

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 34

SENATE BILL 1210

AN ACT

AMENDING SECTIONS 32-1803, 32-1825, 32-1826 AND 32-1855, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1803, Arizona Revised Statutes, is amended to
3 read:

4 32-1803. Powers and duties

5 A. The board shall:

6 1. Protect the public from unlawful, incompetent, unqualified,
7 impaired and unprofessional practitioners of osteopathic medicine.

8 2. Conduct examinations for applicants for a license under this
9 chapter, issue licenses, conduct hearings, place physicians on probation,
10 revoke or suspend licenses, enter into stipulated orders, issue letters of
11 concern or decrees of censure and administer and enforce this chapter.

12 3. Order and evaluate physical, psychological, psychiatric and
13 competency testing of licensed physicians and candidates for licensure as the
14 board determines is necessary to enforce this chapter.

15 4. Initiate investigations and determine on its own motion if a doctor
16 of osteopathic medicine has engaged in unprofessional conduct or provided
17 incompetent medical care or is mentally or physically unable to engage in the
18 practice of medicine.

19 5. Enforce, within the osteopathic profession in this state, the
20 standards of practice prescribed by this chapter and the rules adopted by the
21 board pursuant to the ~~authority granted by~~ this chapter.

22 6. Collect and account for all fees provided for by this chapter and
23 deposit, pursuant to sections 35-146 and 35-147, all monies received in the
24 appropriate fund.

25 7. Charge additional fees for services ~~which~~ THAT the board deems
26 appropriate to carry out its intent and purpose and ~~which~~ THAT do not exceed
27 the costs of rendering the services.

28 8. Maintain a record of its acts and proceedings including the
29 issuance, refusal, renewal, suspension or revocation of licenses to practice
30 according to the ~~terms of~~ this chapter. The board shall only delete records
31 of complaints as follows:

32 (a) ~~If the board dismisses a complaint with prejudice because it~~
33 ~~determines that the complaint does not fall within the board's jurisdiction,~~
34 the board shall delete the PUBLIC record of the complaint three years after
35 it received the DISMISSED THE complaint.

36 (b) ~~If the board dismisses a complaint without prejudice after a~~
37 ~~settlement conference, the board shall delete the record of the complaint~~
38 ~~five years after it received the complaint.~~

39 (c) (b) If the board has issued a letter of concern but has taken no
40 further action, the board shall delete the PUBLIC record of the complaint
41 five years after it received the complaint ISSUED THE LETTER OF CONCERN.

42 9. Maintain a roster of all osteopathic physicians and surgeons who
43 are licensed pursuant to this chapter that includes:

44 (a) The name of the licensed physician.

45 (b) The physician's current professional office address.

1 (c) The date and number of the license issued to the physician
2 pursuant to this chapter.

3 (d) Whether the license is in good standing.

4 10. Adopt rules regarding the regulation and the qualifications of
5 medical assistants.

6 11. Establish a program that is reasonable and necessary to educate
7 physicians regarding the uses and advantages of autologous blood
8 transfusions.

9 12. Review the credentials and the abilities of an applicant whose
10 professional records or physical or mental capabilities may not meet the
11 requirements for licensure or registration as prescribed in article 2 of this
12 chapter in order for the board to determine if the applicant meets the
13 requirements for licensure or registration pursuant to this chapter.

14 13. Discipline and rehabilitate osteopathic physicians.

15 B. The records of the board are open to public inspection at all
16 reasonable times.

17 C. The board may:

18 1. Adopt rules necessary or proper for the administration of this
19 chapter.

20 2. Appoint one of its members to the jurisdiction arbitration panel
21 pursuant to section 32-2907, subsection B.

22 3. ACCEPT AND SPEND FEDERAL MONIES AND PRIVATE GRANTS, GIFTS,
23 CONTRIBUTIONS AND DEVICES. THESE MONIES DO NOT REVERT TO THE STATE GENERAL
24 FUND AT THE END OF A FISCAL YEAR.

25 D. The board shall adopt and use a seal, the imprint of which,
26 together with the signature of either the president, vice-president or
27 executive director, shall IS evidence OF its official acts.

28 E. In conducting investigations pursuant to this chapter the board may
29 receive and review confidential internal staff reports relating to complaints
30 and malpractice claims.

