation where a flap of tissue has not been intentionally or surgically opened.

“Controlled substance” has the meaning prescribed in A.R.S. § 36-2501(A)(3).

“Credit hour” means one clock hour of participation in a recognized continuing dental education program.

“Deep sedation” is a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. The patient may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is maintained.

“Dental laboratory technician” or “dental technician” has the meaning prescribed in A.R.S. § 32-1201(7).

“Dentist of record” means a dentist who examines, diagnoses, and formulates treatment plans for a patient and may provide treatment to the patient.

“Designee” means a person to whom the Board delegates authority to act on the Board’s behalf regarding a particular task specified by this Chapter.

“Direct supervision” means, for purposes of Article 7 only, that a licensed dentist is present in the office and available to provide immediate treatment or care to a patient and observe a dental assistant’s work.

“Disabled” means a dentist, dental hygienist, or denturist has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism due to a permanent medical disability and based on a physician’s order.

“Dispense for profit” means selling a drug or device for any amount above the administrative overhead costs to inventory.

“Documentation of attendance” means documents that contain the following information:

- Name of sponsoring entity;
- Course title;
- Number of credit hours;
- Name of speaker; and
- Date, time, and location of the course.

“Drug” means:

- Articles recognized, or for which standards or specifications are prescribed, in the official compendium;
- Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in the human body;
- Articles other than food intended to affect the structure of any function of the human body; or
- Articles intended for use as a component of any articles specified in this definition but does not include devices or components, parts, or accessories of devices.

“Emerging scientific technology” means any technology used in the treatment of oral disease that is not currently generally accepted or taught in a recognized dental or dental hygiene school and use of the technology poses material risks.

“Epithelial attachment” means the layer of cells that extends apically from the depth of the gingival (gum) sulcus (crevice) along the tooth, forming an organic attachment.

“Ex-parte communication” means a written or oral communication between a decision maker, fact finder, or Board member and one party to the proceeding, in the absence of other parties.

“General anesthesia” is a drug-induced loss of consciousness during which the patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. The patient often requires assistance in maintaining a patent airway, and positive-pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

“General supervision” means, for purposes of Article 7 only, a licensed dentist is available for consultation, whether or not the dentist is in the office, regarding procedures or treatment that the dentist authorizes and for which the dentist remains responsible.

“Homebound patient” means a person who is unable to receive dental care in a dental office as a result of a medically diagnosed disabling physical or mental condition.

“Irreversible procedure” means a single treatment, or a step in a series of treatments, that causes change in the affected hard or soft tissues and is permanent or may require reconstructive or corrective procedures to correct the changes.

“Jurisdiction” means the Board’s power to investigate and rule on complaints that allege grounds for disciplinary action under A.R.S. Title 32, Chapter 11 or this Chapter.

“Licensee” means a dentist, dental hygienist, dental consultant, retired licensee, or person who holds a restricted permit under A.R.S. §§ 32-1237 or 32-1292.

“Local anesthesia” is the elimination of sensations, such as pain, in one part of the body by the injection of an anesthetic drug.

“Minimal sedation” is a minimally depressed level of consciousness that retains a patient’s ability to independently and continuously maintain an airway and respond appropriately to light tactile stimulation, not limited to reflex withdrawal from a painful stimulus, or verbal command and that is produced by a pharmacological or non-pharmacological method or a combination thereof. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. In accord with this particular definition, the drugs or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

“Moderate sedation” is a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands either alone or accompanied by light tactile stimulation, not limited to reflex withdrawal from a painful stimulus. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is maintained. The drugs or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Repeated dosing of a drug before the effects of previous dosing can be fully recognized may result in a greater alteration of the state of consciousness than intended by the permit holder.

“Nitrous oxide analgesia” means nitrous oxide (N<sub>2</sub>O/O<sub>2</sub>) used as an inhalation analgesic.

“Nonsurgical periodontal treatment” means plaque removal, plaque control, supragingival and subgingival scaling, root planing, and the adjunctive use of chemical agents.

“Official compendium” means the latest revision of the United States Pharmacopeia and the National Formulary and any current supplement.

“Oral sedation” is the enteral administration of a drug or non-drug substance or combination inhalation and enterally administered drug or non-drug substance in a dental office or dental clinic to achieve minimal or moderate sedation.

“Parenteral sedation” is a minimally depressed level of consciousness that allows the patient to retain the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and is induced by a pharmacological or non-pharmacological method or a combination of both methods of administration in which the drug bypasses the gastrointestinal tract.

“Patient of record” means a patient who has undergone a complete dental evaluation performed by a licensed dentist.

“Periodontal examination and assessment” means to collect and correlate clinical signs and patient symptoms that point to either the presence of or the potential for periodontal disease.

“Periodontal pocket” means a pathologic fissure bordered on one side by the tooth and on the opposite side by crevicular epithelium and limited in its depth by the epithelial attachment.

“Plaque” means a film-like sticky substance composed of mucoidal secretions containing bacteria and toxic products, dead tissue cells, and debris.

“Polish” means, for the purposes of A.R.S. § 32-1291(B) only, a procedure limited to the removal of plaque and extrinsic stain from exposed natural and restored tooth surfaces that utilizes an appropriate rotary instrument with rubber cup or brush and polishing agent. A licensee or dental assistant shall not represent that this procedure alone constitutes an oral prophylaxis.

“Prescription-only device” means:

Any device that is restricted by the federal act, as defined in A.R.S. § 32-1901, to use only under the supervision of a medical practitioner; or

Any device required by the federal act, as defined in A.R.S. § 32-1901, to bear on its label the legend “Rx Only.”

“Prescription-only drug” does not include a controlled substance but does include:

Any drug that, because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner;

Any drug that is limited by an approved new drug application under the federal act or A.R.S. § 32-1962 to use under the supervision of a medical practitioner;

Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer; or

Any drug required by the federal act to bear on its label the legend “RX Only.”

“President’s designee” means the Board’s executive director, an investigator, or a Board member acting on behalf of the Board president.

“Preventative and therapeutic agents” means substances used in relation to dental hygiene procedures that affect the hard or soft oral tissues to aid in preventing or treating oral disease.

“Prophylaxis” means a scaling and polishing procedure performed on patients with healthy tissues to remove coronal plaque, calculus, and stains.

“Public member” means a person who is not a dentist, dental hygienist, dental assistant, denturist, or dental technician.

“Recognized continuing dental education” means a program whose content directly relates to the art and science of oral health and treatment, provided by a recognized dental school as defined in A.R.S. § 32-1201(18), recognized dental hygiene school as defined in A.R.S. § 32-1201(17), or recognized denturist school as defined in A.R.S. § 32-1201(19), or sponsored by a national or state dental, dental hygiene, or denturist association, American Dental Association, Continuing Education Recognition Program (ADA CERP) or Academy of General Dentistry, Program Approval for Continuing Education (AGD PACE) approved provider, dental, dental hygiene, or denturist study club, governmental agency, commercial dental supplier, non-profit organization, accredited hospital, or programs or courses approved by other state, district, or territorial dental licensing boards.

“Restricted permit holder” means a dentist who meets the requirements of A.R.S. § 32-1237 or a dental hygienist who meets the requirements of A.R.S. § 32-1292 and is issued a restricted permit by the Board.

“Retired” means a dentist, dental hygienist, or denturist is at least 65 years old and has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism.

“Root planing” means a definitive treatment procedure designed to remove cementum or surface dentin that is rough, impregnated with calculus, or contaminated with toxins or microorganisms.

“Scaling” means use of instruments on the crown and root surfaces of the teeth to remove plaque, calculus, and stains from these surfaces.

“Section 1301 permit” means a permit to administer general anesthesia and deep sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Section 1302 permit” means a permit to administer parenteral sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Section 1303 permit” means a permit to administer oral sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Section 1304 permit” means a permit to employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Study club” means a group of at least five Arizona licensed dentists, dental hygienists, or denturists who provide written course materials or a written outline for a continuing education presentation that meets the requirements of Article 12.

“Treatment records” means all documentation related directly or indirectly to the dental treatment of a patient.

#### **Historical Note**

Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-02 renumbered as Section R4-11-102 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-101 renumbered to R4-11-201, new Section R4-11-101 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1).

Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 19 A.A.R. 334 and at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).

(Supp. 99-1).

### **ARTICLE 2. LICENSURE BY CREDENTIAL**

#### **R4-11-201. Clinical Examination; Requirements**

**A.** If an applicant is applying under A.R.S. §§ 32-1240(A) or 32-1292.01(A), the Board shall ensure that the applicant has passed the clinical examination of another state, United States territory, District of Columbia or a regional testing agency. Satisfactory completion of the clinical examination may be demonstrated by one of the following:

1. Certified documentation, sent directly from another state, United States territory, District of Columbia or a regional testing agency, that confirms successful completion of the clinical examination or multiple examinations administered by the state, United States territory, District of Columbia or regional testing agency. The certified documentation shall contain the name of the applicant, date of examination or examinations and proof of a passing score; or
2. Certified documentation sent directly from another state, United States territory or District of Columbia dental board that shows the applicant passed that state's, United States territory's or District of Columbia's clinical examination before that state's, United States territory's or District of Columbia's participation in a regional examination. The certified documentation shall contain the name of applicant, date of examination or examinations and proof of a passing score.

**B.** An applicant shall meet the licensure requirements in R4-11-301 and R4-11-303.

#### **R4-11-202. Dental Licensure by Credential; Application**

**A.** A dentist applying under A.R.S. § 32-1240(A) shall comply with all other applicable requirements in A.R.S.

Title 32, Chapter 11 and this Article.

- B.** A dentist applying under A.R.S. § 32-1240(A)(1) shall:
1. Have a current dental license in another state, territory or district of the United States;
  2. Submit a written affidavit affirming that the dentist has practiced dentistry for a minimum of 5000 hours during the five years immediately before applying for licensure by credential. For purposes of this subsection, dental practice includes experience as a dental educator at a dental program accredited by the American Dental Association Commission on Dental Accreditation or employment as a dentist in a public health setting;
  3. Submit a written affidavit affirming that the applicant has complied with the continuing dental education requirement of the state in which the applicant is currently licensed; and
  4. Provide evidence regarding the clinical examination by complying with one of the subsections in R4-11-201(A)(1)
- C.** A dentist applying under A.R.S. § 32-1240(A)(2) shall submit certified documentation sent directly from the applicable state, United States territory, District of Columbia or regional testing agency to the Board that contains the name of applicant, date of examination or examinations and proof of a passing score.
- D.** For any application submitted under A.R.S. § 32-1240(A), the Board may request additional clarifying evidence required under the applicable subsection in R4-11-201(A)(1).
- E.** An applicant for dental licensure by credential shall pay the fee prescribed in A.R.S. § 32-1240, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
1. Underserved areas, such as declared or eligible Health Professional Shortage Areas (HPSAs); or
  2. Other facilities caring for underserved populations as recognized by the Arizona Department of Health Services and approved by the Board.
- F.** An applicant for dental licensure by credential who works in areas or facilities described in subsection (E) shall:
1. Commit to a three-year, exclusive service period,
  2. File a copy of a contract or employment verification statement with the Board, and
  3. As a licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
- G.** A licensee's failure to comply with the requirements in subsection (F) is considered unprofessional conduct and may result in disciplinary action based on the circumstances of the case.

**R4-11-203. Dental Hygienist Licensure by Credential; Application**

- A.** A dental hygienist applying under A.R.S. § 32-1292.01(A) shall

Comply with all other applicable requirements in A.R.S. Title 32, Chapter 11 and this Article.

