

Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 138

# HOUSE BILL 2344

AN ACT

AMENDING SECTIONS 32-1801, 32-1822, 32-1823, 32-1825, 32-1826, 32-1831, 32-1854, 32-1855 AND 32-1861, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1855.02, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF OSTEOPATHIC EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 32-1801, Arizona Revised Statutes, is amended to  
3 read:

4 32-1801. Arizona board of osteopathic examiners in medicine and  
5 surgery

6 A. There shall be an Arizona board of osteopathic examiners in  
7 medicine and surgery which shall consist of seven members appointed by the  
8 governor. One member of the board shall be appointed each year for a term  
9 of five years, to begin and end on April 15.

10 B. Two members of the board shall be public members who shall not be  
11 in any manner connected with, or have an interest in, any school of medicine  
12 or any person practicing any form of healing or treatment of bodily or mental  
13 ailments and who has demonstrated an interest in the health problems of the  
14 state. The other five members of the board shall have engaged in the  
15 practice of medicine as an osteopathic physician in this state for at least  
16 five years preceding their appointments, and hold active licenses in good  
17 standing AND, AT THE TIME OF APPOINTMENT, BE PRACTICING MEDICINE WITH DIRECT  
18 PATIENT CONTACT. In making appointments of each professional member of the  
19 board, the governor shall consider a list of qualified persons submitted by  
20 the Arizona osteopathic medical association and recommendations by any other  
21 person. Members of the board shall continue in office until their successors  
22 are appointed and qualified. Each board member, prior to entering upon his  
23 duties, shall take an oath prescribed by law and in addition thereto shall  
24 make an oath as to his qualifications as prescribed in this section. No  
25 board member may serve more than two consecutive five year terms.

26 C. Board members may be removed by the governor if they fail to attend  
27 three or more board meetings within twelve months. This does not include  
28 telephonic meetings of the board. The governor may also remove board members  
29 for malfeasance, misfeasance or incompetence in their office, unprofessional  
30 or dishonorable conduct in their office or unprofessional or dishonorable  
31 conduct. The governor shall appoint a qualified replacement to fill a vacant  
32 position for the unexpired portion of the term.

33 Sec. 2. Section 32-1822, Arizona Revised Statutes, is amended to read:

34 32-1822. Qualifications of applicant; application; fees

35 A. ON A FORM AND IN A MANNER PRESCRIBED BY THE BOARD, an applicant for  
36 licensure shall SUBMIT PROOF THAT THE APPLICANT:

37 1. IS THE PERSON NAMED ON THE APPLICATION AND ON ALL SUPPORTING  
38 DOCUMENTS SUBMITTED.

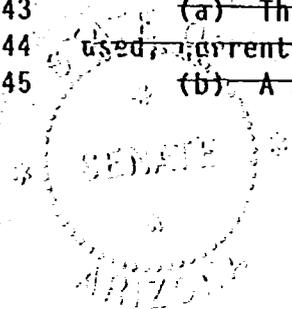
39 ~~1.~~ 2. ~~Be~~ IS a citizen of the United States or a resident alien.

40 ~~2.~~ 3. ~~Be~~ IS a graduate of a board approved school of osteopathic  
41 medicine.

42 ~~3. Submit to the board the following:~~

43 ~~(a) The applicant's full name and all aliases and other names ever~~  
44 ~~used, current address, social security number and date and place of birth.~~

45 ~~(b) A recent photograph signed by the applicant.~~



1       ~~(c) The originals of all documents and credentials required by the~~  
2 ~~board or notarized photocopies or other verification acceptable to the board~~  
3 ~~of these documents and credentials.~~

4       ~~(d) Affidavits from three physicians and surgeons who are in active~~  
5 ~~practice and who can attest to the applicant's fitness to practice medicine~~  
6 ~~and surgery as an osteopathic physician and surgeon and submit to any other~~  
7 ~~investigation deemed necessary by the board.~~

8       ~~(e) A diploma conferring the degree of doctor of osteopathy or doctor~~  
9 ~~of osteopathic medicine that was issued by a board approved school of~~  
10 ~~medicine that at the time it issued the degree met the requirements~~  
11 ~~prescribed by the American osteopathic association for that year. If the~~  
12 ~~applicant cannot find the diploma the applicant shall submit proof~~  
13 ~~satisfactory to the board that the applicant received a degree that meets~~  
14 ~~these requirements.~~

15       ~~(f) Proof that the applicant has served a board approved internship~~  
16 ~~of at least one year or an approved residency or the equivalent as determined~~  
17 ~~by the board.~~

18       ~~(g) A verified application, on forms furnished by the board, stating,~~  
19 ~~in addition to other information requested, that the applicant is the person~~  
20 ~~named in the diploma, that the applicant obtained the diploma without fraud~~  
21 ~~or misrepresentation and that the applicant's license to practice medicine~~  
22 ~~and surgery as an osteopathic physician and surgeon has never been revoked,~~  
23 ~~suspended or denied by any regulatory jurisdiction within the United States~~  
24 ~~or in any other country.~~

25       ~~4. Successfully pass an examination approved by the board or possess~~  
26 ~~a currently active and unrestricted license to practice as an osteopathic~~  
27 ~~physician and surgeon issued under the authority of any state, district or~~  
28 ~~territory that has standards that are comparable to those prescribed in this~~  
29 ~~chapter.~~

30       4. HAS COMPLETED AN APPROVED INTERNSHIP, THE FIRST YEAR OF AN APPROVED  
31 MULTIPLE YEAR RESIDENCY OR BOARD APPROVED EQUIVALENCY.