31 F. The board may make available to academic and research organizations
32 public records regarding statistical information on doctors of osteopathic
33 medicine and applicants for licensure.

34 Sec. 2. Section 32-1825, Arizona Revised Statutes, is amended to read:

35 32-1825. Renewal of licenses; continuing medical education;
36 failure to renew; penalty; reinstatement; waiver of
37 continuing medical education

38 A. ~~Beginning on January 1, 2001,~~ Each licensee shall renew the license
39 every other year ~~on or before the licensee's birthday~~ ON OR BEFORE JANUARY
40 1. At least sixty days before that date the executive director shall notify
41 each licensee ~~whose license is up for renewal~~ of this requirement. The
42 executive director shall send this notification by first class mail to the
43 licensee at the address the licensee last provided to the executive director.

44 B. The licensee shall furnish to the executive director a statement
45 of having attended ~~prior to~~ BEFORE the LICENSE renewal date; educational

1 programs, approved by the board, totaling at least ~~twenty~~ FORTY clock hours
2 and shall pay to the board the prescribed ~~annual~~ renewal fee. The executive
3 director shall then issue a renewal receipt to the licensee. The board may
4 require a licensee to submit documentation of continuing medical education.

5 C. The board shall not renew the license of a licensee who does not
6 fully document the licensee's compliance with the continuing education
7 requirements of subsection B of this section unless that person receives a
8 waiver of those requirements. The board may waive the continuing education
9 requirements of subsection B of this section for a particular ~~twelve-month~~
10 period if it is satisfied that the licensee's noncompliance was due to the
11 licensee's disability, military service or absence from the United States or
12 to other circumstances beyond the control of the licensee. If a licensee
13 fails to attend the required number of clock hours for reasons other than
14 those specified in this subsection, the board may grant an extension until
15 May 1 of that year for the licensee to comply.

16 D. Unless the board grants an extension pursuant to subsection C of
17 this section, a licensee who fails to renew the license within thirty days
18 after the ~~licensee's birthday~~ RENEWAL DATE shall pay a penalty fee AND A
19 REIMBURSEMENT FEE in addition to the prescribed renewal fee. Except as
20 provided in section 32-3202, a license expires if a person does not renew the
21 license within four months after the ~~licensee's birthday~~ RENEWAL DATE. A
22 person who practices osteopathic medicine after that time is in violation of
23 this chapter. A person whose license expires may reapply for a license
24 pursuant to this chapter.

25 Sec. 3. Section 32-1826, Arizona Revised Statutes, is amended to read:
26 32-1826. Fees; penalty

27 A. The board by a formal vote at its annual January meeting shall
28 establish fees of not to exceed the following:

29 1. For an application to practice osteopathic medicine, ~~three~~ FOUR
30 hundred dollars.

31 2. For issuance of a license, ~~one~~ TWO hundred dollars.

32 3. For renewal of a license, ~~three~~ EIGHT hundred dollars ~~per year~~.

33 4. For locum tenens registration, ~~two~~ THREE hundred dollars.

34 5. For issuance of a duplicate license, ~~fifty~~ ONE HUNDRED dollars.

35 6. For annual registration of an approved internship, residency,
36 clinical fellowship program or short-term residency program, ~~fifty~~ ONE
37 HUNDRED dollars.

38 7. For an annual teaching license issued pursuant to section 32-1831,
39 ~~three~~ FOUR hundred dollars.

40 8. For a five day educational teaching permit at an approved school
41 of medicine or at an approved teaching hospital's accredited graduate medical
42 education program, ~~one~~ TWO hundred dollars.

43 9. For the sale of those copies of the annual osteopathic medical
44 directory that are not distributed free of charge, ~~thirty~~ SEVENTY-FIVE
45 dollars.

1 10. For the sale of computerized tapes or diskettes that do not require
2 programming, one hundred dollars.

3 11. For initial and annual registration to dispense drugs and devices,
4 two hundred FIFTY dollars.

5 B. The board shall charge a one hundred fifty dollar penalty fee for
6 late renewal of a license AND A TWENTY-FIVE DOLLAR REIMBURSEMENT FEE TO COVER
7 THE BOARD'S EXPENSES IN COLLECTING LATE RENEWAL FEES. THE BOARD SHALL
8 DEPOSIT THIS FEE IN THE BOARD FUND.