- B.** A dental hygienist applying under A.R.S. § 32-1292.01(A)(1) shall:

1. Have a current dental hygienist license in another state, territory, or district of the United States;

2. Submit a written affidavit affirming that the applicant has practiced as a dental hygienist for a minimum of 1000 hours during the two years immediately before applying for licensure by credential. For purposes of this subsection, dental hygienist practice includes experience as a dental hygienist educator at a dental program accredited by the American Dental Association Commission on Dental Accreditation or employment as a dental hygienist in a public health setting;
  3. Submit a written affidavit affirming that the applicant has complied with the continuing dental hygienist education requirement of the state in which the applicant is currently licensed; and
  4. Provide evidence regarding the clinical examination by complying with one of the subsections in ) R4-11-201(A)(1).
- C.** A dental hygienist applying under A.R.S. § 32-1292.01(A)(2) shall submit certified documentation sent directly from the applicable state, United States territory, District of Columbia or regional testing agency to the Board that contains the name of applicant, date of examination or examinations and proof of a passing score.
- D.** For any application submitted under A.R.S. § 32-1292.01(A), the Board may request additional clarifying evidence as required under the applicable subsection in R4-11-201(A).
- E.** An applicant for dental hygienist licensure by credential shall pay the fee prescribed in A.R.S. § 32-1292.01, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
1. Underserved areas such as declared or eligible Health Professional Shortage Areas (HPSAs); or
  2. Other facilities caring for underserved populations, as recognized by the Arizona Department of Health Services and approved by the Board.
- F.** An applicant for dental hygienist licensure by credential who works in areas or facilities described in subsection (E) shall:
1. Commit to a three-year exclusive service period,
  2. File a copy of a contract or employment verification statement with the Board, and
  3. As a licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
- G.** A licensee's failure to comply with the requirements in R4-11-203(F) is considered unprofessional conduct and may result in disciplinary action based on the circumstances of the case.

**R4-11-204. Dental Assistant Radiography Certification by Credential**

**Eligibility.** To be eligible for dental assistant radiography certification by credential, an applicant shall have a current certificate or other form of approval for taking dental radiographs, issued by a professional licensing agency in another state, United States territory or the District of Columbia that required successful completion of a written dental radiography examination.

**R4-11-205. Application for Dental Assistant Radiography Certification by Credential**

- A. An applicant for dental assistant radiography certification by credential shall provide to the Board a completed application, on a form furnished by the Board that contains the following information:
  - 1. A sworn statement of the applicant's eligibility, and
  - 2. A letter of endorsement that verifies compliance with R4-11-204.
- B. Based upon review of information provided under subsection (A), the Board or its designee shall request that an applicant for dental assistant radiography certification by credential provide a copy of a certified document that indicates the reason for a name change if the applicant's documentation contains different names.

**Historical Note**

Former Rule 2e; Former Section R4-11-15 renumbered as Section R4-11-205 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-205 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3).

**ARTICLE 4. FEES**

**R4-11-401. Retired or Disabled Licensure Fees**

- A. Dentist. Retired or disabled licensure renewal: \$15.00.
- B. Dental Hygienist. Retired or disabled licensure renewal: \$15.00.

**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-42 renumbered as Section R4-11-401 and repealed effective July 29, 1981 (Supp. 81-4). Adopted effective February 16, 1995 (Supp. 95-1). Former Section R4-11-401 repealed, new Section R4-11-401 renumbered from R4-11-901 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

**R4-11-402. Business Entity Fees**

- A. Under A.R.S. § 32-1213(B)(3), the fee for a Business Entity registration is \$100 per year, per location.
- B. The civil penalty fee for failure to notify the Board of a change in either business entity name, address, telephone number, location of any office, or licensee responsible for dental services within 30 days after the change is \$50. The civil penalty fee increases to \$100 if a business entity fails to notify the Board of the change within 60 days.

**Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-43 renumbered as Section R4-11-402, repealed, and new Section R4-11-402 adopted effective July 29, 1981 (Supp. 81-4). Amended effective February 16, 1995 (Supp. 95-1). Former Section R4-11-402 renumbered to R4-11-601, new Section R4-11-402 renumbered from R4-11-902 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (05-1).

**R4-11-405. Other Fees**

- A. Duplicate license: \$25.00.
- B. Duplicate certificate: \$25.00.

- C. License verification:**
  - 1. For licensee: \$25.00.
  - 2. For non-licensee: \$5.00.
- D. Copy of tape recording: \$10.00.**
- E. Photocopies (per page): \$0.25.**
- F. Mailing lists:**
  - 1. Dentists:
    - a. In-state - paper or labels: \$150.00.
    - b. All licensees - paper or labels: \$175.00.
    - c. Computer disk: \$100.00
  - 2. Dental hygienists:
    - a. In-state - paper or labels: \$150.00.
    - b. All licensees - paper or labels: \$175.00.
    - c. Computer disk: \$100.00.
  - 3. Denturists: All certificate holders - paper or labels: \$5.00.
- G. Board meeting agendas and minutes (mailed directly to consumer):**
  - 1. Agendas and minutes (annual fee): \$75.00.
  - 2. Agendas only (annual fee): \$25.00.
  - 3. Minutes only (annual fee): \$50.00.

#### **Historical Note**

Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-46 repealed, new Section R4-11-46 adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-46 renumbered as Section R4-11-405 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-405 renumbered from R4-11-905 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1).

#### **R4-11-406. Fees for Anesthesia and Sedation Permits**

- A.** Under A.R.S. § 32-1207(D), the fee for a Section 1301 permit to administer general anesthesia and semi-conscious sedation or a Section 1302 or Section 1303 permit to administer conscious or oral conscious sedation is \$300 per location.
- B.** Upon successful completion of the initial onsite evaluation and upon receipt of the required permit fee, the Board shall issue a separate Section 1301, 1302, or 1303 permit to a dentist for each location requested by the dentist. A permit expires on December 31 of every third year.
- C.** The renewal fee for each Section 1301, 1302, or 1303 permit is \$300 per location.

#### **Historical Note**

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-47 renumbered as Section R4-11-406 without change effective July 29, 1981 (Supp. 81-4). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-406 renumbered from R4-11-906 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section R4-11-406 renumbered from R4-11-407 and amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 4130, effective November 8, 2003 (Supp. 03-3).

### 32-1201. Definitions

In this chapter, unless the context otherwise requires:

1. "Auxiliary personnel" means all dental assistants, dental technicians, dental x-ray technicians and other persons employed by dentists or firms and businesses providing dental services to dentists.
2. "Board" means the state board of dental examiners.
3. "Business entity" means a business organization that has an ownership that includes any persons who are not licensed or certified to provide dental services in this state, that offers to the public professional services regulated by the board and that is established pursuant to the laws of any state or foreign country.
4. "Dental assistant" means any person who acts as an assistant to a dentist or a dental hygienist by rendering personal services to a patient that involve close proximity to the patient while the patient is under treatment or observation or undergoing diagnostic procedures.
5. "Dental hygienist" means any person licensed and engaged in the general practice of dental hygiene and all related and associated duties, including educational, clinical and therapeutic dental hygiene procedures.
6. "Dental incompetence" means lacking in sufficient dentistry knowledge or skills, or both, in that field of dentistry in which the dentist, denturist or dental hygienist concerned engages, to a degree likely to endanger the health of that person's patients.
7. "Dental laboratory technician" means any person, other than a licensed dentist, who, pursuant to a written work order of a dentist, fabricates artificial teeth, prosthetic appliances or other mechanical and artificial contrivances designed to correct or alleviate injuries or defects, both developmental and acquired, disorders or deficiencies of the human oral cavity, teeth, investing tissues, maxilla or mandible or adjacent associated structures.
8. "Dental x-ray laboratory technician" means any person, other than a licensed dentist, who, pursuant to a written work order of a dentist, performs dental and maxillofacial radiography, including cephalometrics, panoramic and maxillofacial tomography and other dental related non-fluoroscopic diagnostic imaging modalities.
9. "Dentistry", "dentist" and "dental" means the general practice of dentistry and all specialties or restricted practices of dentistry.
10. "Denturist" means a person practicing denture technology pursuant to article 5 of this chapter.
11. "Disciplinary action" means regulatory sanctions that are imposed by the board in combination with, or as an alternative to, revocation or suspension of a license and that may include:
  - (a) Imposition of an administrative penalty in an amount not to exceed two thousand dollars for each violation of this chapter or rules adopted under this chapter.
  - (b) Imposition of restrictions on the scope of practice.
  - (c) Imposition of peer review and professional education requirements.
  - (d) Imposition of censure or probation requirements best adapted to protect the public welfare, which may include a requirement for restitution to the patient resulting from violations of this chapter or rules adopted under this chapter.

12. "Irregularities in billing" means submitting any claim, bill or government assistance claim to any patient, responsible party or third-party payor for dental services rendered that is materially false with the intent to receive unearned income as evidenced by any of the following:
- (a) Charges for services not rendered.
  - (b) Any treatment date that does not accurately reflect the date when the service and procedures were actually completed.
  - (c) Any description of a dental service or procedure that does not accurately reflect the actual work completed.
  - (d) Any charge for a service or procedure that cannot be clinically justified or determined to be necessary.
  - (e) Any statement that is material to the claim and that the licensee knows is false or misleading.
  - (f) An abrogation of the copayment provisions of a dental insurance contract by a waiver of all or a part of the copayment from the patient if this results in an excessive or fraudulent charge to a third party or if the waiver is used as an enticement to receive dental services from that provider. This subdivision does not interfere with a contractual relationship between a third-party payor and a licensee or business entity registered with the board.
  - (g) Any other practice in billing that results in excessive or fraudulent charges to the patient.
13. "Letter of concern" means an advisory letter to notify a licensee or a registered business entity that, while the evidence does not warrant disciplinary action, the board believes that the licensee or registered business entity should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the board may result in board action against the practitioner's license or the business entity's registration. A letter of concern is not a disciplinary action. A letter of concern is a public document and may be used in a future disciplinary action.
14. "Licensed" means licensed pursuant to this chapter.
15. "Place of practice" means each physical location at which a person licensed pursuant to this chapter performs services subject to this chapter.
16. "Primary mailing address" means the address on file with the board and to which official board correspondence, notices or documents are delivered in a manner determined by the board.
17. "Recognized dental hygiene school" means a school that has a dental hygiene program with a minimum two academic year curriculum, or the equivalent of four semesters, and that is approved by the board and accredited by the American dental association commission on dental accreditation.
18. "Recognized dental school" means a dental school accredited by the American dental association commission on dental accreditation.
19. "Recognized denturist school" means a denturist school that maintains standards of entrance, study and graduation and that is accredited by the United States department of education or the council on higher education accreditation.
20. "Supervised personnel" means all dental hygienists, dental assistants, dental laboratory technicians, denturists, dental x-ray laboratory technicians and other persons supervised by licensed dentists.

21. "Teledentistry" means the use of data transmitted through interactive audio, video or data communications for the purposes of diagnosis, treatment planning, consultation and directing the delivery of treatment by dentists and dental providers in settings permissible under this chapter or specified in rules adopted by the board.

### 32-1201.01. Definition of unprofessional conduct

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

1. Intentional betrayal of a professional confidence or intentional violation of a privileged communication except as either of these may otherwise be required by law. This paragraph does not prevent members of the board from the full and free exchange of information with the licensing and disciplinary boards of other states, territories or districts of the United States or foreign countries, with the Arizona state dental association or any of its component societies or with the dental societies of other states, counties, districts, territories or foreign countries.
2. Using controlled substances as defined in section 36-2501, narcotic drugs, dangerous drugs or marijuana as defined in section 13-3401, or hypnotic drugs, including acetylurea derivatives, barbituric acid derivatives, chloral, paraldehyde, phenylhydantoin derivatives, sulfonmethane derivatives or any compounds, mixtures or preparations that may be used for producing hypnotic effects, or alcohol to the extent that it affects the ability of the dentist, denturist or dental hygienist to practice that person's profession.
3. Prescribing, dispensing or using drugs for other than accepted dental therapeutic purposes or for other than medically indicated supportive therapy in conjunction with managing a patient's dental needs.
4. Gross malpractice or repeated acts constituting malpractice.
5. Acting or assuming to act as a member of the board if this is not true.
6. Procuring or attempting to procure a certificate of the national board of dental examiners or a license to practice dentistry or dental hygiene by fraud or misrepresentation or by knowingly taking advantage of the mistake of another.
7. Having professional connection with or lending one's name to an illegal practitioner of dentistry or any of the other healing arts.
8. Representing that a manifestly not correctable condition, disease, injury, ailment or infirmity can be permanently corrected, or that a correctable condition, disease, injury, ailment or infirmity can be corrected within a stated time, if this is not true.
9. Offering, undertaking or agreeing to correct, cure or treat a condition, disease, injury, ailment or infirmity by a secret means, method, device or instrumentality.
10. Refusing to divulge to the board, on reasonable notice and demand, the means, method, device or instrumentality used in the treatment of a condition, disease, injury, ailment or infirmity.
11. Dividing a professional fee or offering, providing or receiving any consideration for patient referrals among or between dental care providers or dental care institutions or entities. This paragraph does not prohibit the division of fees among licensees who are engaged in a bona fide employment, partnership, corporate or contractual relationship for the delivery of professional services.
12. Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of dentistry.