32       5. HAS PASSED THE APPROVED EXAMINATIONS FOR LICENSURE WITHIN SEVEN  
33 YEARS OF APPLICATION OR HAS THE BOARD APPROVED EQUIVALENCY OF PRACTICE  
34 EXPERIENCE.

35       6. HAS NOT ENGAGED IN ANY CONDUCT THAT, IF IT OCCURRED IN THIS STATE,  
36 WOULD BE CONSIDERED UNPROFESSIONAL CONDUCT OR, IF THE APPLICANT HAS ENGAGED  
37 IN UNPROFESSIONAL CONDUCT, IS REHABILITATED FROM THE UNDERLYING CONDUCT.

38       7. IS PHYSICALLY, MENTALLY AND EMOTIONALLY ABLE TO PRACTICE MEDICINE,  
39 OR, IF LIMITED, RESTRICTED OR IMPAIRED IN THE ABILITY TO PRACTICE MEDICINE,  
40 CONSENTS TO CONTINGENT LICENSURE PURSUANT TO SUBSECTION E OF THIS SECTION OR  
41 TO ENTRY INTO A PROGRAM PRESCRIBED IN SECTION 32-1861.

42       ~~5. B. AN APPLICANT MUST submit with the application the application~~  
43 ~~fee prescribed in section 32-1826 and pay the prescribed license ISSUANCE fee~~  
44 ~~to the board at the time the license is issued. All fees shall be paid by~~  
45 ~~certified check, by money order or by cash.~~

1 ~~6. Receive a score of at least seventy-five per cent on an examination~~  
2 ~~that is prescribed by the board and that covers this chapter and board rules.~~

3 B. C. The board or the executive director may require an applicant  
4 to submit to a personal interview, a physical examination or a mental  
5 evaluation or any combination of these at a reasonable time and place as  
6 prescribed by the board if the board determines that this is necessary to  
7 provide the board adequate information regarding the applicant's ability to  
8 meet the licensure requirements of this chapter. An interview may include  
9 medical knowledge questions and other matters that are relevant to licensure.

10 C. D. The board may deny a license for any unprofessional conduct  
11 that would constitute grounds for disciplinary action pursuant to this  
12 chapter and OR as determined by a competent domestic or foreign jurisdiction.

13 D. E. The board may issue a license that is contingent on the  
14 applicant entering into a stipulated order that may include a period of  
15 probation or a restriction on the licensee's practice.

16 E. F. The executive director may issue licenses to applicants who  
17 meet the requirements of this section.

18 F. G. A person whose license has been revoked, denied or surrendered  
19 IN THIS OR ANY OTHER STATE may apply for licensure NOT SOONER THAN two years  
20 after the revocation, or denial OR SURRENDER.

21 H. A LICENSE ISSUED PURSUANT TO THIS SECTION IS VALID FOR THE  
22 REMAINDER OF THE CALENDAR YEAR IN WHICH IT WAS ISSUED, AT WHICH TIME IT IS  
23 ELIGIBLE FOR RENEWAL.

24 Sec. 3. Section 32-1823, Arizona Revised Statutes, is amended to read:  
25 32-1823. Locum tenens registration; application; term

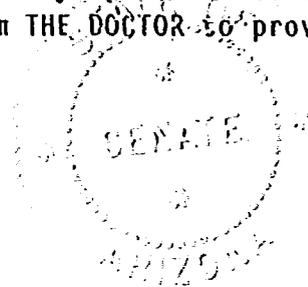
26 A. A doctor of osteopathy licensed to practice osteopathic medicine  
27 and surgery by another state may be registered to provide locum tenens  
28 medical services to substitute for or temporarily assist a doctor of  
29 osteopathy who holds an active license pursuant to this chapter or a doctor  
30 of medicine who holds an active license pursuant to chapter 13 of this title  
31 under the following conditions:

32 1. The applicant provides on forms and in a manner prescribed by the  
33 board proof that he meets the applicable requirements of section 32-1022.

