

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 60

HOUSE BILL 2336

AN ACT

AMENDING SECTIONS 32-2501, 32-2507, 32-2528, 32-2551 AND 32-2552, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2502, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 254, SECTION 19; RELATING TO THE ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2501, Arizona Revised Statutes, is amended to
3 read:

4 32-2501. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Active license" means a regular or temporary license issued
7 pursuant to this chapter. ~~Active license does not include an inactive~~
8 ~~license.~~

9 2. "Adequate records" means legible medical records containing, at a
10 minimum, sufficient information to identify the patient, support the
11 diagnosis, justify the treatment, accurately document the results, indicate
12 advice and cautionary warnings provided to the patient and provide sufficient
13 information for another practitioner to assume continuity of the patient's
14 care at any point in the course of treatment.

15 3. "Advisory letter" means a nondisciplinary letter to notify a
16 physician assistant that either:

17 (a) While there is insufficient evidence to support disciplinary
18 action, the board believes that continuation of the activities that led to
19 the investigation may result in further board action against the licensee.

20 (b) The violation is a minor or technical violation that is not of
21 sufficient merit to warrant disciplinary action.

22 (c) While the licensee has demonstrated substantial compliance through
23 rehabilitation or remediation that has mitigated the need for disciplinary
24 action, the board believes that repetition of the activities that led to the
25 investigation may result in further board action against the licensee.

26 4. "Approved program" means a physician assistant educational program
27 that has been fully or provisionally accredited by the committee on allied
28 health education and accreditation or by the commission on the accreditation
29 for allied health education programs, or successor agencies, on the
30 recommendation of the accreditation review committee on education for
31 physician assistants.

32 5. "Board" means the Arizona regulatory board of physician assistants.

33 6. "Completed application" means an application for which the
34 applicant has supplied all required fees, information and correspondence
35 requested by the board on forms and in a manner acceptable to the board.

36 7. "Immediate family" means the spouse, natural or adopted children,
37 father, mother, brothers and sisters of the physician assistant and the
38 natural or adopted children, father, mother, brothers and sisters of the
39 physician assistant's spouse.

40 8. "Letter of reprimand" means a disciplinary letter that is issued
41 by the board and that informs the physician assistant that the physician
42 assistant's conduct violates state or federal law and may require the board
43 to monitor the physician assistant.

1 9. "LIMIT" MEANS A NONDISCIPLINARY ACTION TAKEN BY THE BOARD THAT
2 ALTERS A PHYSICIAN ASSISTANT'S PRACTICE OR MEDICAL ACTIVITIES IF THERE IS
3 EVIDENCE THAT THE PHYSICIAN ASSISTANT IS OR MAY BE MENTALLY OR PHYSICALLY
4 UNABLE TO SAFELY ENGAGE IN HEALTH CARE TASKS.

5 ~~9.~~ 10. "Medically incompetent" means that a physician assistant lacks
6 sufficient medical knowledge or skills, or both, in performing delegated
7 health care tasks to a degree likely to endanger the health or safety of
8 patients.

9 ~~10.~~ 11. "Minor surgery" means those invasive procedures that may be
10 delegated to a physician assistant by a supervising physician, that are
11 consistent with the training and experience of the physician assistant, that
12 are normally taught in courses of training approved by the board and that
13 have been approved by the board as falling within a scope of practice of a
14 physician assistant. Minor surgery does not include a surgical abortion.

15 ~~11.~~ 12. "Notification of supervision" means a written notice that is
16 provided to the board by a supervising physician and that notifies the board
17 that the physician intends to supervise a physician assistant. The physician
18 shall provide this notice on a form prescribed by the board before the
19 physician assistant begins work.

20 ~~12.~~ 13. "Physician" means a physician licensed pursuant to chapter 13
21 or 17 of this title.

22 ~~13.~~ 14. "Physician assistant" means a person who is licensed pursuant
23 to this chapter and who performs health care tasks pursuant to a dependent
24 relationship with a physician.