13. Refusal, revocation or suspension of a license or any other disciplinary action taken against a dentist by, or the voluntary surrender of a license in lieu of disciplinary action to, any other state, territory, district or country, unless the board finds that this action was not taken for reasons that relate to the person's ability to safely and skillfully practice dentistry or to any act of unprofessional conduct.
14. Any conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public.
15. Obtaining a fee by fraud or misrepresentation, or wilfully or intentionally filing a fraudulent claim with a third party for services rendered or to be rendered to a patient.
16. Repeated irregularities in billing.
17. Employing unlicensed persons to perform or aiding and abetting unlicensed persons in the performance of work that can be done legally only by licensed persons.
18. Practicing dentistry under a false or assumed name in this state, other than as allowed by section 32-1262.
19. Wilfully or intentionally causing or permitting supervised personnel or auxiliary personnel operating under the licensee's supervision to commit illegal acts or perform an act or operation other than that permitted under article 4 of this chapter and rules adopted by the board pursuant to section 32-1282.
20. The following advertising practices:
  - (a) The publication or circulation, directly or indirectly, of any false, fraudulent or misleading statements concerning the skill, methods or practices of the licensee or of any other person.
  - (b) Advertising in any manner that tends to deceive or defraud the public.
21. Failing to dispense drugs and devices in compliance with article 6 of this chapter.
22. Failing to comply with a board order, including an order of censure or probation.
23. Failing to comply with a board subpoena in a timely manner.
24. Failing or refusing to maintain adequate patient records.
25. Failing to allow properly authorized board personnel, on demand, to inspect the place of practice and examine and have access to documents, books, reports and records maintained by the licensee or certificate holder that relate to the dental practice or dental-related activity.
26. Refusing to submit to a body fluid examination as required through a monitored treatment program or pursuant to a board investigation into a licensee's or certificate holder's alleged substance abuse.
27. Failing to inform a patient of the type of material the dentist will use in the patient's dental filling and the reason why the dentist is using that particular filling.
28. Failing to report in writing to the board any evidence that a dentist, denturist or dental hygienist is or may be:
  - (a) Professionally incompetent.
  - (b) Engaging in unprofessional conduct.
  - (c) Impaired by drugs or alcohol.
  - (d) Mentally or physically unable to safely engage in the activities of a dentist, denturist or dental hygienist pursuant to this chapter.
29. Filing a false report pursuant to paragraph 28 of this section.

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

**32-1202. Scope of practice; practice of dentistry**

For the purposes of this chapter, the practice of dentistry is the diagnosis, surgical or nonsurgical treatment and performance of related adjunctive procedures for any disease, pain, deformity, deficiency, injury or physical condition of the human tooth or teeth, alveolar process, gums, lips, cheek, jaws, oral cavity and associated tissues, including the removal of stains, discolorations and concretions.

**32-1203. State board of dental examiners; qualifications of members; terms**

- A. The state board of dental examiners is established consisting of six licensed dentists, two licensed dental hygienists, two public members and one business entity member appointed by the governor for a term of four years, to begin and end on January 1.
- B. The business entity member and the public members may participate in all board proceedings and determinations, except in the preparing, giving or grading of examinations for licensure. Dental hygienist board members may participate in all board proceedings and determinations, except in the preparing, giving and grading of examinations that do not relate to dental hygiene procedures.
- C. A board member shall not serve more than two consecutive terms.
- D. For the purposes of this section, business entity member does not include a person who is licensed pursuant to this chapter.

**32-1204. Removal from office**

The governor may remove a member of the board for persistent neglect of duty, incompetency, unfair, biased, partial or dishonorable conduct, or gross immorality. Conviction of a felony or revocation of the dental license of a member of the board shall ipso facto terminate his membership.

**32-1205. Organization; meetings; quorum; staff**

- A. The board shall elect from its membership a president and a vice-president who shall act also as secretary-treasurer.
- B. Board meetings shall be conducted pursuant to title 38, chapter 3, article 3.1. A majority of the board constitutes a quorum. Beginning September 1, 2015, meetings held pursuant to this subsection shall be audio recorded and the audio recording shall be posted to the board's website within five business days after the meeting.
- C. The board may employ an executive director, subject to title 41, chapter 4, article 4 and legislative appropriation.
- D. The board or the executive director may employ personnel, as necessary, subject to title 41, chapter 4, article 4 and legislative appropriation.

**32-1206. Compensation of board**

Members of the board are entitled to receive compensation in the amount of two hundred fifty dollars for each day actually spent in performing necessary work authorized by the board and all expenses necessarily and properly incurred while performing this work.

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

A. The board shall:

1. Adopt rules not inconsistent with this chapter for the regulation of its own conduct, for holding examinations and for regulating the practice of dentists and supervised personnel and registered business entities, provided:

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

(b) Except as provided pursuant to section 32-1281, only licensed dentists may perform diagnosis and treatment planning, prescribe medication and perform surgical procedures on hard and soft tissues.

(c) Only a licensed dentist, or dental hygienist in consultation with a dentist, may perform examinations, oral health assessments and treatment sequencing for dental hygiene procedures.

2. Adopt a seal.

3. Maintain a record that shall remain available to the board at all times of its acts and proceedings, including the issuance, denial, renewal, suspension or revocation of licenses and the disposition of complaints. The existence of a pending complaint or investigation shall not be disclosed to the public. Records of complaints shall be available to the public, except only as follows:

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

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

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

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

4. Establish a uniform and reasonable standard of minimum educational requirements consistent with the accreditation standards of the American dental association commission on dental accreditation to be observed by dental schools and dental hygiene schools in order to be classified as recognized dental schools or dental hygiene schools.

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

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

7. Issue licenses to those it determines are eligible for licensure pursuant to this chapter.
  8. Determine the eligibility of applicants for restricted permits and issue restricted permits to those found eligible.
  9. Pursuant to section 32-1263.02, investigate charges of misconduct on the part of licensees and persons to whom restricted permits have been issued.
  10. Issue a letter of concern, which is not a disciplinary action but refers to practices that may lead to a violation and to disciplinary action.
  11. Issue decrees of censure, fix periods and terms of probation, suspend or revoke licenses, certificates and restricted permits, as the facts may warrant, and reinstate licenses, certificates and restricted permits in proper cases.
  12. Collect and disburse monies.
  13. Perform all other duties that are necessary to enforce this chapter and that are not specifically or by necessary implication delegated to another person.
  14. Establish criteria for the renewal of permits issued pursuant to board rules relating to general anesthesia and sedation.
- B. The board may:
1. Sue and be sued.
  2. Issue subpoenas, including subpoenas to the custodian of patient records, compel attendance of witnesses, administer oaths and take testimony concerning all matters within its jurisdiction. If a person refuses to obey a subpoena issued by the board, the refusal shall be certified to the superior court and proceedings shall be instituted for contempt of court.
  3. Adopt rules:
    - (a) Prescribing requirements for continuing education for renewal of all licenses issued pursuant to this chapter.
    - (b) Prescribing educational and experience prerequisites for the administration of intravenous or intramuscular drugs for the purpose of sedation or for use of general anesthetics in conjunction with a dental treatment procedure.
    - (c) Prescribing requirements for obtaining licenses for disabled or retired licensees, including the triennial license renewal fee.
  4. Hire consultants to assist the board in the performance of its duties and employ persons to provide investigative, professional and clerical assistance as it deems necessary.
  5. Contract with other state or federal agencies as required to carry out the purposes of this chapter.
  6. If determined by the board, order physical, psychological, psychiatric and competency evaluations of licensed dentists and dental hygienists, certified denturists and applicants for licensure and certification at the expense of those individuals.
- C. The executive director or the executive director's designee may:
1. Issue and renew licenses, certificates and permits to applicants who meet the requirements of this chapter.
  2. Initiate an investigation if evidence appears to demonstrate that a dentist, dental hygienist, denturist or restricted permit holder may be engaged in unprofessional conduct or may be unable to safely practice dentistry.
  3. Initiate an investigation if evidence appears to demonstrate that a business entity may be engaged in unethical conduct.

4. Subject to board approval, enter into a consent agreement with a dentist, denturist, dental hygienist or restricted permit holder if there is evidence of unprofessional conduct.
  5. Subject to board approval, enter into a consent agreement with a business entity if there is evidence of unethical conduct.
  6. Refer cases to the board for a formal interview.
  7. If delegated by the board, enter into a stipulation agreement with a person under the board's jurisdiction for the treatment, rehabilitation and monitoring of chemical substance abuse or misuse.
- D. Members of the board are personally immune from liability with respect to all acts done and actions taken in good faith and within the scope of their authority.
- E. The board by rule shall require that a licensee obtain a permit for the application of general anesthesia, semiconscious sedation or conscious sedation, shall establish and collect a fee of not more than three hundred dollars to cover administrative costs connected with issuing the permit and shall conduct inspections to assure compliance.
- F. The board by rule may establish and collect fees for license verification, board meeting agendas and minutes, published lists and mailing labels.
- G. This section does not prohibit the board from conducting its authorized duties in a public meeting.
- H. For the purposes of this section, "record of complaint" means the document reflecting the final disposition of a complaint or investigation.

#### 32-1208. Failure to respond to subpoena; civil penalty

In addition to any disciplinary action authorized by statute, the board may assess a nondisciplinary civil penalty in an amount not to exceed five hundred dollars for a licensee who fails to respond to a subpoena issued by the board pursuant to this chapter.

#### 32-1209. Admissibility of records in evidence

A copy of any part of the recorded proceedings of the board certified by the executive director, or a certificate by the executive director that any asserted or purported record, name, license number, restricted permit number or action is not entered in the recorded proceedings of the board, may be admitted as evidence in any court in this state. A person making application and paying a fee set by the board may procure from the executive director a certified copy of any portion of the records of the board unless these records are classified as confidential as provided by law. Unless otherwise provided by law, all records concerning an investigation, examination materials, records of examination grading and applicants' performance and transcripts of educational institutions concerning applicants are confidential and are not public records. "Records of applicants' performance" does not include records of whether an applicant passed or failed an examination.

#### 32-1210. Annual report

A. Not later than October 1 of each year, the board shall make an annual written report to the governor for the preceding year that includes the following information:

1. The number of licensed dentists in the state.

2. The number of licenses issued during the preceding year and to whom issued.
  3. The number of examinations held and the dates of the examinations.
  4. The facts with respect to accusations filed with the board, of hearings held in connection with those accusations and the results of those hearings.
  5. The facts with respect to prosecution of persons charged with violations of this chapter.
  6. A full and complete statement of financial transactions of the board.
  7. Any other matters that the board wishes to include in the report or that the governor requires.
- B. On request of the governor the board shall submit a supplemental report.

### 32-1211. Limitation of expenditures

The board shall not make expenditures exceeding ninety per cent of the total revenue of the board, and no part of the expenses, charges or expenditures of the dental board shall become a charge against any fund of the state.