34 ~~2. The license of the applicant for registration under this section~~  
35 ~~from the state in which he regularly practices osteopathic medicine is~~  
36 ~~current and unrestricted and has not been revoked or suspended for any reason~~  
37 ~~and there are no unresolved complaints or formal charges filed against the~~  
38 ~~applicant with any licensing board.~~

39 ~~3. 2.~~ The doctor of medicine or doctor of osteopathy for whom the  
40 applicant is substituting or assisting provides to the board a written  
41 request for locum tenens registration of the applicant.

42 B. On completion of the registration form prescribed by the board and  
43 payment of the required fees, the executive director may register a  
44 qualifying doctor of osteopathy by locum tenens registration and authorize  
45 him THE DOCTOR to provide locum tenens services.



1 C. Locum tenens registration granted pursuant to this section is valid  
2 for thirty NINETY days and may be extended once for an additional thirty  
3 NINETY days on written request by the doctor of medicine or doctor of  
4 osteopathy who originally initiated the request for this registration,  
5 stating the reason extension is necessary, and by submitting the appropriate  
6 fees and other documents requested by the executive director.

7 Sec. 4. Section 32-1825, Arizona Revised Statutes, is amended to read:

8 32-1825. Renewal of licenses; continuing medical education;  
9 failure to renew; penalty; reinstatement; waiver of  
10 continuing medical education

11 A. Each licensee shall renew the license every other year on or before  
12 January 1 ON AN APPLICATION FORM APPROVED BY THE BOARD. At least sixty days  
13 before that RENEWAL date the executive director shall notify each licensee  
14 of this requirement. The executive director shall send this notification by  
15 first class mail to the licensee at the LICENSEE'S address ~~the licensee last~~  
16 ~~provided to the executive director.~~

17 B. WITH THE APPLICATION PRESCRIBED PURSUANT TO SUBSECTION A OF THIS  
18 SECTION, the licensee shall furnish to the executive director a statement of  
19 having attended before the license renewal date educational programs,  
20 approved by the board, totaling at least forty TWENTY clock hours ~~and shall~~  
21 ~~pay to the board~~ DURING EACH OF THE TWO PRECEDING YEARS, AND A STATEMENT THAT  
22 THE LICENSEE REPORTED ANY CONDUCT THAT MAY CONSTITUTE UNPROFESSIONAL CONDUCT  
23 IN THIS STATE OR ELSEWHERE. THE APPLICATION MUST ALSO INCLUDE the prescribed  
24 renewal fee. The executive director shall then issue a renewal receipt to  
25 the licensee. The board may require a licensee to submit documentation of  
26 continuing medical education.

27 C. The board shall not renew the license of a licensee who does not  
28 fully document the licensee's compliance with the continuing education  
29 requirements of subsection B of this section unless that person receives a  
30 waiver of those requirements. The board may waive the continuing education  
31 requirements of subsection B of this section for a particular period if it  
32 is satisfied that the licensee's noncompliance was due to the licensee's  
33 disability, military service or absence from the United States or to other  
34 circumstances beyond the control of the licensee. If a licensee fails to  
35 attend the required number of clock hours for reasons other than those  
36 specified in this subsection, the board may grant an extension until May 1  
37 of that year for the licensee to comply.

38 D. Unless the board grants an extension pursuant to subsection C of  
39 this section, a licensee who fails to renew the license within thirty days  
40 after the renewal date shall pay a penalty fee and a reimbursement fee in  
41 addition to the prescribed renewal fee. Except as provided in section  
42 32-3202, a license expires if a person does not renew the license within four  
43 months after the renewal date. A person who practices osteopathic medicine  
44 after that time is in violation of this chapter. A person whose license  
45 expires may reapply for a license pursuant to this chapter.

1           Sec. 5. Section 32-1826, Arizona Revised Statutes, is amended to read:  
2           32-1826. Fees; penalty

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

5           1. For an application to practice osteopathic medicine, four hundred  
6 dollars.

7           2. For issuance of a license, two hundred dollars, PRORATED BY EACH  
8 MONTH REMAINING IN THE CALENDAR YEAR OF ISSUANCE.

9           3. For BIENNIAL renewal of a license, eight hundred dollars.

10          4. For locum tenens registration OR EXTENSION, three hundred dollars.

11          5. For issuance of a duplicate license, one hundred dollars.

12          6. For annual registration of an approved internship, residency,  
13 clinical fellowship program or short-term residency program, one hundred  
14 dollars.

15          7. For an annual teaching license issued pursuant to section 32-1831,  
16 four hundred dollars.

17          8. For a five day educational teaching permit at an approved school  
18 of medicine or at an approved teaching hospital's accredited graduate medical  
19 education program, two hundred dollars.

20          9. For the sale of those copies of the annual osteopathic medical  
21 directory that are not distributed free of charge, seventy-five dollars.

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

24          11. For initial and annual registration to dispense drugs and devices,  
25 two hundred fifty dollars, PRORATED BY EACH MONTH REMAINING IN THE CALENDAR  
26 YEAR OF ISSUANCE.