25 ~~14.~~ 15. "Primary place for meeting patients" includes the supervising
26 physician's office, health care institutions in which the supervising
27 physician's patients are located or homes of patients.

28 ~~15.~~ 16. "Regular license" means a valid and existing license issued
29 pursuant to section 32-2521 to perform health care tasks. Regular license
30 does not include a temporary license.

31 17. "RESTRICT" MEANS A DISCIPLINARY ACTION TAKEN BY THE BOARD THAT
32 ALTERS A PHYSICIAN ASSISTANT'S PRACTICE OR MEDICAL ACTIVITIES IF THERE IS
33 EVIDENCE THAT THE PHYSICIAN ASSISTANT IS OR MAY BE MEDICALLY INCOMPETENT OR
34 GUILTY OF UNPROFESSIONAL CONDUCT.

35 ~~16.~~ 18. "Supervising physician" means a physician who holds a current
36 unrestricted license, provides a notification of supervision, assumes legal
37 responsibility for health care tasks performed by the physician assistant and
38 is approved by the board. For purposes of this paragraph, a limited license
39 issued pursuant to section 32-1426, subsection C, before November 2, 1998 is
40 not a restriction.

41 ~~17.~~ 19. "Supervising physician's agent" means a physician who holds
42 a current unrestricted license, is a cosignatory on the notification of
43 supervision, agrees to act as the supervising physician in the supervising
44 physician's absence and is approved by the board. For purposes of this

1 paragraph, a limited license issued pursuant to section 32-1426, subsection
2 C, before November 2, 1998 is not a restriction.

3 ~~18.~~ 20. "Supervision" means a physician's opportunity or ability to
4 provide or exercise control over the services of a physician assistant.
5 Supervision does not require a physician's constant physical presence if the
6 supervising physician or the supervising physician's agent is or can be
7 easily in contact with the physician assistant by radio, telephone or
8 telecommunication.

9 ~~19.~~ 21. "Unprofessional conduct" includes the following acts by a
10 physician assistant that occur in this state or elsewhere:

11 (a) Violation of any federal or state law or rule that applies to the
12 performance of health care tasks as a physician assistant. Conviction in any
13 court of competent jurisdiction is conclusive evidence of a violation.

14 (b) Claiming to be a physician or knowingly permitting another person
15 to represent that person as a physician.

16 (c) Performing health care tasks that have not been delegated by the
17 supervising physician.

18 (d) Habitual intemperance in the use of alcohol or habitual substance
19 abuse.

20 (e) Signing a blank, undated or predated prescription form.

21 (f) Gross malpractice, repeated malpractice or any malpractice
22 resulting in the death of a patient.

23 (g) Representing that a manifestly incurable disease or infirmity can
24 be permanently cured or that a disease, ailment or infirmity can be cured by
25 a secret method, procedure, treatment, medicine or device, if this is not
26 true.

27 (h) Refusing to divulge to the board on demand the means, method,
28 procedure, modality of treatment or medicine used in the treatment of a
29 disease, injury, ailment or infirmity.

30 (i) Prescribing or dispensing controlled substances or
31 prescription-only drugs for which the physician assistant is not approved or
32 in excess of the amount authorized pursuant to this chapter.

33 (j) Any conduct or practice that is OR MIGHT BE harmful or dangerous
34 to the health of a patient or the public.

35 (k) Violation of a formal order, probation or stipulation issued by
36 the board.

37 (l) Failing to clearly disclose the person's identity as a physician
38 assistant in the course of the physician assistant's employment.

39 (m) Failing to use and affix the initials "P.A." or "P.A.-C." after
40 the physician assistant's name or signature on charts, prescriptions or
41 professional correspondence.

42 (n) Procuring or attempting to procure a physician assistant license
43 by fraud, misrepresentation or knowingly taking advantage of the mistake of
44 another.

1 (o) Having professional connection with or lending the physician
2 assistant's name to an illegal practitioner of any of the healing arts.

3 (p) Failing or refusing to maintain adequate records on a patient.

