Senate Engrossed House Bill

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

CHAPTER 264

HOUSE BILL 2025

AN ACT

AMENDING SECTIONS 32-1401, 32-1405 AND 32-1425, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1425.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1426 AND 32-1427, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1428, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 13, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-1428; AMENDING SECTIONS 32-1429, 32-1430, 32-1431, 32-1436, 32-1451 AND 32-1452, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 13, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1452.01; AMENDING SECTION 32-2501, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA MEDICAL BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-1401, Arizona Revised Statutes, is amended to
3 read:
4 32-1401. Definitions
5 In this chapter, unless the context otherwise requires:
6 1. "Active license" means a valid and existing license to practice
7 medicine.
8 2. "Adequate records" means legible medical records containing, at a
9 minimum, sufficient information to identify the patient, support the
10 diagnosis, justify the treatment, accurately document the results, indicate
11 advice and cautionary warnings provided to the patient and provide sufficient
12 information for another practitioner to assume continuity of the patient's
13 care at any point in the course of treatment.
14 3. "Advisory letter" means a nondisciplinary letter to notify a
15 licensee that either:
16 (a) While there is insufficient evidence to support disciplinary
17 action the board believes that continuation of the activities that led to the
18 investigation may result in further board action against the licensee.
19 (b) The violation is a minor or technical violation that is not of
20 sufficient merit to warrant disciplinary action.
21 (c) While the licensee has demonstrated substantial compliance through
22 rehabilitation or remediation that has mitigated the need for disciplinary
23 action, the board believes that repetition of the activities that led to the
24 investigation may result in further board action against the licensee.
25 4. "Approved hospital internship, residency or clinical fellowship
26 program" means a program at a hospital that at the time the training occurred
27 was legally incorporated and that had a program that was approved for
28 internship, fellowship or residency training by the accreditation council for
29 graduate medical education, the association of American medical colleges, the
30 royal college of physicians and surgeons of Canada or any similar body in the
31 United States or Canada approved by the board whose function is that of
32 approving hospitals for internship, fellowship or residency training.
33 5. "Approved school of medicine" means any school or college offering
34 a course of study that, on successful completion, results in the degree of
35 doctor of medicine and whose course of study has been approved or accredited
36 by an educational or professional association, recognized by the board,
37 including the association of American medical colleges, the association of
38 Canadian medical colleges or the American medical association.
39 6. "Board" means the Arizona medical board.
40 7. "Completed application" means that the applicant has supplied all
41 required fees, information and correspondence requested by the board on forms
42 and in a manner acceptable to the board.
43 8. "Direct supervision" means that a physician, physician assistant
44 licensed pursuant to chapter 25 of this title or nurse practitioner certified
45 pursuant to chapter 15 of this title is within the same room or office suite

as the medical assistant in order to be available for consultation regarding those tasks the medical assistant performs pursuant to section 32-1456.

9. "Dispense" means the delivery by a doctor of medicine of a prescription drug or device to a patient, except for samples packaged for individual use by licensed manufacturers or repackagers of drugs, and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.

10. "Doctor of medicine" means a natural person holding a license, registration or permit to practice medicine pursuant to this chapter.

11. "Full-time faculty member" means a physician employed full time as a faculty member while holding the academic position of assistant professor or a higher position at an approved school of medicine.

12. "Health care institution" means any facility as defined in section 36-401, any person authorized to transact disability insurance, as defined in title 20, chapter 6, article 4 or 5, any person who is issued a certificate of authority pursuant to title 20, chapter 4, article 9 or any other partnership, association or corporation that provides health care to consumers.

13. "Immediate family" means the spouse, natural or adopted children, father, mother, brothers and sisters of the doctor and the natural or adopted children, father, mother, brothers and sisters of the doctor's spouse.

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

15. "Limit" means TAKING a nondisciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be mentally or physically unable to safely engage in the practice of medicine.

16. "Medical assistant" means an unlicensed person who meets the requirements of section 32-1456, has completed an education program approved by the board, assists in a medical practice under the supervision of a doctor of medicine, physician assistant or nurse practitioner and performs delegated procedures commensurate with the assistant's education and training but does not diagnose, interpret, design or modify established treatment programs or perform any functions that would violate any statute applicable to the practice of medicine.

17. "Medical peer review" means:

(a) The participation by a doctor of medicine in the review and evaluation of the medical management of a patient and the use of resources for patient care.