### 32-1212. Dental board fund

- A. Except as provided in subsection C of this section, pursuant to sections 35-146 and 35-147, the executive director of the board shall each month deposit ten per cent of all fees, fines and other revenue received by the board, in the state general fund and deposit the remaining ninety per cent in the dental board fund.
- B. Monies deposited in the dental board fund shall be subject to the provisions of section 35-143.01.
- C. Monies from administrative penalties received pursuant to section 32-1263.01 shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

### 32-1213. Business entities; registration; renewal; civil penalty; exceptions

- A. A business entity may not offer dental services pursuant to this chapter unless:
  1. The entity is registered with the board pursuant to this section.
  2. The services are conducted by a licensee pursuant to this chapter.
- B. The business entity must file a registration application on a form provided by the board. The application must include:
  1. A description of the entity's services offered to the public.
  2. The name of any dentist who is authorized to provide and who is responsible for providing the dental services offered at each office.
  3. The names and addresses of the officers and directors of the business entity.
  4. A registration fee prescribed by the board in rule.
- C. A business entity must file a separate registration application and pay a fee for each branch office in this state.
- D. A registration expires three years after the date the board issues the registration. A business entity that wishes to renew a registration must submit an application for renewal as prescribed by the board on a triennial basis on a form provided by the board before the expiration date. An entity that fails to renew the registration before the expiration date is subject to a late fee as prescribed by the board by rule. The board may stagger the dates for renewal applications.
- E. The business entity must notify the board in writing within thirty days after any change:

1. In the entity's name, address or telephone number.
  2. In the officers or directors of the business entity.
  3. In the name of any dentist who is authorized to provide and who is responsible for providing the dental services in any facility.
- F. The business entity shall establish a written protocol for the secure storage, transfer and access of the dental records of the business entity's patients. This protocol must include, at a minimum, procedures for:
1. Notifying patients of the future locations of their records if the business entity terminates or sells the practice.
  2. Disposing of unclaimed dental records.
  3. The timely response to requests by patients for copies of their records.
- G. The business entity must notify the board within thirty days after the dissolution of any registered business entity or the closing or relocation of any facility and must disclose to the board the entity's procedure by which its patients may obtain their records.
- H. The board may do any of the following pursuant to its disciplinary procedures if an entity violates the board's statutes or rules:
1. Refuse to issue a registration.
  2. Suspend or revoke a registration.
  3. Impose a civil penalty of not more than two thousand dollars for each violation.
  4. Enter a decree of censure.
  5. Issue an order prescribing a period and terms of probation that are best adapted to protect the public welfare and that may include a requirement for restitution to a patient for a violation of this chapter or rules adopted pursuant to this chapter.
  6. Issue a letter of concern if a business entity's actions may cause the board to take disciplinary action.
- I. The board shall deposit, pursuant to sections 35-146 and 35-147, civil penalties collected pursuant to this section in the state general fund.
- J. This section does not apply to:
1. A sole proprietorship or partnership that consists exclusively of dentists who are licensed pursuant to this chapter.
  2. Any of the following entities licensed under title 20:
    - (a) A service corporation.
    - (b) An insurer authorized to transact disability insurance.
    - (c) A prepaid dental plan organization that does not provide directly for prepaid dental services.
    - (d) A health care services organization that does not provide directly for dental services.
  3. A professional corporation or professional limited liability company, the shares of which are exclusively owned by dentists who are licensed pursuant to this chapter and that is formed to engage in the practice of dentistry pursuant to title 10, chapter 20 or title 29, chapter 4, article 11.
  4. A facility regulated by the federal government or a state, district or territory of the United States.
  5. An administrator or executor of the estate of a deceased dentist or a person who is legally authorized to act for a dentist who has been adjudicated to be mentally incompetent for not more than one year from the date the board receives notice of the dentist's death or incapacitation pursuant to section 32-1270.

K. A facility that offers dental services to the public by persons licensed under this chapter shall be registered by the board unless the facility is any of the following:

1. Owned by a dentist who is licensed pursuant to this chapter.
2. Regulated by the federal government or a state, district or territory of the United States.

L. Except for issues relating to insurance coding and billing that require the name, signature and license number of the dentist providing treatment, this section does not:

1. Authorize a licensee in the course of providing dental services for an entity registered pursuant to this section to disregard or interfere with a policy or practice established by the entity for the operation and management of the business.
2. Authorize an entity registered pursuant to this section to establish or enforce a business policy or practice that may interfere with the clinical judgment of the licensee in providing dental services for the entity or may compromise a licensee's ability to comply with this chapter.

M. The board shall adopt rules that provide a method for the board to receive the assistance and advice of business entities licensed pursuant to this chapter in all matters relating to the regulation of business entities.

N. No individual currently holding a surrendered or revoked license to practice dentistry or dental hygiene in any state or jurisdiction in the United States may have a majority ownership interest in the business entity registered pursuant to this section. Revocation and surrender of licensure shall be limited to disciplinary actions resulting in loss of license or surrender of license instead of disciplinary action. Dentists or dental hygienists affected by this subsection shall have one year from the surrender or revocation to divest themselves of their ownership interest. This subsection does not apply to publicly held companies. For the purposes of this subsection, "majority ownership interest" means an ownership interest greater than fifty per cent.

### 32-1231. Persons not required to be licensed

This chapter does not prohibit:

1. A dentist or dental hygienist who is officially employed in the service of the United States from practicing dentistry in the dentist's or dental hygienist's official capacity, within the scope of that person's authority, on persons enlisted in, directly connected with or under the immediate control of some branch of service of the United States.
2. An intern or student of dentistry or dental hygiene from operating in the clinical departments or laboratories of a recognized dental school, dental hygiene school or hospital under supervision of a dentist.
3. An unlicensed person from performing for a licensed dentist merely mechanical work on inert matter not within the oral cavity in the construction, making, alteration or repairing of any artificial dental substitute or any dental restorative or corrective appliance, if the casts or impressions for that work have been furnished by a licensed dentist and the work is directly supervised by the dentist for whom done or under a written authorization signed by the dentist, but the burden of proving that written authorization or direct supervision is on the person charged with having violated this provision.

4. A clinician not licensed in this state from giving demonstrations, before bona fide dental societies, study clubs and groups of professional students, that are free to the persons on whom made.
5. The state director of dental public health from performing the director's administrative duties as prescribed by law.
6. A dentist or dental hygienist to whom a restricted permit has been issued from practicing dentistry or dental hygiene in this state as provided in sections 32-1237 and 32-1292.
7. A dentist or dental hygienist who is not practicing on the public at large from practicing in a recognized dental school or a recognized dental hygiene school.

**32-1232. Qualifications of applicant; application; fee; fingerprint clearance card**

A. An applicant for licensure shall be of good moral character, shall meet the requirements of section 32-1233 and shall hold a diploma conferring a degree of doctor of dental medicine or doctor of dental surgery from a recognized dental school.

B. Each candidate shall submit a written application to the board accompanied by a nonrefundable Arizona dental jurisprudence examination fee of three hundred dollars. The board shall waive this fee for candidates who are holders of valid restricted permits. Each candidate shall also obtain a valid fingerprint clearance card issued pursuant to section 41-1758.03.

C. The board may deny an application for a license, for license renewal or for a restricted permit if the applicant:

1. Has committed any act that would be cause for censure, probation or suspension or revocation of a license under this chapter.
2. While unlicensed, committed or aided and abetted the commission of any act for which a license is required by this chapter.
3. Knowingly made any false statement in the application.
4. Has had a license to practice dentistry revoked by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.
5. Is currently under suspension or restriction by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.
6. Has surrendered, relinquished or given up a license to practice dentistry in lieu of disciplinary action by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

D. The board shall suspend an application for a license, for license renewal or for a restricted permit if the applicant is currently under investigation by a dental regulatory board in another jurisdiction. The board shall not issue or deny a license to the applicant until the investigation is resolved.

**32-1233. Applicants for licensure; examination requirements**

An applicant for licensure shall have passed all of the following:

1. The written national dental board examinations.
2. The western regional examining board examination within five years preceding filing the application.

3. The Arizona dental jurisprudence examination.

**32-1234. Dental consultant license**

A. A person may apply for a dental consultant license if the applicant demonstrates to the board's satisfaction that the applicant:

1. Has continuously held a license to practice dentistry for at least twenty-five years issued by one or more states or territories of the United States or the District of Columbia, but is not currently licensed to practice dentistry in Arizona.
2. Is of good moral character.
3. Has not had a license to practice dentistry revoked by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.
4. Is not currently under suspension or restriction by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.
5. Has not surrendered, relinquished or given up a license to practice dentistry in lieu of disciplinary action by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.
6. Meets the applicable requirements of section 32-1232.
7. Meets the requirements of section 32-1233, paragraphs 1 and 3. If an applicant has taken a state written theory examination instead of the written national dental board examinations, the applicant must provide the board with official documentation of passing the written theory examinations in the state where the applicant holds a current license. The board shall then determine the applicant's eligibility for a license pursuant to this section.
8. Meets the application requirements as prescribed in rule by the board.

B. The board shall suspend an application for a dental consultant license if the applicant is currently under investigation by a dental regulatory board in another jurisdiction in the United States. The board shall not issue or deny a license to the applicant until the investigation is resolved.

C. A person to whom a dental consultant license is issued shall practice dentistry only in the course of the person's employment or on behalf of an entity licensed under title 20 with the practice limited to supervising or conducting utilization review or other claims or case management activity on behalf of the entity licensed pursuant to title 20. A person who holds a dental consultant license is prohibited from providing direct patient care.

D. This section shall not be deemed to require a person to apply for or hold a dental consultant license in order for that person to serve as a consultant to or engage in claims review activity for an entity licensed pursuant to title 20.

E. Except as provided in subsection B of this section, a dental consultant licensee is subject to all of the provisions of this chapter that are applicable to licensed dentists.

**32-1235. Reinstatement of license; application for previously denied license**

A. On written application the board may issue a new license or certificate to a dentist, dental hygienist or denturist whose license or certificate was previously suspended or revoked by the board or surrendered by the applicant if the applicant

demonstrates to the board's satisfaction that the applicant is completely rehabilitated with respect to the conduct that was the basis for the suspension, revocation or surrender. In making its decision, the board shall determine:

1. That the applicant has not engaged in any conduct during the suspension, revocation or surrender period that would have constituted a basis for revocation pursuant to section 32-1263.

2. If a criminal conviction was a basis for the suspension, revocation or surrender, that the applicant's civil rights have been fully restored pursuant to statute or any other applicable recognized judicial or gubernatorial order.

3. That the applicant has made restitution to any aggrieved person as ordered by a court of competent jurisdiction.

4. That the applicant demonstrates any other standard of rehabilitation the board determines is appropriate.

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

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

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

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

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

[32-1236. Dentist triennial licensure; continuing education; license reinstatement; license for each place of practice; notice of change of address or place of practice; retired and disabled licensees; penalties](#)

A. Except as provided in section 32-4301, a license expires on June 30 of every third year. On or before June 30 of every third year, every licensed dentist shall submit to the board a complete renewal application and pay a license renewal fee of not more than six hundred fifty dollars, established by a formal vote of the board. At least once every three years, before establishing the fee, the board shall review the amount of the fee in a public meeting. Any change in the amount of the fee shall be applied prospectively to a licensee at the time of licensure renewal. The fee prescribed by this subsection does not apply to a licensee in disabled or retired status.

B. A licensee shall include a written affidavit with the renewal application that affirms that the licensee complies with board rules relating to continuing education requirements. A licensee is not required to complete the written affidavit if the licensee received an initial license within the year immediately preceding the expiration date of the license or the licensee is in disabled status. If the licensee is not in compliance with board rules relating to continuing education, the board may grant an extension of time to complete these requirements if the licensee includes a

written request for an extension with the renewal application instead of the written affidavit and the renewal application is received on or before June 30 of the expiration year. The board shall consider the extension request based on criteria prescribed by the board by rule. If the board denies an extension request, the license expires on August 30.

C. A person applying for licensure for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A of this section. Subsequent licensure renewal shall be conducted pursuant to this section.

D. An expired license may be reinstated by submitting a complete renewal application within the twenty-four-month period immediately following the expiration of the license with payment of the renewal fee and a one hundred dollar penalty. Whenever issued, reinstatement is as of the date of application and entitles the applicant to licensure only for the remainder of the applicable three-year period. If a person does not reinstate a license pursuant to this subsection, the person must reapply for licensure pursuant to this chapter.

E. Each licensee must provide to the board in writing both of the following:

1. A primary mailing address.
2. The address for each place of practice.

F. A licensee maintaining more than one place of practice shall obtain from the board a duplicate license for each office. A fee set by the board shall be charged for each duplicate license. The licensee shall notify the board in writing within ten days of opening the additional place or places of practice. The board shall impose a penalty of fifty dollars for failure to notify the board.