4 (q) Using controlled substances that have not been prescribed by a
5 physician, physician assistant, dentist or nurse practitioner for use during
6 a prescribed course of treatment.

7 (r) Prescribing or dispensing controlled substances to members of the
8 physician assistant's immediate family.

9 (s) Prescribing, dispensing or administering any controlled substance
10 or prescription-only drug for other than accepted therapeutic purposes.

11 (t) Knowingly making any written or oral false or fraudulent statement
12 in connection with the performance of health care tasks OR WHEN APPLYING FOR
13 PRIVILEGES OR RENEWING AN APPLICATION FOR PRIVILEGES AT A HEALTH CARE
14 INSTITUTION.

15 (u) Committing a felony, whether or not involving moral turpitude, or
16 a misdemeanor involving moral turpitude. In either case, conviction by a
17 court of competent jurisdiction or a plea of no contest is conclusive
18 evidence of the commission.

19 (v) Refusal, revocation, suspension, limitation or restriction of a
20 certification or license by any other licensing jurisdiction for the
21 inability to safely and skillfully perform health care tasks or for
22 unprofessional conduct as defined by that jurisdiction that directly or
23 indirectly corresponds to any act of unprofessional conduct as prescribed by
24 this paragraph.

25 (w) Sanctions including restriction, suspension or removal from
26 practice imposed by an agency of the federal government.

27 (x) Violating or attempting to violate, directly or indirectly, or
28 assisting in or abetting the violation of or conspiring to violate a
29 provision of this chapter.

30 (y) Using the term "doctor" or the abbreviation "Dr." on a name tag
31 or in a way that leads the public to believe that the physician assistant is
32 licensed to practice as an allopathic or an osteopathic physician in this
33 state.

34 (z) Failing to furnish legally requested information to the board or
35 its investigator in a timely manner.

36 (aa) Failing to allow properly authorized board personnel to examine
37 on demand documents, reports and records of any kind relating to the
38 physician assistant's performance of health care tasks.

39 (bb) Knowingly making a false or misleading statement on a form
40 required by the board or in written correspondence or attachments furnished
41 to the board.

42 (cc) Failing to submit to a body fluid examination pursuant to an
43 agreement with the board or an order of the board.

1 (dd) Violating a formal order, probation agreement or stipulation
2 issued or entered into by the board or its executive director.

3 (ee) Except as otherwise required by law, intentionally betraying a
4 professional secret or intentionally violating a privileged communication.

5 (ff) Allowing the use of the licensee's name in any way to enhance or
6 permit the continuance of the activities of, or maintaining a professional
7 connection with, an illegal practitioner of medicine or the performance of
8 health care tasks by a person who is not licensed pursuant to this chapter.

9 (gg) False, fraudulent, deceptive or misleading advertising by a
10 physician assistant or the physician assistant's staff or representative.

11 (hh) Knowingly failing to disclose to a patient on a form that is
12 prescribed by the board and that is dated and signed by the patient or
13 guardian acknowledging that the patient or guardian has read and understands
14 that the licensee has a direct financial interest in a separate diagnostic
15 or treatment agency or in nonroutine goods or services that the patient is
16 being prescribed and if the prescribed treatment, goods or services are
17 available on a competitive basis. This subdivision does not apply to a
18 referral by one ~~doctor of medicine~~ PHYSICIAN ASSISTANT to another PHYSICIAN
19 ASSISTANT OR TO A ~~doctor of medicine~~ OR A DOCTOR OF OSTEOPATHY within a group
20 of ~~doctors of medicine practicing~~ WORKING together.

21 (ii) Using chelation therapy in the treatment of arteriosclerosis or
22 as any other form of therapy.

23 (jj) Prescribing, dispensing or administering anabolic or androgenic
24 steroids for other than therapeutic purposes.

25 (kk) Prescribing, dispensing or furnishing a prescription medication
26 or a prescription-only device as defined in section 32-1901 to a person
27 unless the licensee first conducts a physical examination of that person or
28 has previously established a professional relationship with the person. This
29 subdivision does not apply to:

30 (i) A physician assistant who provides temporary patient care on
31 behalf of the patient's regular treating licensed health care professional.