27          B. The board shall charge a one hundred fifty dollar penalty fee for  
28 late renewal of a license and a twenty-five dollar reimbursement fee to cover  
29 the board's expenses in collecting late renewal fees. The board shall  
30 deposit this fee in the board fund.

31          C. The board may charge additional fees for services the board  
32 determines are necessary and appropriate to carry out this chapter. These  
33 fees shall not exceed the actual cost of providing the services.

34          Sec. 6. Section 32-1831, Arizona Revised Statutes, is amended to read:  
35          32-1831. Teaching licenses; definitions

36          A. A doctor of osteopathic medicine who is not licensed in this state  
37 may be employed as a full-time faculty member by a board approved college  
38 SCHOOL of osteopathic medicine in this state or a teaching hospital's  
39 accredited graduate medical education program in this state to provide  
40 professional education through lectures, clinics or demonstrations if the  
41 doctor holds a teaching license issued pursuant to this section.

42          B. An applicant for a teaching license shall:

43          1. Submit a completed application as prescribed by the board.

44          2. Pay all fees prescribed by the board.

1           3. Meet the basic requirements of section 32-1822, with the exception  
2 of subsection A, paragraph 3, subdivision (f).

3           C. A person licensed pursuant to this section shall not open an office  
4 or designate a place to meet patients or receive calls relating to the  
5 practice of osteopathic medicine in this state outside of the facilities and  
6 programs of the approved school or teaching hospital.

7           D. A person licensed pursuant to this section shall comply with the  
8 requirements of this chapter, with the exception of those that relate to  
9 training and examinations.

10          E. A license issued pursuant to this section is valid for two years.  
11 A doctor of osteopathic medicine may apply for licensure once every two  
12 years.

13          F. For the purposes of this section:

14           1. "Accredited" means that the school or teaching hospital has an  
15 internship, fellowship or residency training program that is accredited by  
16 the accreditation council for graduate medical education, the American  
17 osteopathic association or a similar body that is approved by the board.

18           2. "Full-time faculty member" means a full-time faculty member as  
19 prescribed by the school of osteopathic medicine or the teaching hospital.

20          Sec. 7. Section 32-1854, Arizona Revised Statutes, is amended to read:  
21 32-1854. Definition of unprofessional conduct

22          FOR THE PURPOSES OF THIS CHAPTER, "unprofessional conduct" includes the  
23 following acts, whether occurring in this state or elsewhere:

24           1. Wilfully WILFULLY betraying a professional secret or wilfully  
25 violating a privileged communication except as either of these may otherwise  
26 be required by law. This paragraph does not prevent members of the board  
27 from exchanging information with the licensing and disciplinary boards of  
28 other states, territories or districts of the United States or with foreign  
29 countries or with osteopathic medical organizations located in this state or  
30 in any state, district or territory of this country or in any foreign  
31 country.

32           2. Committing a felony, whether or not involving moral turpitude, or  
33 a misdemeanor involving moral turpitude. In either case conviction by any  
34 court of competent jurisdiction is conclusive evidence of the commission.

35           3. Practicing medicine while under the influence of alcohol, narcotic  
36 or hypnotic drugs or any substance that impairs or may impair the licensee's  
37 ability to safely and skillfully practice medicine.

38           4. Being diagnosed by a physician licensed under this chapter or  
39 chapter 19 of this title or a psychologist licensed under chapter 19.1 of  
40 this title as excessively or illegally using alcohol or a controlled  
41 substance.

42           5. Prescribing, dispensing or administering controlled substances or  
43 prescription only drugs for other than accepted therapeutic purposes.

- 1           6. Engaging in the practice of medicine in a manner that harms or may  
2 harm a patient or that the board determines falls below the community  
3 standard.
- 4           7. Impersonating another physician.
- 5           8. Acting or assuming to act as a member of the board if this is not  
6 true.
- 7           9. Procuring, RENEWING or attempting to procure OR RENEW a license to  
8 practice osteopathic medicine by fraud or misrepresentation.
- 9           10. Having professional connection with or lending one's name to an  
10 illegal practitioner of osteopathic medicine or any of the other healing  
11 arts.
- 12           11. Representing that a manifestly incurable disease, injury, ailment  
13 or infirmity can be permanently cured or that a curable disease, injury,  
14 ailment or infirmity can be cured within a stated time, if this is not true.
- 15           12. Failing to reasonably disclose and inform the patient or the  
16 patient's representative of the method, device or instrumentality the  
17 licensee uses to treat the patient's disease, injury, ailment or infirmity.
- 18           13. Refusing to divulge to the board on demand the means, method,  
19 device or instrumentality used in the treatment of a disease, injury, ailment  
20 or infirmity.
- 21           14. Charging a fee for services not rendered or dividing a professional  
22 fee for patient referrals.
- 23           15. Knowingly making any false or fraudulent statement, written or  
24 oral, in connection with the practice of medicine ~~except as the same may be~~  
25 ~~necessary for accepted therapeutic purposes~~ OR WHEN APPLYING FOR OR RENEWING  
26 PRIVILEGES AT A HEALTH CARE INSTITUTION OR A HEALTH CARE PROGRAM.
- 27           16. Advertising in a false, deceptive or misleading manner.
- 28           17. Representing or holding oneself out as being an osteopathic medical  
29 specialist if the physician has not satisfied the applicable requirements of  
30 this chapter or board rules.
- 31           18. ~~The refusal, revocation or suspension of~~ DENIAL OF OR DISCIPLINARY  
32 ACTION AGAINST a license by any other state, territory, district or country,  
33 unless it can be shown that this occurred for reasons that did not relate to  
34 the person's ability to safely and skillfully practice osteopathic medicine  
35 or to any act of unprofessional conduct as provided in this section.
- 36           19. Any conduct or practice contrary to recognized standards of ethics  
37 of the osteopathic medical profession.
- 38           20. Violating or attempting to violate, directly or indirectly, or  
39 assisting in or abetting the violation of or conspiring to violate any of the  
40 provisions of this chapter.
- 41           21. Failing or refusing to ESTABLISH AND maintain adequate records on  
42 a patient as follows:  
43           (a) if the patient is an adult, for at least seven years after the last  
44 date the licensee provided the patient with medical or health care services.