(b) Activities relating to a health care institution's decision to grant or continue privileges to practice at that institution.

18. "Medically incompetent" means a person who the board determines is incompetent based on a variety of factors including:

(a) A lack of sufficient medical knowledge or skills, or both, to a degree likely to endanger the health of patients.

(b) When considered with other indications of medical incompetence, failing to obtain a scaled score of at least seventy-five per cent on the written special purpose licensing examination ~~administered by the board~~.

19. "Medicine" means allopathic medicine as practiced by the recipient of a degree of doctor of medicine.

20. "OFFICE BASED SURGERY" MEANS A MEDICAL PROCEDURE CONDUCTED IN A PHYSICIAN'S OFFICE OR OTHER OUTPATIENT SETTING THAT IS NOT PART OF A LICENSED HOSPITAL OR LICENSED AMBULATORY SURGICAL CENTER.

~~20.~~ 21. "Physician" means a doctor of medicine licensed pursuant to this chapter.

~~21.~~ 22. "Practice of medicine" means the diagnosis, the treatment or the correction of or the attempt or the holding of oneself out as being able to diagnose, treat or correct any and all human diseases, injuries, ailments, infirmities, deformities, physical or mental, real or imaginary, by any means, methods, devices or instrumentalities, except as the same may be among the acts or persons not affected by this chapter. The practice of medicine includes the practice of medicine alone or the practice of surgery alone, or both.

~~22.~~ 23. "Restrict" means TAKING a disciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be medically incompetent or guilty of unprofessional conduct.

~~23.~~ 24. "Special purpose licensing examination" means an examination developed by the national board of medical examiners on behalf of the federation of state medical boards for use by state licensing boards to test the basic medical competence of physicians who are applying for licensure and who have been in practice for a considerable period of time in another jurisdiction and to determine the competence of a physician under investigation by a state licensing board.

~~24.~~ 25. "Teaching hospital's accredited graduate medical education program" means that the hospital is incorporated and has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American medical association, the association of American medical colleges, the royal college of physicians and surgeons of Canada or a similar body in the United States or Canada approved by the board whose function is that of approving hospitals for internship, fellowship or residency training.

~~25.~~ 26. "Teaching license" means a valid license to practice medicine as a full-time faculty member of an approved school of medicine or a teaching hospital's accredited graduate medical education program.

~~26.~~ 27. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

1 (a) Violating any federal or state laws, ~~or~~ rules ~~and~~ OR regulations
2 applicable to the practice of medicine.
3 (b) Intentionally disclosing a professional secret or intentionally
4 disclosing a privileged communication except as either act may otherwise be
5 required by law.
6 (c) False, fraudulent, deceptive or misleading advertising by a doctor
7 of medicine or the doctor's staff, employer or representative.
8 (d) Committing a felony, whether or not involving moral turpitude, or
9 a misdemeanor involving moral turpitude. In either case, conviction by any
10 court of competent jurisdiction or a plea of no contest is conclusive
11 evidence of the commission.
12 (e) Failing or refusing to maintain adequate records on a patient.
13 (f) Habitual intemperance in the use of alcohol or habitual substance
14 abuse.
15 (g) Using controlled substances except if prescribed by another
16 physician for use during a prescribed course of treatment.
17 (h) Prescribing or dispensing controlled substances to members of the
18 physician's immediate family.
19 (i) Prescribing, dispensing or administering schedule II controlled
20 substances as defined in section 36-2513 including amphetamines and similar
21 schedule II sympathomimetic drugs in the treatment of exogenous obesity for
22 a period in excess of thirty days in any one year, or the non-therapeutic use
23 of injectable amphetamines.
24 (j) Prescribing, dispensing or administering any controlled substance
25 or prescription-only drug for other than accepted therapeutic purposes.
26 (k) Signing a blank, undated or predated prescription form.
27 (l) Conduct that the board determines is gross malpractice, repeated
28 malpractice or any malpractice resulting in the death of a patient.
29 (m) Representing that a manifestly incurable disease or infirmity can
30 be permanently cured, or that any disease, ailment or infirmity can be cured
31 by a secret method, procedure, treatment, medicine or device, if such is not
32 the fact.
33 (n) Refusing to divulge to the board on demand the means, method,
34 procedure, modality of treatment or medicine used in the treatment of a
35 disease, injury, ailment or infirmity.
36 (o) Action that is taken against a doctor of medicine by another
37 licensing or regulatory jurisdiction due to that doctor's mental or physical
38 inability to engage safely in the practice of medicine, the doctor's medical
39 incompetence or for unprofessional conduct as defined by that jurisdiction
40 and that corresponds directly or indirectly to an act of unprofessional
41 conduct prescribed by this paragraph. The action taken may include refusing,
42 denying, revoking or suspending a license by that jurisdiction or a
43 surrendering of a license to that jurisdiction, otherwise limiting,
44 restricting or monitoring a licensee by that jurisdiction or placing a
45 licensee on probation by that jurisdiction.