32 (ii) Emergency medical situations as defined in section 41-1831.

33 (iii) Prescriptions written to prepare a patient for a medical
34 examination.

35 (ll) Engaging in sexual conduct with a current patient or with a
36 former patient within six months after the last medical consultation unless
37 the patient was the licensee's spouse at the time of the contact or,
38 immediately preceding the professional relationship, was in a dating or
39 engagement relationship with the licensee. For the purposes of this
40 subdivision, "sexual conduct" includes:

41 (i) Engaging in or soliciting sexual relationships, whether consensual
42 or nonconsensual.

43 (ii) Making sexual advances, requesting sexual favors or engaging in
44 other verbal conduct or physical contact of a sexual nature with a patient.

1 (iii) Intentionally viewing a completely or partially disrobed patient
2 in the course of treatment if the viewing is not related to patient diagnosis
3 or treatment under current practice standards.

4 Sec. 2. Repeal

5 Section 32-2502, Arizona Revised Statutes, as amended by Laws 2002,
6 chapter 254, section 19, is repealed.

7 Sec. 3. Section 32-2507, Arizona Revised Statutes, is amended to read:
8 32-2507. Licensee profiles; civil penalty

9 A. The board shall make available to the public a profile of each
10 licensee. The board shall make this information available through an
11 internet web site and, if requested, in writing. The profile shall contain
12 the following information:

13 1. A description of any ~~criminal~~ conviction OF A FELONY OR A
14 MISDEMEANOR INVOLVING MORAL TURPITUDE within the last five years. For
15 purposes of this paragraph, a licensee is deemed to be convicted of a crime
16 if the licensee pled guilty or was found guilty by a court of competent
17 jurisdiction.

18 2. A description of any FELONY charges OR MISDEMEANOR CHARGES
19 INVOLVING MORAL TURPITUDE within the last five years to which the licensee
20 pled no contest.

21 3. The number of pending complaints and final board disciplinary and
22 nondisciplinary actions, including dismissals, within the last five years.
23 Information concerning pending complaints shall contain the following
24 statement:

25 Pending complaints represent unproven allegations. On
26 investigation, many complaints are found to be without merit and
27 are dismissed.

28 4. All medical malpractice court judgments and all medical malpractice
29 awards or settlements in which a payment is made to a complaining party
30 within the last five years. Information concerning malpractice actions shall
31 contain the following statement:

32 The settlement of a medical malpractice action may occur for a
33 variety of reasons that do not necessarily reflect negatively on
34 the professional competence or conduct of the physician
35 assistant. A payment in settlement of a medical malpractice
36 action does not create a presumption that medical malpractice
37 occurred.

38 5. The name and location of the licensee's training and the date of
39 graduation.

40 6. The licensee's primary practice location.

41 B. Each licensee shall submit the information required pursuant to
42 subsection A each year as directed by the board. An applicant for licensure
43 shall submit this information at the time of application. The applicant and
44 licensee shall submit the information on a form prescribed by the board. A
45 licensee shall submit immediately any changes in information required

1 pursuant to subsection A, paragraphs 1, 2 and 4. The board shall update
2 immediately its internet web site to reflect changes in information relating
3 to subsection A, paragraphs 1 through 4. The board shall update the internet
4 web site information at least annually.

5 C. The board shall provide each licensee with a copy of the licensee's
6 profile and give the licensee reasonable time to correct the profile before
7 it is available to the public.

8 D. It is an act of unprofessional conduct for a licensee to provide
9 erroneous information pursuant to this section. In addition to other
10 disciplinary action, the board may impose a civil penalty of not more than
11 one thousand dollars for each erroneous statement.

12 Sec. 4. Section 32-2528, Arizona Revised Statutes, is amended to read:
13 32-2528. Inactive license; application; prohibited activities

14 A. A person who holds a regular license pursuant to this chapter may
15 request an inactive license from the board if both of the following are true:

- 16 1. The licensee is not under investigation by the board.
17 2. The board has not begun disciplinary proceedings against the
18 licensee.