1 (b) If the patient is a child, either for at least three years after  
2 the child's eighteenth birthday or for at least seven years after the last  
3 date the licensee provided that patient with medical or health care services,  
4 whichever date occurs first.

5 (c) If the patient dies before the expiration of the dates prescribed  
6 in subdivision (a) or (b) of this paragraph, for at least three years after  
7 the patient's death.

8 22. Using controlled substances or prescription-only drugs unless they  
9 are provided by a medical practitioner, as defined in section 32-1901, as  
10 part of a lawful course of treatment.

11 23. Prescribing controlled substances to members of one's immediate  
12 family unless there is no other physician available within fifty miles to  
13 treat a member of the family and an emergency exists.

14 ~~24. Prescribing, dispensing or administering schedule II controlled~~  
15 ~~substances as defined in section 36-2513 including amphetamines and similar~~  
16 ~~schedule II sympathomimetic drugs in the treatment of exogenous obesity for~~  
17 ~~a period in excess of thirty days in any one year.~~

18 ~~25.~~ 24. Nontherapeutic use of injectable amphetamines.

19 ~~26.~~ 25. Violating a formal order, probation or a stipulation issued  
20 by the board under this chapter.

21 ~~27.~~ 26. Charging or collecting an inappropriate fee. This paragraph  
22 does not apply to a fee which is fixed in a written contract between the  
23 physician and the patient and entered into before treatment begins.

24 ~~28.~~ 27. Using experimental forms of therapy without adequate informed  
25 patient consent or without conforming to generally accepted criteria and  
26 complying with federal and state statutes and regulations governing  
27 experimental therapies.

28 ~~29.~~ 28. Failing to make patient medical records in the physician's  
29 possession promptly available to a physician assistant, a nurse practitioner,  
30 a person licensed pursuant to this chapter or a podiatrist, chiropractor,  
31 naturopathic physician, physician or homeopathic physician licensed under  
32 chapter 7, 8, 13, 14 or 29 of this title on receipt of proper authorization  
33 to do so from the patient, a minor patient's parent, the patient's legal  
34 guardian or the patient's authorized representative or failing to comply with  
35 title 12, chapter 13, article 7.1.

36 ~~30.~~ 29. Failing to allow properly authorized board personnel to have,  
37 on demand, ON PRESENTATION OF A SUBPOENA, access to any documents, reports  
38 or records that are maintained by the physician and that relate to the  
39 physician's medical practice or medically related activities pursuant to  
40 section 32-1855.01.

41 ~~31.~~ 30. Signing a blank, undated or predated prescription form.

42 ~~32.~~ 31. Obtaining a fee by fraud, deceit or misrepresentation.

43 ~~33.~~ ~~falsely claiming attendance at continuing medical education~~  
44 ~~programs to meet license renewal requirements.~~

1       ~~34.~~ 32. Failing to report to the board an osteopathic physician and  
2 surgeon who is or may be guilty of unprofessional conduct or is or may be  
3 mentally or physically unable safely to engage in the practice of medicine.

4       ~~35.~~ 33. Referring a patient to a diagnostic or treatment facility or  
5 prescribing goods and services without disclosing that the physician has a  
6 direct pecuniary interest in the facility, goods or services to which the  
7 patient has been referred or prescribed. This paragraph does not apply to  
8 a referral by one physician to another physician within a group of physicians  
9 practicing together.

10       ~~36.~~ 34. Lack of or inappropriate direction, collaboration or  
11 supervision of a licensed, certified or registered health care provider or  
12 office personnel employed by or assigned to the physician in the medical care  
13 of patients.