(p) Sanctions imposed by an agency of the federal government, including restricting, suspending, limiting or removing a person from the practice of medicine or restricting that person's ability to obtain financial remuneration.

(q) Any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.

(r) Violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under ~~the provisions of~~ this chapter.

(s) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision of this chapter.

(t) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or if applying for privileges or renewing an application for privileges at a health care institution.

(u) Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement that has the same effect.

(v) Obtaining a fee by fraud, deceit or misrepresentation.

(w) Charging or collecting a clearly excessive fee. In determining if a fee is clearly excessive, the board shall consider the fee or range of fees customarily charged in the state for similar services in light of modifying factors such as the time required, the complexity of the service and the skill requisite to perform the service properly. This subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that has been entered into before the provision of service.

(x) Fetal experiments conducted in violation of section 36-2302.

(y) The use of experimental forms of diagnosis and treatment without adequate informed patient consent, and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee as approved by the federal food and drug administration or its successor agency.

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

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

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

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

(aa) Procuring or attempting to procure a license to practice medicine or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

(bb) Representing or holding oneself out as being a medical specialist when such is not the fact.

(cc) Maintaining a professional connection with or lending one's name to enhance or continue the activities of an illegal practitioner of medicine.

(dd) Failing to furnish information in a timely manner to the board or the board's investigators or representatives if legally requested by the board.

(ee) Failing to allow properly authorized board personnel on demand to examine and have access to documents, reports and records maintained by the physician that relate to the physician's medical practice or medically related activities.

(ff) Knowingly failing to disclose to a patient on a form that is prescribed by the board and that is dated and signed by the patient or guardian acknowledging that the patient or guardian has read and understands that the doctor has a direct financial interest in a separate diagnostic or treatment agency or in nonroutine goods or services that the patient is being prescribed and if the prescribed treatment, goods or services are available on a competitive basis. This subdivision does not apply to a referral by one doctor of medicine to another doctor of medicine within a group of doctors of medicine practicing together.

(gg) Using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy, with the exception of treatment of heavy metal poisoning, without:

(i) Adequate informed patient consent.

(ii) Conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.

(iii) Approval by the federal food and drug administration or its successor agency.

(hh) Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.

(ii) Lack of or inappropriate direction, collaboration or direct supervision of a medical assistant or a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician.

(jj) Knowingly making a false or misleading statement to the board or on a form required by the board or in a written correspondence, including attachments, with the board.