19 B. The board may grant an inactive license and shall waive the annual
20 renewal fee and requirements for continuing medical education if the person
21 certifies total retirement from the performance of health care tasks in this
22 state, any jurisdiction of the United States and any foreign country and is
23 current on all fees required by this chapter.

24 C. An inactive licensee shall not perform health care tasks or
25 continue to hold or maintain a drug enforcement administration controlled
26 substance registration license. A licensee who performs health care tasks
27 while holding an inactive license violates this chapter by performing health
28 care tasks without a license.

29 ~~D. The board may accept a request for inactive status of an active~~
30 ~~regular license of a physician assistant who has been charged with a~~
31 ~~violation of this chapter or rules adopted pursuant to this chapter if the~~
32 ~~physician assistant admits the charges and stipulates this admission for the~~
33 ~~record.~~

34 E. D. The board may convert an inactive license to a regular license
35 on payment of the annual renewal fee and presentation of evidence to the
36 board that the holder possesses the medical knowledge and the physical and
37 mental ability to safely engage in the performance of health care tasks. The
38 board may require any combination of physical examination, psychiatric or
39 psychological evaluation, oral competency examination or a board qualified
40 written examination or interview it believes necessary to assist it in
41 determining the ability of a physician assistant who holds an inactive
42 license to return to regular licensure.

1 Sec. 5. Section 32-2551, Arizona Revised Statutes, is amended to read:
2 32-2551. Grounds for disciplinary action; duty to report;
3 immunity; proceedings; board action; notice; civil
4 penalty

5 A. The board on its own motion may investigate any evidence that
6 appears to show that a physician assistant is or may be medically
7 incompetent, is or may be guilty of unprofessional conduct or is or may be
8 mentally or physically unable to carry out approved health care tasks. Any
9 physician, physician assistant or health care institution as defined in
10 section 36-401 shall, and any other person may, report to the board any
11 information the physician, physician assistant, health care institution or
12 other person has that appears to show that a physician assistant is or may
13 be medically incompetent, is or may be guilty of unprofessional conduct or
14 is or may be mentally or physically unable to carry out approved health care
15 tasks. The board or the executive director shall notify the physician
16 assistant and the approved supervising physician of the content of the
17 reported information in writing within one hundred twenty days of its receipt
18 of the information. Any physician, physician assistant, health care
19 institution or other person that reports or provides information to the board
20 in good faith is not subject to an action for civil damages as a result of
21 reporting or providing information, and, if requested, the name of the
22 reporter shall not be disclosed unless the information is essential to
23 proceedings conducted pursuant to this section.

24 B. The board or, if delegated by the board, the executive director may
25 require a mental, physical or medical competency examination or any
26 combination of those examinations or may make investigations including
27 investigational interviews between representatives of the board and the
28 physician assistant and the supervising physician as it deems necessary to
29 fully inform itself with respect to any information reported pursuant to
30 subsection A of this section. The board or, if delegated by the board, the
31 executive director may require the physician assistant, at the physician
32 assistant's expense, to undergo assessment by a board approved
33 rehabilitative, retraining or assessment program.

34 C. If the board finds, based on the information it receives under
35 subsections A and B of this section, that the public safety imperatively
36 requires emergency action, and incorporates a finding to that effect in its
37 order, the board may restrict, ~~limit~~ A LICENSE or order a summary suspension
38 of a license pending proceedings for revocation or other action. If the
39 board acts pursuant to this subsection, the physician assistant shall also
40 be served with a written notice of complaint and formal hearing, setting
41 forth the charges, and is entitled to a formal hearing before the board or
42 an administrative law judge on the charges within sixty days pursuant to
43 title 41, chapter 6, article 10.

44 D. If, after completing its investigation, the board finds that the
45 information provided pursuant to subsection A of this section is not of

1 sufficient seriousness to merit disciplinary action against the physician
2 assistant's license, it may take the following actions:

3 1. Dismiss if, in the opinion of the board, the complaint is without
4 merit.