9 C. The board may charge additional fees for services the board
10 determines are necessary and appropriate to carry out the provisions of this
11 chapter. These fees shall not exceed the actual cost of providing the
12 services.

13 Sec. 4. Section 32-1855, Arizona Revised Statutes, is amended to read:

14 32-1855. Disciplinary action; duty to report; hearing; notice;
15 independent medical examinations; surrender of
16 license

17 A. The board on its own motion may investigate any information which
18 THAT appears to show that an osteopathic physician and surgeon is or may be
19 guilty of unprofessional conduct or is or may be mentally or physically
20 unable safely to engage in the practice of medicine. Any osteopathic
21 physician or surgeon or the Arizona osteopathic medical association or any
22 health care institution as defined in section 36-401 shall, and any other
23 person may, report to the board any information such physician or surgeon,
24 association, health care institution or other person may have which THAT
25 appears to show that an osteopathic physician and surgeon is or may be guilty
26 of unprofessional conduct or is or may be mentally or physically unable
27 safely to engage in the practice of medicine. The board shall notify the
28 doctor about whom information has been received as to the content of the
29 information as soon as reasonable after receiving the information. Any
30 person who reports or provides information to the board in good faith is not
31 subject to civil damages as a result of that action. If requested the board
32 shall not disclose the informant's name unless it is essential to the
33 disciplinary proceedings conducted pursuant to this section. It is an act
34 of unprofessional conduct for any osteopathic physician or surgeon to fail
35 to report as required by this section. THE BOARD SHALL REPORT any health
36 care institution which THAT fails to report as required by this section shall
37 be reported by the board to that institution's licensing agency. A person
38 who reports information in good faith pursuant to this subsection is not
39 subject to civil liability.

40 B. The board may require a physician under investigation pursuant to
41 subsection A of this section to be interviewed by the board or its
42 representatives. The board or the executive director may require a licensee
43 who is under investigation pursuant to subsection A of this section to
44 undergo at the licensee's expense any combination of medical, physical or

1 mental examinations the board finds necessary to determine the physician's
2 competence.

3 C. If the board finds, based on the information it received under
4 subsections A and B of this section, that the public health, safety or
5 welfare imperatively requires emergency action, and incorporates a finding
6 to that effect in its order, the board may order a summary suspension of a
7 license pending proceedings for revocation or other action. If an order of
8 summary suspension is issued, the licensee shall also be served with a
9 written notice of complaint and formal hearing setting forth the charges made
10 against the licensee and is entitled to a formal hearing on the charges
11 pursuant to title 41, chapter 6, article 10. Formal proceedings shall be
12 promptly instituted and determined.

13 D. If, after completing its investigation, the board finds that the
14 information provided pursuant to this section is not of sufficient
15 seriousness to merit direct action against the physician's license, it may
16 take either of the following actions:

17 1. Dismiss if, in the opinion of the board, the information is without
18 merit.

19 2. File a letter of concern.

20 E. If, in the opinion of the board, it appears information provided
21 pursuant to this section is or may be true, the board may request an
22 investigative hearing with the physician concerned. At an investigative
23 hearing the board may receive and consider sworn statements of persons who
24 may be called as witnesses in a formal hearing and other pertinent documents.
25 Legal counsel may be present and participate in the meeting. If the
26 physician refuses the request or if the physician accepts the request and the
27 results of the interview indicate suspension or revocation of the license may
28 be in order, a complaint shall be issued and a formal hearing shall be held
29 pursuant to title 41, chapter 6, article 10. If, after the investigative
30 hearing and a mental, physical or medical competence examination as the board
31 deems necessary, the board finds the information provided pursuant to this
32 section to be true but not of sufficient seriousness to merit suspension or
33 revocation of the license, it may take any of the following actions:

34 1. Dismiss if, in the opinion of the board, the information is without
35 merit.

36 2. File a letter of concern.

37 3. Issue a decree of censure, which constitutes an official action
38 against a physician's license.