1 (kk) Failing to dispense drugs and devices in compliance with article
2 6 of this chapter.
3 (ll) Conduct that the board determines is gross negligence, repeated
4 negligence or negligence resulting in harm to or the death of a patient.
5 (mm) The representation by a doctor of medicine or the doctor's staff,
6 employer or representative that the doctor is boarded or board certified if
7 this is not true or the standing is not current or without supplying the full
8 name of the specific agency, organization or entity granting this standing.
9 (nn) Refusing to submit to a body fluid examination OR ANY OTHER
10 EXAMINATION KNOWN TO DETECT THE PRESENCE OF ALCOHOL OR OTHER DRUGS as
11 required by the board pursuant to section 32-1452 or pursuant to a board
12 investigation into a doctor of medicine's alleged substance abuse.
13 (oo) Failing to report in writing to the Arizona medical board or the
14 Arizona regulatory board of physician assistants any evidence that a doctor
15 of medicine or a physician assistant is or may be medically incompetent,
16 guilty of unprofessional conduct or mentally or physically unable to safely
17 practice medicine or to perform as a physician assistant.
18 (pp) The failure of a physician who is the chief executive officer,
19 the medical director or the medical chief of staff of a health care
20 institution to report in writing to the board that the hospital privileges
21 of a doctor of medicine have been denied, revoked, suspended, supervised or
22 limited because of actions by the doctor that appear to show that the doctor
23 is or may be medically incompetent, is or may be guilty of unprofessional
24 conduct or is or may be unable to engage safely in the practice of medicine.
25 (qq) Representing oneself to be a current member of the board, its
26 staff or a board medical consultant if this is not true.
27 (rr) Failing to make patient medical records in the physician's
28 possession promptly available to a physician assistant, a nurse practitioner,
29 a person licensed pursuant to this chapter or a podiatrist, chiropractor,
30 naturopathic physician, osteopathic physician or homeopathic physician
31 licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper
32 authorization to do so from the patient, a minor patient's parent, the
33 patient's legal guardian or the patient's authorized representative or
34 failing to comply with title 12, chapter 13, article 7.1.
35 (ss) Prescribing, dispensing or furnishing a prescription medication
36 or a prescription-only device as defined in section 32-1901 to a person
37 unless the licensee first conducts a physical examination of that person or
38 has previously established a doctor-patient relationship. This subdivision
39 does not apply to:
40 (i) A physician who provides temporary patient supervision on behalf
41 of the patient's regular treating licensed health care professional.
42 (ii) Emergency medical situations as defined in section 41-1831.
43 (iii) Prescriptions written to prepare a patient for a medical
44 examination.

(iv) Prescriptions written or prescription medications issued for use by a county or tribal public health department for immunization programs, emergency treatment, in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For the purposes of this item, "bioterrorism" has the same meaning ~~as~~ prescribed in section 36-781.

(tt) PERFORMING OFFICE BASED SURGERY USING INTRAVENOUS SEDATION IN VIOLATION OF BOARD RULES.

(uu) PRACTICING MEDICINE UNDER A FALSE OR ASSUMED NAME IN THIS STATE.

Sec. 2. Section 32-1405, Arizona Revised Statutes, is amended to read:

32-1405. Executive director; compensation; duties; appeal to the board

A. The board shall appoint an executive director who shall serve at the pleasure of the board. The executive director shall not be a board member, except that the board may authorize the executive director to represent the board and to vote on behalf of the board at meetings of the federation of state medical boards of the United States.

B. The executive director is eligible to receive compensation set by the board within the range determined under section 38-611.

C. The executive director or the executive director's designee shall:

1. Employ, evaluate, dismiss, discipline and direct professional, clerical, technical, investigative and administrative personnel necessary to carry on the work of the board.

2. Set compensation for board employees within the range determined under section 38-611.

3. As directed by the board, prepare and submit recommendations for amendments to the medical practice act for consideration by the legislature.

4. Appoint and employ medical consultants and agents necessary to conduct investigations, gather information and perform those duties the executive director determines are necessary and appropriate to enforce this chapter.

5. Issue licenses, registrations and permits to applicants who meet the requirements of this chapter.

6. Manage the board's offices.

7. Prepare minutes, records, reports, registries, directories, books and newsletters and record all board transactions and orders.

8. Collect all monies due and payable to the board.

9. Pay all bills for authorized expenditures of the board and its staff.

10. Prepare an annual budget.

11. Submit a copy of the budget each year to the governor, the speaker of the house of representatives and the president of the senate.

12. Initiate an investigation if evidence appears to demonstrate that a physician may be engaged in unprofessional conduct or may be medically incompetent or mentally or physically unable to safely practice medicine.