G. A licensee who is fully retired and a licensee who is permanently disabled may contribute services to a recognized charitable institution and still retain that classification for triennial registration purposes on payment of a reduced renewal fee as prescribed by the board by rule.

H. A licensee applying for retired or disabled status shall:

1. Relinquish any prescribing privileges and shall attest by affidavit that the licensee has surrendered to the United States drug enforcement administration any registration issued pursuant to the federal controlled substances act and has surrendered to the board any registration issued pursuant to section 36-2606.
2. If the licensee holds a permit to dispense drugs and devices pursuant to section 32-1298, surrender that permit to the board.
3. Attest by affidavit that the licensee is not currently engaged in the practice of dentistry.

I. A licensee who changes the licensee's primary mailing address or place of practice address shall notify the board of that change in writing within ten days. The board shall impose a penalty of fifty dollars if a licensee fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a licensee fails to notify it of the change within thirty days.

### **32-1237. Restricted permit**

A person may apply for a restricted permit if the applicant demonstrates to the board's satisfaction that the applicant:

1. Has a pending contract with a recognized charitable dental clinic or organization that offers dental services without compensation or at a rate that only reimburses

the clinic for dental supplies and overhead costs and the applicant will receive no compensation for dental services provided at the clinic or organization.

2. Has a license to practice dentistry issued by another state or territory of the United States or the District of Columbia.
3. Has been actively engaged in one or more of the following for three years immediately preceding the application:
  - (a) The practice of dentistry.
  - (b) An approved dental residency training program.
  - (c) Postgraduate training deemed by the board equivalent to an approved dental residency training program.
4. Is competent and proficient to practice dentistry.
5. Meets the requirements of section 32-1232, subsection A, other than the requirement to meet section 32-1233.

#### 32-1238. Issuance of restricted permit

A restricted permit may be issued by the board without examination or payment of fee for a period not to exceed one year or until June 30th, whichever is lesser, and shall automatically expire at that time. The board may, in its discretion and pursuant to rules or regulations not inconsistent with this chapter, renew such restricted permit for periods not to exceed one year.

#### 32-1239. Practice under restricted permit

A person to whom a restricted permit is issued shall be entitled to practice dentistry only in the course of his employment by a recognized charitable dental clinic or organization as approved by the board, on the following conditions:

1. He shall file a copy of his employment contract with the board and such contract shall contain the following provisions:
  - (a) That applicant understands and acknowledges that if his employment by the charitable dental clinic or organization is terminated prior to the expiration of his restricted permit, his restricted permit will be automatically revoked and he will voluntarily surrender the permit to the board and will no longer be eligible to practice unless or until he has satisfied the requirements of section 32-1237 or has successfully passed the examination as provided in this article.
  - (b) He shall be employed by a dental clinic or organization organized and operated for charitable purposes offering dental services without compensation. The term "employed" as used in this subdivision shall include the performance of dental services without compensation.
  - (c) He shall be subject to all the provisions of this chapter applicable to licensed dentists.

#### 32-1240. Licensure by credential; examinations; waiver; fee

A. The board by rule may waive the examination requirements of this article on receipt of evidence satisfactory to the board that the applicant has passed the clinical examination of another state or testing agency and either:

1. The other state or testing agency maintains a standard of licensure that is substantially equivalent to that of this state as determined by the board. The board by rule shall require:

(a) A minimum number of active practice hours within a specific time period before the applicant submits the application. The board shall define what constitutes active practice.

(b) An affirmation that the applicant has completed the continuing education requirements of the jurisdiction where the applicant is licensed.

2. The applicant has acquired a certificate or other evidence of successful completion of a board approved examination not more than five years before submitting an application for licensure pursuant to this chapter.

B. The applicant shall pay a licensure by credential fee of two thousand dollars.

### 32-1241. Training permits; qualified military health professionals

A. The board shall issue a training permit to a qualified military health professional who is practicing dentistry in the United States armed forces and who is discharging the health professional's official duties by participating in a clinical training program based at a civilian hospital affiliated with the United States department of defense.

B. Before the board issues the training permit, the qualified military health professional must submit a written statement from the United States department of defense that the applicant:

1. Is a member of the United States armed forces who is performing duties for and at the direction of the United States department of defense at a location in this state approved by the United States department of defense.

2. Has a current license or is credentialed to practice dentistry in a jurisdiction of the United States.

3. Meets all required qualification standards prescribed pursuant to 10 United States Code section 1094(d) relating to the licensure requirements for health professionals.

4. Has not had a license to practice revoked by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter.

5. Is not currently under investigation, suspension or restriction by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter.

6. Has not surrendered, relinquished or given up a license in lieu of disciplinary action by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter. This paragraph does not prevent the board from considering the request for a training permit of a qualified military health professional who surrendered, relinquished or gave up a license in lieu of disciplinary action by a regulatory board in another jurisdiction if that regulatory board subsequently reinstated the qualified military health professional's license.

C. The qualified military health professional may not open an office or designate a place to meet patients or receive calls relating to the practice of dentistry in this state outside of the facilities and programs of the approved civilian hospital.

D. The qualified military health professional may not practice outside of the professional's scope of practice.

E. A training permit issued pursuant to this section is valid for one year. The qualified military health professional may apply annually to the board to renew the permit. With each application to renew the qualified military health professional

must submit a written statement from the United States department of defense asking the board for continuation of the training permit.

F. The board may not impose a fee to issue or renew a training permit to a qualified military health professional pursuant to this section.

### 32-1261. Practicing without license; classification

Except as otherwise provided a person is guilty of a class 6 felony who, without a valid license or business entity registration as prescribed by this chapter:

1. Practices dentistry or any branch of dentistry as described in section 32-1202.
2. In any manner or by any means, direct or indirect, advertises, represents or claims to be engaged or ready and willing to engage in that practice as described in section 32-1202.
3. Manages, maintains or carries on, in any capacity or by any arrangement, a practice, business, office or institution for the practice of dentistry, or that is advertised, represented or held out to the public for that purpose.

### 32-1262. Corporate practice; display of name and license receipt or license; duplicate licenses; fee

- A. It is lawful to practice dentistry as a professional corporation or professional limited liability company.
- B. It is lawful to practice dentistry as a business organization if the business organization is registered as a business entity pursuant to this chapter.
- C. It is lawful to practice dentistry under a name other than that of the licensed practitioners if the name is not deceptive or misleading.
- D. If practicing as a professional corporation or professional limited liability company, the name and address of record of the dentist owners of the practice shall be conspicuously displayed at the entrance to each owned location.
- E. If practicing as a business organization that is registered as a business entity pursuant to section 32-1213, the receipt for the current registration period must be conspicuously displayed at the entrance to each place of practice.
- F. A licensee's receipt for the current licensure period shall be displayed in the licensee's place of practice in a manner that is always readily observable by patients or visitors and shall be exhibited to members of the board or to duly authorized agents of the board on request. The receipt for the licensure period immediately preceding shall be kept on display until replaced by the receipt for the current period. During the year in which the licensee is first licensed and until the receipt for the following period is received, the license shall be displayed in lieu of the receipt.
- G. If a dentist maintains more than one place of practice, the board may issue one or more duplicate licenses or receipts on payment of a fee fixed by the board not exceeding twenty-five dollars for each duplicate.
- H. If a licensee legally changes the licensee's name from that in which the license was originally issued, the board, on satisfactory proof of the change and surrender of the original license, if obtainable, may issue a new license in the new name and shall charge the established fee for duplicate licenses.

### 32-1263. Grounds for disciplinary action; definition

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

1. Unprofessional conduct, as defined in section 32-1201.01.
2. Conviction of a felony or of a misdemeanor involving moral turpitude, in which case the record of conviction or a certified copy is conclusive evidence.
3. Physical or mental incompetence to practice pursuant to this chapter.
4. Committing or aiding, directly or indirectly, a violation of or noncompliance with any provision of this chapter or of any rules adopted by the board pursuant to this chapter.

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

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

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

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

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

2. Falsely reporting to the board that a dentist, denturist or dental hygienist is or may be guilty of unprofessional conduct, is or may be impaired by drugs or alcohol or is or may be mentally or physically unable to safely engage in the permissible activities of a dentist, denturist or dental hygienist.

3. Obtaining or attempting to obtain a registration or registration renewal by fraud or by misrepresentation.

4. Knowingly filing with the board any application, renewal or other document that contains false information.

5. Failing to register or failing to submit a renewal registration with the board pursuant to section 32-1213.

6. Failing to provide the following persons with access to any place for which a registration has been issued or for which an application for a registration has been submitted in order to conduct a site investigation, inspection or audit:

(a) The board or its employees or agents.

(b) An authorized federal or state official.

7. Failing to notify the board of a change in officers and directors, a change of address or a change in the dentists providing services pursuant to section 32-1213, subsection E.

8. Failing to provide patient records pursuant to section 32-1264.

9. Obtaining a fee by fraud or misrepresentation or wilfully or intentionally filing a fraudulent claim with a third party for services rendered or to be rendered to a patient.

10. Engaging in repeated irregularities in billing.

11. Engaging in the following advertising practices:

- (a) The publication or circulation, directly or indirectly, of any false or fraudulent or misleading statements concerning the skill, methods or practices of a registered business entity, a licensee or any other person.
- (b) Advertising in any manner that tends to deceive or defraud the public.
- 12. Failing to comply with a board subpoena in a timely manner.
- 13. Failing to comply with a final board order, including a decree of censure, a period or term of probation, a consent agreement or a stipulation.
- 14. Employing or aiding and abetting unlicensed persons to perform work that must be done by a person licensed pursuant to this chapter.
- 15. Engaging in any conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public.
- 16. Engaging in a policy or practice that interferes with the clinical judgment of a licensee providing dental services for a business entity or compromising a licensee's ability to comply with this chapter.

32-1263.01. Types of disciplinary action; letter of concern; judicial review; notice; removal of notice; violation; classification

- A. The board may take any one or a combination of the following disciplinary actions against any person licensed under this chapter:
  - 1. Revocation of license to practice.
  - 2. Suspension of license to practice.
  - 3. Entering a decree of censure, which may require that restitution be made to an aggrieved party.
  - 4. Issuance of an order fixing a period and terms of probation best adapted to protect the public health and safety and to rehabilitate the licensed person. The order fixing a period and terms of probation may require that restitution be made to the aggrieved party.
  - 5. Imposition of an administrative penalty in an amount not to exceed two thousand dollars for each violation of this chapter or rules adopted under this chapter.
  - 6. Imposition of a requirement for restitution of fees to the aggrieved party.
  - 7. Imposition of restrictions on the scope of practice.
  - 8. Imposition of peer review and professional education requirements.
  - 9. Imposition of community service.
- B. The board may issue a letter of concern if a licensee's continuing practices may cause the board to take disciplinary action. The board may also issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.
- C. Failure to comply with any order of the board, including an order of censure or probation, is cause for suspension or revocation of a license.
- D. Notwithstanding section 32-3214, subsection B, beginning September 1, 2015, all disciplinary and nondisciplinary actions or orders issued by the board against a licensee or certificate holder shall be posted to that licensee or certificate holder's profile on the board's website.
- E. Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

F. If the board acts to modify any dentist's prescription writing privileges, it shall immediately notify the state board of pharmacy of the modification.

G. The board may post a notice of its suspension or revocation of a license at the licensee's place of business. This notice shall remain posted for sixty days. A person who removes this notice without board or court authority before that time is guilty of a class 3 misdemeanor.

H. A licensee or certificate holder shall respond in writing to the board within twenty days after notice of hearing is served. A licensee who fails to answer the charges in a complaint and notice of hearing issued pursuant to this article and title 41, chapter 6, article 10 is deemed to admit the acts charged in the complaint and the board may revoke or suspend the license without a hearing.

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

A. The board on its motion, or the executive director if delegated by the board, may investigate any evidence that appears to show the existence of any of the causes or grounds for disciplinary action as provided in section 32-1263. The board may investigate any complaint that alleges the existence of any of the causes or grounds for disciplinary action as provided in section 32-1263. The board shall not act on a complaint if the allegation of unprofessional conduct, unethical conduct or any other violation of this chapter occurred more than six years before the complaint is received by the board. The six-year time limitation does not apply to medical malpractice settlements or judgments. At the request of the complainant, the board shall not disclose to the respondent the complainant name unless the information is essential to proceedings conducted pursuant to this article.