5 2. File an advisory letter. The licensee may file a written response
6 with the board within thirty days after receiving the advisory letter.

7 ~~3. Enter into an agreement with the physician assistant to limit the
8 physician assistant's practice or professional activities if the physician
9 assistant is mentally or physically unable to safely engage in all aspects
10 of the physician assistant's profession.~~

11 E. If the board finds that it can take rehabilitative or disciplinary
12 action without the presence of the physician assistant at a formal interview
13 it may enter into a consent agreement with the physician assistant to limit
14 or restrict the physician assistant's practice or to rehabilitate the
15 physician assistant, protect the public and ensure the physician assistant's
16 ability to safely practice. The board may also require the physician
17 assistant to successfully complete a board approved rehabilitative,
18 retraining or assessment program AT THE PHYSICIAN ASSISTANT'S OWN EXPENSE.

19 F. The board shall not disclose the name of the person who provided
20 the information regarding a licensee's drug or alcohol impairment or the name
21 of the person who files a complaint if that person requests anonymity.

22 G. If, after completing its investigation, the board believes that the
23 information is or may be true and that the information may be of sufficient
24 seriousness to merit direct action against the physician assistant's license,
25 it may request a formal interview with the physician assistant and the
26 supervising physician. IF THE PHYSICIAN ASSISTANT REFUSES THE INVITATION FOR
27 A FORMAL INTERVIEW, THE BOARD MAY ISSUE A FORMAL COMPLAINT AND ORDER THAT A
28 HEARING BE HELD PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. The board shall
29 notify the physician assistant in writing of the time, date and place of the
30 formal interview at least twenty days before the interview. The notice shall
31 include the right to be represented by counsel and shall fully set forth the
32 conduct or matters to be discussed.

33 ~~H. At least ten business days before the formal interview conducted
34 pursuant to this section, the board shall notify the physician assistant and,
35 at the physician assistant's request, the board shall provide the physician
36 assistant with the information listed in this subsection. The physician
37 assistant and the physician assistant's attorney may not release any
38 information obtained under this section to any other person. The board shall
39 provide the following information to the physician assistant or the physician
40 assistant's attorney:~~

41 ~~1. Any review conducted by an expert or consultant providing an
42 evaluation of or opinion on the allegations.~~

43 ~~2. Any records on the patient obtained by the board from other health
44 care providers.~~

1 ~~3. The results of any evaluations or tests of the physician assistant~~
2 ~~conducted at the board's direction.~~

3 ~~4. Any other factual information that the board will use in making its~~
4 ~~determination.~~

5 ~~i.~~ H. After the formal interview, the board may take the following
6 actions:

7 1. Dismiss if, in the opinion of the board, the information is without
8 merit.

9 2. File an advisory letter. The licensee may file a written response
10 with the board within thirty days after receiving the advisory letter.

11 3. ENTER INTO A STIPULATION WITH THE PHYSICIAN ASSISTANT TO RESTRICT
12 OR LIMIT THE PHYSICIAN ASSISTANT'S PRACTICE OR MEDICAL ACTIVITIES OR TO
13 REHABILITATE, RETRAIN OR ASSESS THE PHYSICIAN ASSISTANT, IN ORDER TO PROTECT
14 THE PUBLIC AND ENSURE THE PHYSICIAN ASSISTANT'S ABILITY TO SAFELY PERFORM
15 HEALTH CARE TASKS. THE BOARD MAY ALSO REQUIRE THE PHYSICIAN ASSISTANT TO
16 SUCCESSFULLY COMPLETE A BOARD APPROVED REHABILITATIVE, RETRAINING OR
17 ASSESSMENT PROGRAM AT THE PHYSICIAN ASSISTANT'S OWN EXPENSE AS PRESCRIBED IN
18 SUBSECTION E OF THIS SECTION.

19 ~~3.~~ 4. File a letter of reprimand.