14       ~~37.~~ 35. Violating a federal law, a state law or a rule applicable to  
15 the practice of medicine.

16       ~~38.~~ 36. Prescribing or dispensing controlled substances or  
17 prescription-only medications without ESTABLISHING AND maintaining adequate  
18 and appropriate patient records.

19       ~~39.~~ 37. Failing to dispense drugs and devices in compliance with  
20 article 4 of this chapter.

21       ~~40.~~ 38. Any conduct or practice that endangers a patient's or the  
22 public's health or may reasonably be expected to do so.

23       ~~41.~~ 39. Any conduct or practice that impairs the licensee's ability  
24 to safely and skillfully practice medicine or that may reasonably be expected  
25 to do so.

26       ~~42.~~ 40. With the exception of heavy metal poisoning, using chelation  
27 therapy in the treatment of arteriosclerosis or as any other form of therapy  
28 without adequate informed patient consent and without conforming to generally  
29 accepted experimental criteria, including protocols, detailed records,  
30 periodic analysis of results and periodic review by a medical peer review  
31 committee.

32       ~~43.~~ 41. Prescribing, dispensing or administering anabolic-androgenic  
33 steroids to a person for other than therapeutic purposes.

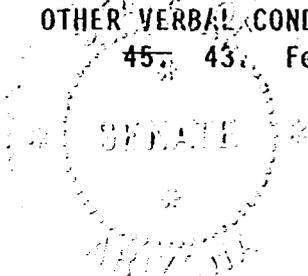
34       ~~44. Sexual intimacies with a patient.~~

35       42. ENGAGING IN SEXUAL CONDUCT WITH A CURRENT PATIENT OR WITH A FORMER  
36 PATIENT WITHIN SIX MONTHS AFTER THE LAST MEDICAL CONSULTATION UNLESS THE  
37 PATIENT WAS THE LICENSEE'S SPOUSE AT THE TIME OF THE CONTACT OR, IMMEDIATELY  
38 PRECEDING THE PHYSICIAN-PATIENT RELATIONSHIP, WAS IN A DATING OR ENGAGEMENT  
39 RELATIONSHIP WITH THE LICENSEE. FOR THE PURPOSES OF THIS PARAGRAPH, "SEXUAL  
40 CONDUCT" INCLUDES:

41       (a) ENGAGING IN OR SOLICITING SEXUAL RELATIONSHIPS, WHETHER CONSENSUAL  
42 OR NONCONSENSUAL.

43       (b) MAKING SEXUAL ADVANCES, REQUESTING SEXUAL FAVORS OR ENGAGING IN ANY  
44 OTHER VERBAL CONDUCT OR PHYSICAL CONDUCT OF A SEXUAL NATURE.

45       ~~45.~~ 43. Fetal experiments conducted in violation of section 36-2302.



1       ~~46.~~ 44. Conduct that the board determines constitutes gross  
2 negligence, repeated negligence or negligence that results in harm or death  
3 of a patient.

4       ~~47.~~ 45. Conduct in the practice of medicine which evidences moral  
5 unfitness to practice medicine.

6       ~~48. Wilfully harassing, abusing or intimidating a patient either~~  
7 ~~physically or verbally.~~

8       ~~49. Failing to furnish legally requested information to the board or~~  
9 ~~its investigators in a timely manner.~~

10       46. ENGAGING IN DISRUPTIVE OR ABUSIVE BEHAVIOR IN A PROFESSIONAL  
11 SETTING.

12       ~~50.~~ 47. Failing to disclose to a patient that the licensee has a  
13 direct financial interest in a prescribed treatment, good or service if the  
14 treatment, good or service is available on a competitive basis. This  
15 paragraph does not apply to a referral by one licensee to another licensee  
16 within a group of licensees who practice together. A licensee meets the  
17 disclosure requirements of this paragraph if all of the following are true:

18       (a) The licensee makes the disclosure on a form prescribed by the  
19 board.

20       (b) The patient or the patient's guardian or parent acknowledges by  
21 signing the form that the licensee has disclosed the licensee's direct  
22 financial interest.

23       ~~51.~~ 48. Prescribing, dispensing or furnishing a prescription  
24 medication or a prescription-only device to a person if the licensee has not  
25 conducted a physical examination of that person or has not previously  
26 established a physician-patient relationship. This paragraph does not apply  
27 to emergencies.

28       ~~52. Failing to inform the board in writing within ten days after any~~  
29 ~~change of the licensee's address of record.~~

30       ~~53.~~ 49. If a licensee provides medical care by computer, failing to  
31 disclose the licensee's license number and the board's address and telephone  
32 number.