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

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

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

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

1. Dismiss the complaint.
2. Issue a nondisciplinary letter of concern to the licensee.
3. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.
4. Assess a nondisciplinary civil penalty in an amount not to exceed five hundred dollars if the complaint involves a licensee's failure to respond to a board subpoena.

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

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

1. Dismiss the complaint.
2. Order disciplinary action pursuant to section 32-1263.01, subsection A.
3. Enter into a consent agreement with the licensee for disciplinary action.
4. Order nondisciplinary continuing education pursuant to section 32-1263.01, subsection B.
5. Issue a nondisciplinary letter of concern to the licensee.

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

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

J. The board, through its president or the president's designee, may issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths, take testimony and receive exhibits in evidence in connection with an investigation initiated by the board or a complaint filed with the board. In case of disobedience to a subpoena, the board may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of documentary evidence.

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

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

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

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

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

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

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

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

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

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

R. For the purposes of this section:

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

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

### 32-1263.03. Executive director; complaints; termination; review

A. If delegated by the board, the executive director, with the concurrence of the board's investigative staff, may terminate a complaint if the investigative staff's review indicates the complaint is without merit and that termination is appropriate.

B. The executive director may not terminate a complaint if a court has entered a medical malpractice judgment against a person licensed under this chapter.

C. At each regularly scheduled board meeting, the executive director shall provide to the board a list of each complaint the executive director terminated pursuant to subsection A since the preceding board meeting.

D. A person who is aggrieved by an action taken by the executive director pursuant to subsection A may file a written request that the board review that action. The request must be filed within thirty days after that person is notified of the executive director's action by personal delivery or, if the notification is mailed to that person's last known residence or place of business, within thirty-five days after the date on the notification. At the next regular board meeting, the board shall review the executive director's action. On review, the board shall approve, modify or reject the executive director's action.

### 32-1264. Maintenance of records

A. A person who is licensed or certified pursuant to this chapter shall make and maintain legible written records concerning all diagnosis, evaluation and treatment of each patient of record. A licensee or certificate holder shall maintain records

stored or produced electronically in retrievable paper form. These records shall include:

1. All treatment notes, including current health history and clinical examinations.
2. Prescription and dispensing information, including all drugs, medicaments and dental materials used for patient care.
3. Diagnosis and treatment planning.
4. Dental and periodontal charting. Specialist charting must include areas of requested care and notation of visual oral examination describing any areas of potential pathology or radiographic irregularities.
5. All radiographs.

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

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

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

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

1. If the patient is an adult, for at least six years after the last date the adult patient received dental services from that provider.
2. If the patient is a child, for at least three years after the child's eighteenth birthday or for at least six years after the last date the child received dental services from the provider, whichever occurs later.

### **32-1265. [Interpretation of chapter](#)**

Nothing in this chapter shall be construed to abridge a license issued under laws of this state relating to medicine or surgery.

### **32-1266. [Prosecution of violations](#)**

The attorney general shall act for the board in all matters requiring legal assistance, but the board may employ other or additional counsel in its own behalf. The board shall assist prosecuting officers in enforcement of this chapter, and in so doing may engage suitable persons to assist in investigations and in the procurement and presentation of evidence. Subpoenas or other orders issued by the board may be served by any officer empowered to serve processes, who shall receive the fees prescribed by law. Expenditures made in carrying out provisions of this section shall be paid from the dental board fund.

### 32-1267. Use of fraudulent instruments; classification

A person is guilty of a class 5 felony who:

1. Knowingly presents to or files with the board as his own a diploma, degree, license, certificate or identification belonging to another, or which is forged or fraudulent.
2. Exhibits or displays any instrument described in paragraph 1 with intent that it be used as evidence of the right of such person to practice dentistry in this state.
3. With fraudulent intent alters any instrument described in paragraph 1 or uses or attempts to use it when so altered.
4. Sells, transfers or offers to sell or transfer, or who purchases, procures or offers to purchase or procure a diploma, license, certificate or identification, with intent that it be used as evidence of the right to practice dentistry in this state by a person other than the one to whom it belongs or is issued.

### 32-1268. Violations; classification; required proof

A. A person is guilty of a class 2 misdemeanor who:

1. Employs, contracts with, or by any means procures the assistance of, or association with, for the purpose of practicing dentistry, a person not having a valid license therefor.
2. Fails to obey a summons or other order regularly and properly issued by the board.
3. Violates any provision of this chapter for which the penalty is not specifically prescribed.

B. In a prosecution or hearing under this chapter, it is necessary to prove only a single act of violation and not a general course of conduct, and where the violation is continued over a period of one or more days each day constitutes a separate violation subject to the penalties prescribed in this chapter.

### 32-1269. Violation; classification; injunctive relief

A. A person convicted under this chapter is guilty of a class 2 misdemeanor unless another classification is specifically prescribed in this chapter. Violations shall be prosecuted by the county attorney and tried before the superior court in the county in which the violation occurs.

B. In addition to penalties provided in this chapter, the courts of the state are vested with jurisdiction to prevent and restrain violations of this chapter as nuisances per se, and the county attorneys shall, and the board may, institute proceedings in equity to prevent and restrain violations. A person damaged, or threatened with loss or injury, by reason of a violation of this chapter is entitled to obtain injunctive relief in any court of competent jurisdiction against any damage or threatened loss or injury by reason of a violation of this chapter.

### 32-1270. Deceased or incapacitated dentists; notification

A. An administrator or executor of the estate of a deceased dentist, or a person who is legally authorized to act for a dentist who has been adjudicated to be mentally incompetent, must notify the board within sixty days after the dentist's death or incapacitation. The administrator or executor may employ a licensed dentist for a period of not more than one year to:

1. Continue the deceased or incapacitated dentist's practice.

2. Conclude the affairs of the deceased or incapacitated dentist, including the sale of any assets.
- B. An administrator or executor operating a practice pursuant to this section for more than one year must register as a business entity pursuant to section 32-1213.

32-1271. Marking of dentures for identification; retention and release of information

- A. Every complete upper or lower denture fabricated by a licensed dentist, or fabricated pursuant to the dentist's work order, must be marked with the patient's name unless the patient objects. The marking must be done during fabrication and must be permanent, legible and cosmetically acceptable. The dentist or the dental laboratory shall determine the location of the marking and the methods used to implant or apply it. The dentist must inform the patient that the marking is used only to identify the patient, and the patient may choose which marking is to appear on the dentures.
- B. The dentist must retain the records of marked dentures and may not release the records to any person except to law enforcement officers in any emergency that requires personal identification by means of dental records or to anyone authorized by the patient to receive this information.

32-1281. Practicing as dental hygienist; supervision requirements; definitions

- A. A person is deemed to be practicing as a dental hygienist if the person does any of the acts or performs any of the operations included in the general practice of dental hygienists, dental hygiene and all related and associated duties.
- B. A licensed dental hygienist may perform the following:
  1. Prophylaxis.
  2. Scaling.
  3. Closed subgingival curettage.
  4. Root planing.
  5. Administering local anesthetics and nitrous oxide.
  6. Inspecting the oral cavity and surrounding structures for the purposes of gathering clinical data to facilitate a diagnosis.
  7. Periodontal screening or assessment.
  8. Recording of clinical findings.
  9. Compiling case histories.
  10. Exposing and processing dental radiographs.
  11. All functions authorized and deemed appropriate for dental assistants.
  12. Those restorative functions permissible for an expanded function dental assistant if qualified pursuant to section 32-1291.01.
- C. The board by rule shall prescribe the circumstances under which a licensed dental hygienist may:
  1. Apply preventive and therapeutic agents, used in relation to dental hygiene procedures, to the hard and soft tissues.
  2. Use emerging scientific technology and prescribe the necessary training, experience and supervision to operate newly developed scientific technology. A dentist who supervises a dental hygienist whose duties include the use of emerging scientific technology must have training on the use of the emerging technology that is equal to or greater than the training the dental hygienist is required to obtain.

3. Perform other procedures not specifically authorized by this section.

D. Except as provided in subsections E and G of this section, a dental hygienist shall practice under the general supervision of a dentist licensed pursuant to this chapter.

E. Dental hygienists shall practice under the direct supervision of a dentist licensed pursuant to this chapter when performing the following procedures and after completing a course of study recognized by the board:

1. Administering local anesthetics. A dental hygienist may administer local anesthetics to a patient of record under general supervision if all of the following are true:

(a) The patient is at least eighteen years of age.

(b) The patient has been examined by a dentist licensed pursuant to this chapter within the previous twelve months.

(c) There has been no change in the patient's medical history since the last examination. If there has been a change in the patient's medical history within that time, the dental hygienist must consult with the dentist before administering local anesthetics.

(d) The supervising dentist who performed the examination has approved the patient for the administration of local anesthetics by a dental hygienist under general supervision and documented this approval in the patient's record.

2. Administering nitrous oxide analgesia.

F. A dental hygienist may perform dental hygiene procedures in the following settings:

1. On a patient of record of a dentist within that dentist's office.

2. Except as prescribed in section 32-1289, in a health care facility, long-term care facility, public health agency or institution, public or private school or homebound setting on patients who have been examined by a dentist within the previous year.

G. A dental hygienist may provide dental hygiene services under an affiliated practice relationship with a dentist as prescribed in section 32-1289.01.

H. For the purposes of this article:

1. "Assessment" means a limited, clinical inspection that is performed to identify possible signs of oral or systemic disease, malformation or injury and the potential need for referral for diagnosis and treatment.

2. "Direct supervision" means that the dentist is present in the office while the dental hygienist is treating a patient and is available for consultation regarding procedures that the dentist authorizes and for which the dentist is responsible.

3. "General supervision" means that the dentist is available for consultation, whether or not the dentist is in the dentist's office, over procedures that the dentist has authorized and for which the dentist remains responsible.

4. "Screening" means the determination of an individual's need to be seen by a dentist for diagnosis and does not include an examination, diagnosis or treatment planning.

### [32-1282. Administration and enforcement](#)

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

B. The board shall adopt rules that provide a method for the board to receive the assistance and advice of dental hygienists licensed pursuant to this chapter in all matters relating to the regulation of dental hygienists.

32-1283. Disposition of revenues

The provisions of section 32-1212 shall apply to all fees, fines and other revenues received by the board under this article.

32-1284. Qualifications of applicant; application; fee; fingerprint clearance card; rules; denial or suspension of application

A. An applicant for licensure as a dental hygienist shall be at least eighteen years of age, shall be of good moral character, shall meet the requirements of section 32-1285 and shall present to the board evidence of graduation or a certificate of satisfactory completion in a course or curriculum in dental hygiene from a recognized dental hygiene school. A candidate shall make written application to the board accompanied by a nonrefundable Arizona dental jurisprudence examination fee of one hundred dollars. The board shall waive this fee for candidates who are holders of valid restricted permits. Each candidate shall also obtain a valid fingerprint clearance card issued pursuant to section 41-1758.03.

B. The board shall adopt rules that govern the practice of dental hygienists and that are not inconsistent with this chapter.

C. The board may deny an application for licensure or an application for license renewal if the applicant:

1. Has committed an act that would be cause for censure, probation or suspension or revocation of a license under this chapter.
2. While unlicensed, committed or aided and abetted the commission of an act for which a license is required by this chapter.
3. Knowingly made any false statement in the application.
4. Has had a license to practice dental hygiene revoked by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.
5. Is currently under suspension or restriction by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.
6. Has surrendered, relinquished or given up a license to practice dental hygiene instead of disciplinary action by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

D. The board shall suspend an application for a license if the applicant is currently under investigation by a dental regulatory board in another jurisdiction. The board shall not issue or deny a license to the applicant until the investigation is resolved.

32-1285. Applicants for licensure; examination requirements

An applicant for licensure shall have passed all of the following:

1. The national dental hygiene board examination.
2. A clinical examination that is completed within five years preceding filing the application and that is either of the following:
  - (a) The western regional examining board examination.