39 4. Fix a period and terms of probation best adapted to protect the
40 public health and safety and rehabilitate or educate the physician concerned.
41 Any costs incidental to the terms of probation are at the physician's own
42 expense. Probation may include temporary suspension for not more than twelve
43 months or restriction of the physician's license to practice osteopathic
44 medicine and surgery. Failure to comply with any probation is cause for
45 filing a summons, complaint and notice of hearing pursuant to subsection F

1 of this section based on the information considered by the board at the
2 informal interview and any other acts or conduct alleged to be in violation
3 of this chapter or rules adopted pursuant to this chapter.

4 5. Impose a civil penalty of not to exceed five hundred dollars for
5 each violation of this chapter.

6 F. If, in the opinion of the board, it appears the charge is of such
7 magnitude as to warrant suspension for more than twelve months or revocation
8 of the license, the board shall immediately initiate formal revocation or
9 suspension proceedings pursuant to title 41, chapter 6, article 10. The
10 board shall notify a licensee of a complaint and hearing by certified mail
11 addressed to the licensee's last known address on record in the board's
12 files.

13 G. If the physician charged wishes to be present at the hearing in
14 person or by representation, or both, the physician shall file with the board
15 an answer to the charges in the complaint. The answer shall be in writing,
16 verified under oath and filed within twenty days after service of the summons
17 and complaint.

18 H. ~~After complying~~ A PHYSICIAN WHO COMPLIES with subsection G of this
19 section, ~~the physician~~ may be present at the hearing in person with counsel
20 and witnesses.

21 I. Any osteopathic physician who, after a hearing, is found to be
22 guilty of unprofessional conduct or is found to be mentally or physically
23 unable safely to engage in the practice of osteopathic medicine is subject
24 to any combination of censure, probation, suspension of license, revocation
25 of license, an order to return patient fees, imposition of hearing costs,
26 imposition of a civil penalty of not to exceed five hundred dollars for each
27 violation for such period of time, or permanently, and under conditions the
28 board deems appropriate for the protection of the public health and safety
29 and just in the circumstances. The board may charge the costs of a formal
30 hearing to the licensee if pursuant to that hearing the board determines that
31 the licensee violated this chapter or board rules.

32 J. If the board acts to modify any osteopathic physician's
33 prescription writing privileges, it shall immediately notify the state board
34 of pharmacy AND THE FEDERAL DRUG ENFORCEMENT ADMINISTRATION IN THE UNITED
35 STATES DEPARTMENT OF JUSTICE of the modification.

36 K. The board shall report allegations of evidence of criminal
37 wrongdoing to the appropriate criminal justice agency.

38 L. The board shall deposit, pursuant to sections 35-146 and 35-147,
39 all monies collected from penalties it imposes under this chapter in the
40 state general fund.

41 M. Notice of a complaint and hearing is effective when a true copy of
42 the notice is sent by certified mail to the licensee's last known address of
43 record in the board's files and is complete on the date of its deposit in the
44 mail. The board shall hold a formal hearing within one hundred twenty days
45 after that date.

1 N. The board may accept the surrender of an active license from a
2 licensee who admits in writing to having committed an act of unprofessional
3 conduct or to having violated this chapter or board rules.

4 Sec. 5. Requirements for enactment; two-thirds vote

5 Pursuant to article IX, section 22, Constitution of Arizona, this act
6 is effective only on the affirmative vote of at least two-thirds of the
7 members of each house of the legislature and is effective immediately on the
8 signature of the governor or, if the governor vetoes this act, on the
9 subsequent affirmative vote of at least three-fourths of the members of each
10 house of the legislature.

APPROVED BY THE GOVERNOR APRIL 3, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 3, 2001.

Passed the House March 27, 20 01

by the following vote: 43 Ayes,

16 Nays, 1 Not Voting
with Article IX, Section 22

F. Green
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate February 14, 20 01

by the following vote: 20 Ayes,

10 Nays, 0 Not Voting
with Article IX, Section 22

Paula Scott
President of the Senate

Charmie Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28 day of March, 20 01,

at 11:40 o'clock A M.

Stacy Marshall
Secretary to the Governor

Approved this 3 day of

April, 20 01,

at 7:45 o'clock A M.

Janet Lee Hull
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 3 day of April, 20 01,

at 3:45 o'clock P M.
Ruby Bayless
Secretary of State

S.B. 1210