1 13. Issue subpoenas if necessary to compel the attendance and testimony
2 of witnesses and the production of books, records, documents and other
3 evidence.
4 14. Provide assistance to the attorney general in preparing and sign
5 and execute disciplinary orders, rehabilitative orders and notices of
6 hearings as directed by the board.
7 15. Enter into contracts for goods and services pursuant to title 41,
8 chapter 23 that are necessary to carry out board policies and directives.
9 16. Execute board directives.
10 17. Manage and supervise the operation of the ARIZONA regulatory board
11 of physician assistants.
12 18. Issue licenses to physician assistant applicants who meet the
13 requirements of chapter 25 of this title.
14 19. Represent the board with the federal government, other states or
15 jurisdictions of the United States, this state, political subdivisions of
16 this state, the news media and the public.
17 20. On behalf of the ARIZONA MEDICAL board, enter into stipulated
18 agreements with persons under the jurisdiction of either the ARIZONA MEDICAL
19 board or the ARIZONA regulatory board of physician assistants for the
20 treatment, rehabilitation and monitoring of chemical substance abuse or
21 misuse.
22 21. Review all complaints filed pursuant to section 32-1451. If
23 delegated by the board, the executive director may also dismiss a complaint
24 if the complaint is without merit. THE EXECUTIVE DIRECTOR SHALL NOT DISMISS
25 A COMPLAINT IF A COURT HAS ENTERED A MEDICAL MALPRACTICE JUDGMENT AGAINST A
26 PHYSICIAN. THE EXECUTIVE DIRECTOR SHALL SUBMIT A REPORT OF THE CASES
27 DISMISSED WITH THE COMPLAINT NUMBER, THE NAME OF THE PHYSICIAN AND THE
28 INVESTIGATION TIME LINE TO THE BOARD FOR REVIEW AT ITS REGULAR BOARD
29 MEETINGS.
30 22. If delegated by the board, directly refer cases to a formal
31 hearing.
32 23. If delegated by the board, close cases resolved through mediation.
33 24. If delegated by the board, issue advisory letters.
34 25. If delegated by the board, enter into a consent agreement if there
35 is evidence of danger to the public health and safety.
36 26. If delegated by the board, grant uncontested requests for inactive
37 status and cancellation of a license pursuant to sections 32-1431 and
38 32-1433.
39 27. If delegated by the board, refer cases to the board for a formal
40 interview.
41 28. Perform all other administrative, licensing or regulatory duties
42 required by the board.
43 D. Medical consultants and agents appointed pursuant to subsection C,
44 paragraph 4 of this section are eligible to receive compensation determined

by the executive director in an amount not to exceed two hundred dollars for each day of service.

E. A person who is aggrieved by an action taken by the executive director may request the board to review that action by filing with the board a written request within thirty days after that person is notified of the executive director's action by personal delivery or, ~~certified mail~~ IF THE NOTIFICATION IS MAILED to that person's last known residence or place of business, WITHIN THIRTY-FIVE DAYS AFTER THE DATE ON THE NOTIFICATION. At the next regular board meeting, the board shall review the executive director's action. On review, the board shall approve, modify or reject the executive director's action.

Sec. 3. Section 32-1425, Arizona Revised Statutes, is amended to read:

32-1425. Initial licensure

A. An applicant who meets the applicable requirements provided in section 32-1422, 32-1423 or 32-1424, has passed steps one and two of the United States medical licensing examination or one of the examination combinations prescribed in section 32-1426, subsection ~~B~~ A, paragraph ~~4~~ 6, subdivision (c), items (i) and (ii), has paid the fees required by this chapter and has filed a completed application found by the board to be true and correct is eligible for licensure as a doctor of medicine upon successful passage of step three of the United States medical licensing examination ~~administered by the board~~ with a scaled score of at least seventy-five if the applicant has passed all three steps within a seven year period ~~after first sitting for step one~~.

B. An applicant for licensure applying pursuant to section 32-1422, 32-1423 or 32-1424 may take the examination only after successfully completing six months of a board approved hospital internship, residency or clinical fellowship or fifth pathway program or ~~has served~~ SERVING as a full-time assistant professor or in a higher position in a board approved school of medicine in this state.

~~C. Step three of the examination shall be administered semiannually and is a two day examination.~~

~~D. An applicant who fails step three of the examination administered pursuant to this section may retake the examination at any subsequent scheduled examination on payment of all applicable fees prescribed in this chapter. An applicant who fails to pass step three within a seven year period after first sitting for step one shall not retake step three until the applicant has successfully retaken and passed steps one and two. A second seven year cycle goes into effect from the date that the applicant retakes step one of the examination.~~

~~E. An applicant who has complied with all the requirements of this article and is eligible to take the examination shall be given at least twenty days' written notice by the board of the time and place at which the examination shall be given.~~

~~F.~~ C. The board shall not grant a license until the applicant meets the requirements for licensure pursuant to this chapter.

Sec. 4. Repeal

Section 32-1425.01, Arizona Revised Statutes, is repealed.