(b) An examination administered by another state or testing agency that is substantially equivalent to the requirements of this state, as determined by the board. For the purposes of this subdivision, a clinical examination administered by another state or testing agency is deemed to meet the requirements of this subdivision if the clinical examination satisfies the requirements of section 32-1292.01, subsection A, paragraph 1.

3. The Arizona dental jurisprudence examination.

32-1286. Recognized dental hygiene schools; credit for prior learning

Notwithstanding any law to the contrary, a recognized dental hygiene school may grant advanced standing or credit for prior learning to a student who has prior experience or course work that the school determines is equivalent to didactic and clinical education in its accredited program.

32-1287. Dental hygienist triennial licensure; continuing education; license reinstatement; notice of change of address; penalties; retired and disabled licensees

A. Except as provided in section 32-4301, a license expires on June 30 of every third year. On or before June 30 of every third year, every licensed dental hygienist shall submit to the board a complete renewal application and pay a license renewal fee of not more than three hundred twenty-five dollars, established by a formal vote of the board. At least once every three years, before establishing the fee, the board shall review the amount of the fee in a public meeting. Any change in the amount of the fee shall be applied prospectively to a licensee at the time of licensure renewal. The fee prescribed by this section does not apply to a retired or disabled hygienist.

B. A licensee shall include a written affidavit with the renewal application that affirms that the licensee complies with board rules relating to continuing education requirements. A licensee is not required to complete the written affidavit if the licensee received an initial license within the year immediately preceding the expiration date of the license or the licensee is in disabled status. If the licensee is not in compliance with board rules relating to continuing education, the board may grant an extension of time to complete these requirements if the licensee includes a written request for an extension with the renewal application instead of the written affidavit and the renewal application is received on or before June 30 of the expiration year. The board shall consider the extension request based on criteria prescribed by the board by rule. If the board denies an extension request, the license expires on August 30 of the expiration year.

C. A person applying for a license for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A. Subsequent registrations shall be conducted pursuant to this section.

D. An expired license may be reinstated by submitting a complete renewal application within the twenty-four-month period immediately following the expiration of the license with payment of the renewal fee and a one hundred dollar penalty. Whenever issued, reinstatement is as of the date of application and entitles the applicant to licensure only for the remainder of the applicable three-

year period. If a person does not reinstate a license pursuant to this subsection, the person must reapply for licensure pursuant to this chapter.

E. A licensee shall notify the board in writing within ten days after the licensee changes the primary mailing address listed with the board. The board shall impose a penalty of fifty dollars if a licensee fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a licensee fails to notify it of the change within thirty days.

F. A licensee who is over sixty-five years of age and who is fully retired and a licensee who is permanently disabled may contribute services to a recognized charitable institution and still retain that classification for triennial registration purposes on payment of a reduced renewal fee as prescribed by the board by rule.

### 32-1288. Practicing without license; classification

It is a class 1 misdemeanor for a person to practice dental hygiene in this state unless the person has obtained a license from the board as provided in this article.

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

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 perform a screening or assessment and apply sealants and topical fluoride.

### 32-1289.01. Dental hygienists; affiliated practice relationships; rules; definition

A. A dentist who holds an active license pursuant to this chapter and a dental hygienist who holds an active license pursuant to this article may enter into an affiliated practice relationship for the delivery of dental hygiene services.

B. A dental hygienist shall satisfy all of the following to be eligible to enter into an affiliated practice relationship with a dentist pursuant to this section for the delivery of dental hygiene services in an affiliated practice relationship:

1. Hold an active license pursuant to this article.

2. Enter into an affiliated practice relationship with a dentist who holds an active license pursuant to this chapter.

3. Meet one of the following:

(a) Have held an active license as a dental hygienist for at least five years and be actively engaged in dental hygiene practice for at least five hundred hours in each of the two years immediately preceding the affiliated practice relationship.

(b) Hold a bachelor's degree in dental hygiene, have held an active license for at least three years and be actively engaged in dental hygiene practice for at least five hundred hours in each of the two years preceding the affiliated practice relationship.

C. An affiliated practice agreement between a dental hygienist and a dentist shall be in writing and shall include at least the following:

1. An identification of the affiliated practice settings in which the dental hygienist may deliver services pursuant to the affiliated practice relationship.

2. An identification of the services to be provided and any procedures and standing orders the dental hygienist must follow. The standing orders shall include the circumstances in which a patient may be seen by the dental hygienist.

D. The following requirements apply to all dental hygiene services provided through an affiliated practice relationship:

1. Patients who have been assessed by the dental hygienist shall be directed to the affiliated dentist for diagnosis, treatment or planning that is outside the dental hygienist's scope of practice, and the affiliated dentist may make any necessary referrals to other dentists.

2. The affiliated practice dental hygienist shall consult with the affiliated practice dentist if the proposed treatment is outside the scope of the agreement.

3. The affiliated practice dental hygienist shall consult with the affiliated practice dentist before initiating further treatment on patients who have not been seen by a dentist within twelve months of the initial treatment by the dental hygienist.

4. The affiliated practice dental hygienist shall consult with the affiliated practice dentist before initiating treatment on patients presenting with a complex medical history or medication regimen.

5. The patient shall be informed in writing that the dental hygienist providing the care is a licensed dental hygienist and that the care does not take the place of a diagnosis or treatment plan by a dentist.

E. A contract for dental hygiene services with licensees who have entered into an affiliated practice relationship pursuant to this section may be entered into only by:

1. A health care organization or facility.

2. A long-term care facility.

3. A public health agency or institution.

4. A public or private school authority.

5. A government-sponsored program.

6. A private nonprofit or charitable organization.

7. A social service organization or program.

F. An affiliated practice dental hygienist may not provide dental hygiene services in a setting not listed in subsection E of this section.

G. Each dentist in an affiliated practice relationship shall:

1. Be available to provide an appropriate level of contact, communication and consultation with the affiliated dental hygienist during the business hours of the affiliated practice 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 practice 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 affiliated practice dentist or the dentist to whom the patient is referred shall be geographically available to see the patient.

4. Not permit the provision of dental hygiene services by more than three affiliated practice dental hygienists at any one time.

H. 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. Shall 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.

I. The dental hygienist and the affiliated dentist shall 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 shall 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.

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 any diagnostic procedures that are required to be performed by a dentist. Procedures identified in section 32-1281, subsection B, paragraphs 4 and 5 are subject to the conditions prescribed in section 32-1281, subsection E, paragraph 1.

K. 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.

L. For the purposes of this section, "affiliated practice relationship" means the delivery of dental hygiene services, pursuant to an agreement, by a dental hygienist who is licensed pursuant to this article and who refers the patient to a dentist licensed pursuant to this chapter for any necessary further diagnosis, treatment and restorative care.

### 32-1290. Grounds for censure, probation, suspension or revocation of license; procedure

After a hearing pursuant to title 41, chapter 6, article 10, the board may suspend or revoke the license issued to a person under this article or censure or place on probation any such person for any of the causes set forth as grounds for censure, probation, suspension or revocation in section 32-1263.

### 32-1291. Dental assistants; regulation; duties

A. A dental assistant may expose radiographs for dental diagnostic purposes under the general supervision of a dentist licensed pursuant to this chapter if the assistant has passed an examination approved by the board.

B. A dental assistant may polish the natural and restored surfaces of the teeth under the general supervision of a dentist licensed pursuant to this chapter if the assistant has passed an examination approved by the board.

32-1291.01. Expanded function dental assistants; training and examination requirements; duties

A. A dental assistant may perform expanded functions on successful completion of a board-approved expanded function dental assistant training program completed at an institution accredited by the commission on dental accreditation of the American dental association and on successful completion of an examination in dental assistant expanded functions that is approved by the board.

B. Expanded functions include the placement, contouring and finishing of direct restorations or the placement and cementation of prefabricated crowns following the preparation of the tooth by a licensed dentist. The restorative materials used shall be determined by the dentist.

C. An expanded function dental assistant may place interim therapeutic restorations under the general supervision and direction of a licensed dentist following a consultation conducted through teledentistry.

D. An expanded function dental assistant may apply sealants and fluoride varnish under the general supervision and direction of a licensed dentist.

E. A licensed dental hygienist may engage in expanded functions pursuant to section 32-1281, subsection B, paragraph 12 following a course of study and examination equivalent to that required for an expanded function dental assistant as specified by the board.

32-1292. Restricted permits; suspension; expiration; renewal

A. The board may issue a restricted permit to practice dental hygiene to an applicant who:

1. Has a pending contract with a recognized charitable dental clinic or organization that offers dental hygiene services without compensation or at a rate that reimburses the clinic only for dental supplies and overhead costs and the applicant will not receive compensation for dental hygiene services provided at the clinic or organization.

2. Has a license to practice dental hygiene issued by a regulatory jurisdiction in the United States.

3. Has been actively engaged in the practice of dental hygiene for three years immediately preceding the application.

4. Is, to the board's satisfaction, competent to practice dental hygiene.

5. Meets the requirements of section 32-1284, subsection A that do not relate to examination.

B. A person who holds a restricted permit issued by the board may practice dental hygiene only in the course of the person's employment by a recognized charitable dental clinic or organization approved by the board.

C. The applicant for a restricted permit must file a copy of the person's employment contract with the board that includes a statement signed by the applicant that the applicant:

1. Understands that if that person's employment is terminated before the restricted permit expires, the permit is automatically revoked and that person must voluntarily surrender the permit to the board and is no longer eligible to practice unless that person meets the requirements of sections 32-1284 and 32-1285 or passes the examination required in this article.

2. Must be employed without compensation by a dental clinic or organization that is operated for a charitable purpose.

3. Is subject to the provisions of this chapter that apply to the regulation of dental hygienists.

D. The board may deny an application for a restricted permit if the applicant:

1. Has committed an act that is a cause for disciplinary action pursuant to this chapter.

2. While unlicensed, committed or aided and abetted the commission of any act for which a license is required pursuant to this chapter.

3. Knowingly made a false statement in the application.

4. Has had a license to practice dental hygiene revoked by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

5. Is currently under suspension or restriction by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

6. Has surrendered, relinquished or given up a license to practice dental hygiene instead of disciplinary action by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

E. The board shall suspend an application for a restricted permit or an application for restricted permit renewal if the applicant is currently under investigation by a dental regulatory board in another jurisdiction. The board shall not issue or deny a restricted permit to the applicant until the investigation is resolved.

F. A restricted permit expires either one year after the date of issue or June 30, whichever date first occurs. The board may renew a restricted permit for terms that do not exceed one year.

### 32-1292.01. Licensure by credential; examinations; waiver; fee

A. The board by rule may waive the examination requirements of this article on receipt of evidence satisfactory to the board that the applicant has passed the clinical examination of another state or testing agency and either:

1. The other state or testing agency maintains a standard of licensure that is substantially equivalent to that of this state as determined by the board. The board by rule shall require:

(a) A minimum number of active practice hours within a specific time period before the applicant submits the application. The board shall define what constitutes active practice.

(b) An affirmation that the applicant has completed the continuing education requirements of the jurisdiction where the applicant is licensed.

2. The applicant has acquired a certificate or other evidence of successful completion of a board-approved examination not more than five years before submitting an application for licensure pursuant to this chapter.

B. The applicant shall pay a licensure by credential fee of one thousand dollars.

### 32-1293. Practicing as denturist; denture technology; dental laboratory technician

A. Notwithstanding the provisions of section 32-1202, nothing in this chapter shall be construed to prohibit a denturist certified pursuant to the provisions of this article from practicing denture technology.

B. A person is deemed to be practicing denture technology who:

1. Takes impressions and bite registrations for the purpose of or with a view to the making, producing, reproducing, construction, finishing, supplying, altering or repairing of complete upper or lower prosthetic dentures, or both, or removable partial dentures for the replacement of missing teeth.

2. Fits or advertises, offers, agrees, or attempts to fit any complete upper or lower prosthetic denture, or both, or adjusts or alters the fit of any full prosthetic denture, or fits or adjusts or alters the fit of removable partial dentures for the replacement of missing teeth.

C. In addition to the practices described in subsection B of this section, a person certified to practice denture technology may also construct, repair, reline, reproduce or duplicate full or partial prosthetic dentures or otherwise engage in the activities of a dental laboratory technician.