20 ~~4.~~ 5. Issue a decree of censure. A decree of censure is a
21 disciplinary action against the physician assistant's license and may include
22 a requirement for restitution of fees to a patient resulting from violations
23 of this chapter or rules adopted under this chapter.

24 ~~5. Enter into a stipulation with the physician assistant to restrict~~
25 ~~or limit the physician assistant's practice or medical activities in order~~
26 ~~to rehabilitate, retrain or assess the physician assistant, protect the~~
27 ~~public and ensure the physician assistant's ability to safely perform health~~
28 ~~care tasks.~~

29 6. Fix a period and terms of probation best adapted to protect the
30 public health and safety and rehabilitate or educate the physician assistant.
31 Failure to comply with any terms of probation is cause for initiating formal
32 proceedings pursuant to title 41, chapter 6, article 10. Probation may
33 include:

34 (a) Restrictions on the health care tasks the physician assistant may
35 perform.

36 (b) Temporary suspension for not to exceed twelve months.

37 (c) Restitution of patient fees.

38 (d) Education or rehabilitation at the licensee's own expense.

39 ~~j.~~ I. If the board finds that the information provided pursuant to
40 subsection A of this section warrants suspension or revocation of a physician
41 assistant's license, it shall immediately initiate formal proceedings for the
42 suspension or revocation of the license as provided in title 41, chapter 6,
43 article 10. The notice of complaint and hearing is fully effective by
44 mailing a true copy of the notice of complaint and hearing by certified mail
45 addressed to the physician assistant's last known address of record in the

1 board's files. The notice of complaint and hearing is complete at the time
2 of its deposit in the mail.

3 ~~K.~~ J. A physician assistant who after a formal hearing pursuant to
4 title 41, chapter 6, article 10 is found to be medically incompetent, guilty
5 of unprofessional conduct or mentally or physically unable to safely carry
6 out the physician assistant's approved health care tasks, or any combination
7 of these, is subject to censure, probation, suspension or revocation, or any
8 combination of these, for a period of time or permanently and under
9 conditions the board deems appropriate for the protection of the public
10 health and safety.

11 ~~L.~~ K. In a formal interview pursuant to subsection G of this section
12 or in a hearing pursuant to subsection ~~J~~ I of this section, the board in
13 addition to any other action may impose a civil penalty in the amount of not
14 less than three hundred dollars nor more than ten thousand dollars for each
15 violation of this chapter or a rule adopted under this chapter.

16 ~~M.~~ L. An advisory letter is a public document and may be used in
17 future disciplinary actions against a physician assistant.

18 ~~N.~~ M. The board may charge the costs of a formal hearing to the
19 licensee if it finds the licensee in violation of this chapter.

20 ~~O.~~ N. If the board acts to modify a physician assistant's
21 prescription writing privileges, the ARIZONA REGULATORY board OF PHYSICIAN
22 ASSISTANTS shall immediately notify the Arizona state board of pharmacy and
23 the United States drug enforcement administration of this modification.

24 ~~P.~~ O. If during the course of an investigation the board determines
25 that a criminal violation may have occurred involving the performance of
26 health care tasks, it shall provide evidence of the violation to the
27 appropriate criminal justice agency.

28 ~~Q.~~ P. The board may accept the surrender of an active license from
29 a person who admits in writing to any of the following:

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

33 ~~R.~~ Q. In determining the appropriate disciplinary action under this
34 section, the board shall consider all previous nondisciplinary and
35 disciplinary actions against a licensee.

36 Sec. 6. Section 32-2552, Arizona Revised Statutes, is amended to read:
37 32-2552. Right to examine and copy evidence; subpoena
38 authority; right to counsel; confidentiality of
39 records

40 A. In connection with an investigation conducted by the board on its
41 own motion or as the result of information received pursuant to section
42 32-2551, subsection A, the board or its duly authorized agent or employee at
43 all reasonable times shall have access to, for the purpose of examination,
44 and the right to copy any documents, reports, records or other physical
45 evidence of any person being investigated or the reports, the records and any

1 other documents maintained by and in the possession of any hospital, clinic,
2 physician's office, physician assistant's office, laboratory, pharmacy,
3 health care institution as defined in section 36-401 or other public or
4 private agency if the documents, reports, records or evidence relate to a
5 physician assistant's medical competence, unprofessional conduct or mental
6 or physical ability to safely engage in the physician assistant's approved
7 health care tasks.