33       Sec. 8. Section 32-1855, Arizona Revised Statutes, is amended to read:

34       32-1855. Disciplinary action; duty to report; hearing; notice;  
35                   independent medical examinations; surrender of  
36                   license

37       A. The board on its own motion may investigate any information that  
38 appears to show that an osteopathic physician and surgeon is or may be guilty  
39 of unprofessional conduct or is or may be mentally or physically unable  
40 safely to engage in the practice of medicine. Any osteopathic physician or  
41 surgeon or the Arizona osteopathic medical association or any health care  
42 institution as defined in section 36-401 shall, and any other person may,  
43 report to the board any information such physician or surgeon, association,  
44 health care institution or other person may have that appears to show that  
45 an osteopathic physician and surgeon is or may be guilty of unprofessional

1 conduct or is or may be mentally or physically unable safely to engage in the  
2 practice of medicine. The board shall notify the doctor about whom  
3 information has been received as to the content of the information as soon  
4 as reasonable after receiving the information. Any person who reports or  
5 provides information to the board in good faith is not subject to civil  
6 damages as a result of that action. If requested the board shall not  
7 disclose the informant's name unless it is essential to the disciplinary  
8 proceedings conducted pursuant to this section. It is an act of  
9 unprofessional conduct for any osteopathic physician or surgeon to fail to  
10 report as required by this section. The board shall report any health care  
11 institution that fails to report as required by this section to that  
12 institution's licensing agency. A person who reports information in good  
13 faith pursuant to this subsection is not subject to civil liability.

14 B. The board may require a physician under investigation pursuant to  
15 subsection A of this section to be interviewed by the board or its  
16 representatives. The board or the executive director may require a licensee  
17 who is under investigation pursuant to subsection A of this section to  
18 undergo at the licensee's expense any combination of medical, physical or  
19 mental examinations the board finds necessary to determine the physician's  
20 competence.

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

31 D. If, after completing its investigation, the board finds that the  
32 information provided pursuant to this section is not of sufficient  
33 seriousness to merit direct action against the physician's license, it may  
34 take either of ANY COMBINATION OF the following actions:

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

37 2. File a letter of concern.

38 3. IN ADDITION TO THE REQUIREMENTS OF SECTION 32-1825, REQUIRE  
39 CONTINUING MEDICAL EDUCATION ON SUBJECTS AND WITHIN A TIME PERIOD DETERMINED  
40 BY THE BOARD.

41 E. If, in the opinion of the board, it appears information provided  
42 pursuant to this section is or may be true, the board may request an  
43 investigative hearing with the physician concerned. At an investigative  
44 hearing the board may receive and consider sworn statements of persons who  
45 may be called as witnesses in a formal hearing and other pertinent documents.

1 Legal counsel may be present and participate in the meeting. If the  
2 physician refuses the request or if the physician accepts the request and the  
3 results of the interview INVESTIGATIVE HEARING indicate suspension OF MORE  
4 THAN TWELVE MONTHS or revocation of the license may be in order, a complaint  
5 shall be issued and a ~~format~~ AN ADMINISTRATIVE hearing shall be held pursuant  
6 to title 41, chapter 6, article 10. If, after the investigative hearing and  
7 a mental, physical or medical competence examination as the board deems  
8 necessary, the board finds the information provided pursuant to this section  
9 to be true but not of sufficient seriousness to merit suspension or  
10 revocation of the license, it may take any of the following actions:

11 1. Dismiss if, in the opinion of the board, the information is without  
12 merit.

13 2. File a letter of concern.

14 3. IN ADDITION TO THE REQUIREMENTS OF SECTION 32-1825, REQUIRE  
15 CONTINUING MEDICAL EDUCATION ON SUBJECTS AND WITHIN A TIME PERIOD DETERMINED  
16 BY THE BOARD.

17 ~~3.~~ 4. Issue a decree of censure, which constitutes an official action  
18 against a physician's license.

19 ~~4.~~ 5. Fix a period and terms of probation best adapted to protect the  
20 public health and safety and rehabilitate or educate the physician concerned.  
21 Any costs incidental to the terms of probation are at the physician's own  
22 expense. ~~Probation may include temporary suspension for not more than twelve  
23 months or restriction of the physician's license to practice osteopathic  
24 medicine and surgery. Failure to comply with any probation is cause for  
25 filing a summons, complaint and notice of hearing pursuant to subsection F  
26 of this section based on the information considered by the board at the  
27 informal interview and any other acts or conduct alleged to be in violation  
28 of this chapter or rules adopted pursuant to this chapter.~~

29 6. RESTRICT OR LIMIT THE PHYSICIAN'S PRACTICE IN A MANNER AND FOR A  
30 TIME DETERMINED BY THE BOARD.

31 7. SUSPEND THE PHYSICIAN'S LICENSE FOR NOT MORE THAN TWELVE MONTHS.

32 ~~5.~~ 8. Impose a civil penalty of not to exceed five hundred dollars  
33 for each violation of this chapter.