Sec. 5. Section 32-1426, Arizona Revised Statutes, is amended to read:

32-1426. Licensure by endorsement

A. An applicant WHO IS LICENSED IN ANOTHER JURISDICTION AND who meets the applicable requirements prescribed in section 32-1422, 32-1423 or 32-1424, has paid the fees required by this chapter and has filed a completed application found by the board to be true and correct is eligible to be licensed to engage in the practice of medicine in this state through endorsement under ~~either~~ ANY one of the following conditions:

1. The applicant is certified by the national board of medical examiners OR ITS SUCCESSOR ENTITY as having successfully passed all three parts of the ~~examination of the national board of medical examiners~~ UNITED STATES MEDICAL LICENSING EXAMINATION OR ITS SUCCESSOR EXAMINATION.

2. The applicant has successfully passed a written examination THAT THE BOARD DETERMINES IS EQUIVALENT TO THE UNITED STATES MEDICAL LICENSING EXAMINATION AND THAT IS administered by any state, territory or district of the United States, a province of Canada or the medical council of Canada.

~~B. An applicant seeking licensure based on any jurisdiction's examination shall establish to the satisfaction of the board that the examination is substantially equivalent to the examination required by the board and that any of the following has been met:~~

~~1.~~ 3. The applicant successfully completed the three part written federation of state medical boards licensing examination administered by any jurisdiction before January 1, 1985 and obtained a weighted grade average of at least seventy-five on the complete examination. Successful completion of the examination shall be achieved in one sitting.

~~2.~~ 4. The applicant successfully completed the two component federation licensing examination administered after December 1, 1984 and obtained a scaled score of at least seventy-five on each component within a five year period.

~~3.~~ 5. The applicant's score on the United States medical licensing examination was equal to the score required by this state for licensure ~~by examination~~ pursuant to section 32-1425 ~~and the applicant passed the three steps of the examination within a seven year period~~.

~~4.~~ 6. The applicant successfully completed one of the following combinations of examinations ~~within a seven year period, or a longer period established by the board in rules adopted pursuant to title 41, chapter 6~~:

(a) Parts one and two of the national board of medical examiners examination, administered either by the national board of medical examiners or the educational commission for foreign medical graduates, with a successful score determined by the national board of medical examiners and passed either step three of the United States medical licensing examination

or component two of the federation licensing examination with a scaled score of at least seventy-five.

(b) The federation licensing examination component one examination and the United States medical licensing step three examination with scaled scores of at least seventy-five.

(c) Each of the following:

(i) Part one of the national board of medical examiners licensing examination with a passing grade as determined by the national board of medical examiners or step one of the United States medical licensing examination with a scaled score of at least seventy-five.

(ii) Part two of the national board of medical examiners licensing examination with a passing grade as determined by the national board of medical examiners or step two of the United States medical licensing examination with a scaled score of at least seventy-five.

(iii) Part three of the national board of medical examiners licensing examination with a passing grade as determined by the national board of medical examiners or step three of the United States medical licensing examination with a scaled score of at least seventy-five or component two of the federation licensing examination with a scaled score of at least seventy-five.

~~C.~~ B. The board may require an applicant seeking licensure by endorsement based on successful passage of a written examination or combination of examinations, the most recent of which precedes by more than ten years the application for licensure by endorsement in this state, to take and pass a special purpose licensing examination to assist the board in determining the applicant's ability to safely engage in the practice of medicine. The board may also conduct a records review and physical and psychological assessments, if appropriate, and may review practice history to determine the applicant's ability to safely engage in the practice of medicine.

Sec. 6. Section 32-1427, Arizona Revised Statutes, is amended to read:

32-1427. <u>Application; hearing on deficiencies in application; interview; probationary license</u>

A. Each applicant for licensure shall submit a completed application as prescribed by the board together with the fee prescribed in this article. ~~The application shall indicate whether the application is by written examination or by endorsement.~~ The board may require the submission of any evidence, credentials and other proof necessary for it to verify and determine if the applicant meets the requirements for licensure.

B. Each application submitted pursuant to this section shall contain the oath of the applicant that:

1. All of the information contained in the application and accompanying evidence or other credentials submitted are true.

2. The credentials submitted with the application were procured without fraud or misrepresentation or any mistake of which the applicant is aware and that the applicant is the lawful holder of the credentials.

3. The applicant authorizes the release of any information from any source requested by the board necessary for initial and continued licensure in this state.