D. No person may perform an act described in subsection B of this section except a licensed dentist, a holder of a restricted permit pursuant to section 32-1238, a certified denturist or auxiliary personnel authorized to perform any such act by rule or regulation of the board pursuant to section 32-1207, subsection A, paragraph 1.

32-1294. Supervision by dentist; definitions; mouth preparation by dentist; liability; business association

A. A denturist may practice only in the office of a licensed dentist, denominated as such.

B. All work by a denturist shall be performed under the general supervision of a licensed dentist. For the purposes of this section, "general supervision" means the dentist is available for consultation in person or by phone during the performance of the procedures by a denturist pursuant to section 32-1293, subsection B. The dentist shall examine the patient initially, check the completed denture as to fit, form and function and perform such other procedures as the board may specify by rule or regulation. For the purposes of this section "completed denture" means a relined, rebased, duplicated or repaired denture or a new denture. Both the dentist and the denturist shall certify that the dentist has performed the initial examination and the final fitting as required in this subsection, and retain the certification in the patient's file.

C. When taking impressions or bite registrations for the purpose of constructing removable partial dentures or when checking the fit of a partial denture, all mouth preparation must be done by the dentist. The denturist is specifically prohibited from performing any cutting or surgery on hard or soft tissue in the mouth. By rule and regulation the board may further regulate the practice of the denturist in regard to removable partial dentures.

D. No more than two denturists may perform their professional duties under a dentist's general supervision at any one time.

E. A licensed dentist supervising a denturist shall be personally liable for any consequences arising from the performance of the denturist's duties.

F. A certified denturist and the dentist supervising his work may make any lawful agreement between themselves regarding fees, compensation and business association.

G. Any sign, advertisement or other notice displaying the name of the office must include the name of the responsible dentist.

### 32-1295. Board of dental examiners; additional powers and duties

A. In addition to other powers and duties prescribed by this chapter, the board shall:

1. As far as applicable, exercise the same powers and duties in administering and enforcing this article as it exercises under section 32-1207 in administering and enforcing other articles of this chapter.
2. Determine the eligibility of applicants for certification and issue certificates to applicants who it determines are qualified for certification.
3. Investigate charges of misconduct on the part of certified denturists.
4. Issue decrees of censure, fix periods and terms of probation, suspend or revoke certificates as the facts may warrant and reinstate certificates in proper cases.

B. The board may:

1. Adopt rules prescribing requirements for continuing education for renewal of all certificates issued pursuant to this article.
2. Hire consultants to assist the board in the performance of its duties.

C. In all matters relating to discipline and certifying of denturists and the approval of examinations, the board, by rule, shall provide for receiving the assistance and advice of denturists who have been previously certified pursuant to this chapter.

### 32-1296. Qualifications of applicant

A. To be eligible for certification to practice denture technology an applicant shall:

1. Be of good moral character.
2. Hold a high school diploma or its equivalent.
3. Present to the board evidence of graduation from a recognized denturist school or a certificate of satisfactory completion of a course or curriculum in denture technology from a recognized denturist school.
4. Pass a board approved examination.

B. A candidate for certification shall submit a written application to the board that includes a nonrefundable Arizona dental jurisprudence examination fee as prescribed by the board.

### 32-1297.01. Application for certification; fingerprint clearance card; denial; suspension

A. Each applicant for certification shall submit a written application to the board accompanied by a nonrefundable jurisprudence examination fee and obtain a valid fingerprint clearance card issued pursuant to section 41-1758.03.

B. The board may deny an application for certification or for certification renewal if the applicant:

1. Has committed any act that would be cause for censure, probation, suspension or revocation of a certificate under this chapter.
2. Has knowingly made any false statement in the application.

3. While uncertified, has committed or aided and abetted the commission of any act for which a certificate is required under this chapter.

4. Has had a certificate to practice denture technology revoked by a regulatory board in another jurisdiction in the United States or Canada for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

5. Is currently under investigation, suspension or restriction by a regulatory board in another jurisdiction in the United States or Canada for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

6. Has surrendered, relinquished or given up a certificate to practice denture technology in lieu of disciplinary action by a regulatory board in another jurisdiction in the United States or Canada for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

C. The board shall suspend an application for certification if the applicant is currently under investigation by a denturist regulatory board in another jurisdiction. The board shall not issue or deny certification to the applicant until the investigation is resolved.

#### 32-1297.03. Qualification for reexamination

An applicant for examination who has previously failed two or more examinations, as a condition of eligibility to take any further examination, shall furnish to the board satisfactory evidence of having successfully completed additional training in a recognized denturist school or refresher courses approved by the board or the board's testing agency.

#### 32-1297.04. Fees

The board shall establish and collect fees, not to exceed the following amounts:

1. For an examination in jurisprudence, two hundred fifty dollars.
2. For each replacement or duplicate certificate, twenty-five dollars.

#### 32-1297.05. Disposition of revenues

The provisions of section 32-1212 shall apply to all fees, penalties and other revenues received by the board under this article.

#### 32-1297.06. Denturist certification; continuing education; certificate reinstatement; certificate for each place of practice; notice of change of address or place of practice; penalties

A. Except as provided in section 32-4301, a certification expires on June 30 of every third year. On or before June 30 of every third year, every certified denturist shall submit to the board a complete renewal application and shall pay a certificate renewal fee of not more than three hundred dollars, established by a formal vote of the board. At least once every three years, before establishing the fee, the board shall review the amount of the fee in a public meeting. Any change in the amount of the fee shall be applied prospectively to a certificate holder at the time of certification renewal. This requirement does not apply to a disabled or retired status.

B. A certificate holder shall include a written affidavit with the renewal application that affirms that the certificate holder complies with board rules relating to continuing education requirements. A certificate holder is not required to complete the written affidavit if the certificate holder received an initial certification within the year immediately preceding the expiration date of the certificate or the certificate holder is in disabled status. If the certificate holder is not in compliance with board rules relating to continuing education, the board may grant an extension of time to complete these requirements if the certificate holder includes a written request for an extension with the renewal application instead of the written affidavit and the renewal application is received on or before June 30 of the expiration year. The board shall consider the extension request based on criteria prescribed by the board by rule. If the board denies an extension request, the certificate expires on August 30 of the expiration year.

C. A person applying for a certificate for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A. Subsequent certifications shall be conducted pursuant to this section.

D. An expired certificate may be reinstated by submitting a complete renewal application within the twenty-four-month period immediately following the expiration of the certificate with payment of the renewal fee and a one hundred dollar penalty. Whenever issued, reinstatement is as of the date of application and entitles the applicant to certification only for the remainder of the applicable three-year period. If a person does not reinstate a certificate pursuant to this subsection, the person must reapply for certification pursuant to this chapter.

E. Each certificate holder must provide to the board in writing both of the following:

1. A primary mailing address.
2. The address for each place of practice.

F. A certificate holder maintaining more than one place of practice shall obtain from the board a duplicate certificate for each office. The board shall set and charge a fee for each duplicate certificate. A certificate holder shall notify the board in writing within ten days of opening an additional place of practice.

G. A certificate holder shall notify the board in writing within ten days after changing a primary mailing address or place of practice address listed with the board. The board shall impose a fifty dollar penalty if a certificate holder fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a certificate holder fails to notify it of the change within thirty days.

### [32-1297.07. Discipline; procedure](#)

A. After a hearing pursuant to title 41, chapter 6, article 10, the board may suspend or revoke the license issued to a person under this article or censure or place on probation any person for any of the causes set forth as grounds for censure, probation, suspension or revocation in section 32-1263.

B. The board on its own motion may investigate any evidence which appears to show the existence of any of the causes set forth in section 32-1263. The board shall investigate the report under oath of any person which appears to show the existence of any of the causes set forth in section 32-1263. Any person reporting

pursuant to this section who provides the information in good faith shall not be subject to liability for civil damages as a result.

C. Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

### 32-1297.08. Injunction

A. An injunction shall issue to enjoin the practice of denture technology by any of the following:

1. One neither certified to practice as a denturist nor licensed to practice as a dentist.
2. One certified as a denturist from practicing without proper supervision by a dentist as required by this article.
3. A denturist whose continued practice will or might cause irreparable damage to the public health and safety prior to the time proceedings pursuant to section 32-1297.07 could be instituted and completed.

B. A petition for injunction shall be filed by the board in the superior court for Maricopa county or in the county where the defendant resides or is found. Any citizen is also entitled to obtain injunctive relief in any court of competent jurisdiction because of the threat of injury to the public health and welfare.

C. Issuance of an injunction shall not relieve the respondent from being subject to any other proceedings provided for by law.

### 32-1297.09. Violations; classification

A person is guilty of a class 2 misdemeanor who:

1. Not licensed as a dentist, practices denture technology without certification as provided by this article.
2. Exhibits or displays a certificate, diploma, degree or identification of another or a forged or fraudulent certificate, diploma, degree or identification with the intent that it be used as evidence of the right of such person to practice as a denturist in this state.
3. Fails to obey a summons or other order regularly and properly issued by the board.
4. Is a licensed dentist responsible for a denturist under this article who fails to personally supervise the work of the denturist.

### 32-1298. Dispensing of drugs and devices; conditions; definition

A. A dentist may dispense drugs and devices kept by the dentist if:

1. All drugs are dispensed in packages labeled with the following information:
  - (a) The dispensing dentist's name, address and telephone number.
  - (b) The date the drug is dispensed.
  - (c) The patient's name.
  - (d) The name and strength of the drug, directions for its use and any cautionary statements.
2. The dispensing dentist enters into the patient's medical record the name and strength of the drug dispensed, the date the drug is dispensed and the therapeutic reason.

3. The dispensing dentist keeps all drugs in a locked cabinet or room, controls access to the cabinet or room by a written procedure and maintains an ongoing inventory of its contents.

B. Except in an emergency situation, a dentist who dispenses drugs for a profit without being registered by the board to do so is subject to a civil penalty by the board of not less than three hundred dollars and not more than one thousand dollars for each transaction and is prohibited from further dispensing for a period of time as prescribed by the board.

C. Prior to dispensing a drug pursuant to this section the patient shall be given a written prescription on which appears the following statement in bold type:

"This prescription may be filled by the prescribing dentist or by a pharmacy of your choice."

D. A dentist shall dispense for profit only to his own patient and only for conditions being treated by that dentist. The dentist shall provide direct supervision of an attendant involved in the dispensing process. In this subsection, "direct supervision" means that a dentist is present and makes the determination as to the legitimacy or advisability of the drugs or devices to be dispensed.

E. This section shall be enforced by the board which shall establish rules regarding labeling, record keeping, storage and packaging of drugs that are consistent with the requirements of chapter 18 of this title. The board may conduct periodic inspections of dispensing practices to assure compliance with this section and applicable rules.

F. For the purposes of this section, "dispense" means the delivery by a dentist of a prescription drug or device to a patient, except for samples packaged for individual use by licensed manufacturers or repackagers of drugs, and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.

32-1299. Substance abuse treatment and rehabilitation program; private contract; funding; confidential stipulation agreement

A. The board may establish a confidential program for the treatment and rehabilitation of dentists, denturists and dental hygienists who are impaired by alcohol or drug abuse. This program shall include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. The board may contract with other organizations to operate the program established pursuant to this section. A contract with a private organization shall include the following requirements:

1. Periodic reports to the board regarding treatment program activity.
2. Release to the board on demand of all treatment records.
3. Periodic reports to the board regarding each dentist's, denturist's or dental hygienist's diagnosis and prognosis and recommendations for continuing care, treatment and supervision.
4. Immediate reporting to the board of the name of an impaired practitioner whom the treating organization believes to be a danger to self or others.
5. Immediate reporting to the board of the name of a practitioner who refuses to submit to treatment or whose impairment is not substantially alleviated through treatment.

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

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

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

1. To refer the matter for a formal hearing for the purpose of suspending or revoking the license or certificate.
2. The licensee or certificate holder should be placed on probation for a minimum of one year with restrictions necessary to ensure public safety.
3. To enter into another stipulation agreement under subsection D of this section with the licensee or certificate holder.

### 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. Informed consent; information for patients

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.