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

41 G. If the physician wishes to be present at the INVESTIGATIVE OR  
42 ADMINISTRATIVE hearing in person or by representation, or both, the physician  
43 shall file with the board an answer to the charges in the complaint. The  
44 answer shall be in writing, verified under oath and filed within twenty days  
45 after service of the summons and complaint.

1 H. A physician who complies with subsection G of this section may be  
2 present at the hearing in person with counsel and witnesses.

3 I. ~~Any osteopathic~~ A physician who, after ~~a~~ AN INVESTIGATIVE OR  
4 ADMINISTRATIVE hearing, is found to be guilty of unprofessional conduct or  
5 is found to be mentally or physically unable safely to engage in the practice  
6 of osteopathic medicine is subject to any combination of censure, probation,  
7 suspension of license, revocation of license, an order to return patient  
8 fees, imposition of hearing costs, imposition of a civil penalty of not to  
9 exceed five hundred dollars for each violation for such period of time, or  
10 permanently, and under conditions the board deems appropriate for the  
11 protection of the public health and safety and just in the  
12 circumstances. The board may charge the costs of ~~a format~~ AN INVESTIGATIVE  
13 OR ADMINISTRATIVE hearing to the licensee if pursuant to that hearing the  
14 board determines that the licensee violated this chapter or board rules.

15 J. If the board acts to modify ~~any osteopathic~~ A physician's  
16 prescription writing privileges, it shall immediately notify the state board  
17 of pharmacy and the federal drug enforcement administration in the United  
18 States department of justice of the modification.

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

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

24 M. L. Notice of a complaint and ADMINISTRATIVE hearing is effective  
25 when a true copy of the notice is sent by certified mail to the licensee's  
26 last known address of record in the board's files and is complete on the date  
27 of its deposit in the mail. The board shall hold ~~a format~~ AN ADMINISTRATIVE  
28 hearing within one hundred twenty days after that date.

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

32 Sec. 9. Repeal

33 Section 32-1855.02, Arizona Revised Statutes, is repealed.

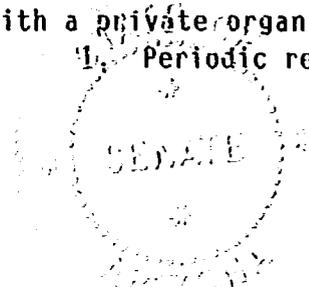
34 Sec. 10. Section 32-1861, Arizona Revised Statutes, is amended to  
35 read:

36 32-1861. Substance abuse treatment and rehabilitation program;  
37 private contract; funding

38 A. The board may establish a program for the treatment and  
39 rehabilitation of licensees who are impaired by substance abuse. This  
40 program may include education, intervention, therapeutic treatment and  
41 posttreatment monitoring and support.

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

- 45 1. Periodic reports to the board regarding treatment program activity.



- 1           2. Release to the board on demand of all treatment records.
- 2           3. Quarterly reports to the board regarding each physician's diagnosis
- 3 and prognosis and recommendations for continuing care, treatment and
- 4 supervision.
- 5           4. Immediate reporting to the board of the name of an impaired
- 6 physician who the treating organization believes to be a danger to the public
- 7 or himself INCAPABLE OF SAFELY PRACTICING MEDICINE.
- 8           ~~5. Reports to the board, as soon as possible, of the name of a~~
- 9 ~~physician who refuses to submit to treatment or whose impairment is not~~
- 10 ~~substantially alleviated through treatment.~~
- 11           C. The board may allocate an amount of not more than twenty dollars
- 12 from each fee it collects from the annual renewal of licenses pursuant to
- 13 section 32-1826 for the administration of the program established by this
- 14 section.
- 15           ~~D. An impaired licensee shall comply with a board order regarding the~~
- 16 ~~licensee's participation in a substance abuse treatment and rehabilitation~~
- 17 ~~program. A licensee who refuses to comply with a stipulated order is subject~~
- 18 ~~to disciplinary action by the board.~~

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.



Passed the House March 15, 2004

Passed the Senate April 13, 2004

by the following vote: 58 Ayes,

by the following vote: 30 Ayes,

0 Nays, 2 Not Voting

0 Nays, 0 Not Voting

Jake Elabe  
Speaker of the House

Lu Plunett  
President of the Senate

Norman L. Moore  
Chief Clerk of the House

Charmine Bellington  
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of~~

~~\_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Governor of Arizona~~

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary of State~~

H.B. 2344

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 19, 2004,

by the following vote: 52 Ayes,

3 Nays, 5 Not Voting

Jake Flake  
Speaker of the House  
Speman L. Moore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
19<sup>th</sup> day of April, 2004,

at 2:30 o'clock P. M.

Jennifer Upbarra  
Secretary to the Governor

Approved this 23 day of

April, 2004,

at 2<sup>00</sup> o'clock P. M.

J. R. Nagel  
Governor of Arizona

H.B. 2344

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 23 day of April, 2004,

at 3:05 o'clock P. M.

Janice K. Brewer  
Secretary of State