8 B. For the purpose of all investigations and proceedings conducted by
9 the board:

10 1. On its own motion or on application of a person involved in an
11 investigation, the board may issue subpoenas compelling the attendance and
12 testimony of witnesses or demanding the production of documents or any other
13 physical evidence for examination or copying if the evidence relates to the
14 medical incompetence, unprofessional conduct or mental or physical ability
15 of a physician assistant to safely perform health care tasks. Within five
16 days after service of a subpoena requiring the production of evidence in the
17 person's possession or under the person's control, the person may petition
18 the board to revoke, limit or modify the subpoena. The board shall do so if
19 it believes that the evidence required does not relate to violations of this
20 chapter, is not relevant to the subject matter of the hearing or
21 investigation or does not describe with sufficient particularity the physical
22 evidence requested.

23 2. A person appearing before the board may be represented by counsel.

24 3. A board member or agent designated by the board may administer
25 oaths or affirmations, examine witnesses and receive evidence.

26 4. On application by the board or by the person subpoenaed, the
27 superior court has jurisdiction to issue an order to do either of the
28 following:

29 (a) Require a person to appear before the board or its authorized
30 agent to produce evidence relating to the investigation.

31 (b) Revoke, limit or modify a subpoena if the court determines that
32 the evidence does not relate to a violation of this chapter, is not relevant
33 to the hearing or investigation or does not describe with sufficient
34 particularity the physical evidence requested.

35 C. The following items are not available to the public:

36 1. Patient records, including clinical records, medical reports and
37 laboratory statements and reports.

38 2. Files, films, reports or oral statements relating to diagnostic
39 findings or treatment of patients.

40 3. Any information from which a patient or the patient's family might
41 be identified.

42 4. Information received and records kept by the board in its
43 investigations.

1 D. This section and any other provision of law that makes
2 communications between a physician or a physician assistant and the physician
3 assistant's patient a privileged communication does not apply to
4 investigations or proceedings conducted pursuant to this chapter. The board
5 and its employees, agents and representatives shall keep in confidence the
6 names of any patients whose records are reviewed during the course of
7 investigations and proceedings pursuant to this chapter.

8 E. Hospital records, medical staff records, medical staff review
9 committee records, testimony concerning those records and proceedings related
10 to the creation of those records are not available to the public, shall be
11 kept confidential by the board and are subject to the same provisions of law
12 concerning discovery and use in legal actions as are the original records in
13 the possession and control of hospitals, medical staffs and medical staff
14 review committees.

15 ~~F. At the physician assistant's request, the board shall provide to~~
16 ~~the physician assistant and the physician assistant's attorney the~~
17 ~~information listed in section 32-2551. A person who obtains information from~~
18 ~~the board pursuant to this subsection shall not release it to any other~~
19 ~~person or entity or use it in any proceeding or action except the formal~~
20 ~~interview and any administrative proceeding or appeals related to the formal~~
21 ~~interview. The board may charge the physician assistant or the physician~~
22 ~~assistant's attorney for copying the information listed in section 32-2551.~~

APPROVED BY THE GOVERNOR APRIL, 14, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2003.

Passed the House February 25, 2003,

Passed the Senate April 8, 2003

by the following vote: 60 Ayes,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

0 Nays, 0 Not Voting

Jake Flake
Speaker of the House

Kirby Linthicum
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmine Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

9 day of April, 2003

at 2:30 o'clock P M.

Sandra Ramirez
Secretary to the Governor

Approved this 14 day of

April, 2003,

at 9:00 o'clock A. M.

It Ag. K.
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14 day of April, 2003

at 10:55 o'clock A M.

Janice K. Brewer
Secretary of State

H.B. 2336