C. All applications, completed or otherwise, together with all attendant evidence, credentials and other proof submitted with the applications are the property of the board.

D. The board, promptly and in writing, shall inform an applicant of any deficiency in the application that prevents the application from being processed.

E. On request the board shall grant an applicant who disagrees with the statement of deficiency a hearing before the board at its next regular meeting if there is time at that meeting to hear the matter. The board shall not delay this hearing beyond one regularly scheduled meeting. At any hearing granted pursuant to this subsection, the burden of proof is on the applicant to demonstrate that the alleged deficiencies do not exist.

F. Applications are considered withdrawn:

1. On the applicant's written request.

2. Except for good cause shown, if the applicant does not appear for an interview with the board.

3. If the applicant does not submit within one year of notification the necessary evidence, credentials or other proof identified by the board as being deficient pursuant to subsection D of this section.

G. The board may deny a license to an applicant who does not meet the requirements of this article.

H. If an applicant does not meet the requirements of section 32-1422, subsection A, paragraph 3 the board may issue a license subject to any of the following probationary conditions:

1. Require the licensee's practice to be supervised by another physician.

2. Restrict the licensee's practice.

3. Require the licensee to continue medical or psychiatric treatment.

4. Require the licensee to participate in a specified rehabilitation program.

5. Require the licensee to abstain from alcohol and other drugs.

I. If the board offers a probationary license to an applicant pursuant to subsection H of this section, it shall notify the applicant in writing of the following:

1. The applicant's specific deficiencies.

2. The probationary period.

3. The applicant's right to reject the terms of probation.

4. If the applicant rejects the terms of probation, the applicant's right to a hearing on the board's denial of the application.

1 Sec. 7. Repeal
2 Section 32-1428, Arizona Revised Statutes, is repealed.
3 Sec. 8. Title 32, chapter 13, article 2, Arizona Revised Statutes, is
4 amended by adding section 32-1428, to read:
5 32-1428. Pro bono registration
6 THE BOARD MAY ISSUE A PRO BONO REGISTRATION TO ALLOW A DOCTOR WHO IS
7 NOT A LICENSEE TO PRACTICE IN THIS STATE FOR SIXTY DAYS EACH CALENDAR YEAR
8 IF THE DOCTOR:
9 1. HOLDS AN ACTIVE AND UNRESTRICTED LICENSE TO PRACTICE MEDICINE IN
10 A STATE, TERRITORY OR POSSESSION OF THE UNITED STATES OR AN INACTIVE LICENSE
11 PURSUANT TO SECTION 32-1431.
12 2. HAS NEVER HAD THE LICENSE REVOKED OR SUSPENDED.
13 3. IS NOT THE SUBJECT OF AN UNRESOLVED COMPLAINT.
14 4. APPLIES FOR REGISTRATION ON A YEARLY BASIS AS PRESCRIBED BY THE
15 BOARD.
16 5. PROVIDES PROOF SATISFACTORY TO THE BOARD THAT THE DOCTOR MEETS THE
17 APPLICABLE REQUIREMENTS OF SECTION 32-1422, 32-1423 OR 32-1424.
18 6. AGREES TO RENDER ALL MEDICAL SERVICES WITHOUT ACCEPTING A FEE OR
19 SALARY OR PERFORMS ONLY INITIAL OR FOLLOW-UP EXAMINATIONS AT NO COST TO THE
20 PATIENT AND THE PATIENT'S FAMILY THROUGH A CHARITABLE ORGANIZATION.
21 Sec. 9. Section 32-1429, Arizona Revised Statutes, is amended to read:
22 32-1429. Locum tenens registration
23 A. The board may issue a registration to allow a doctor of medicine
24 who is not a licensee to provide locum tenens medical services to substitute
25 for or temporarily assist a doctor of medicine who holds an active license
26 pursuant to this chapter or a doctor of osteopathy who holds an active
27 license pursuant to chapter 17 of this title under the following conditions:
28 1. The applicant holds an active license to practice medicine issued
29 by a state, district, territory or possession of the United States.
30 2. The applicant provides on forms and in a manner prescribed by the
31 board proof that the applicant meets the applicable requirements of section
32 32-1422, 32-1423 or 32-1424.
33 3. The license of the applicant from the jurisdiction in which the
34 applicant regularly practices medicine is current and unrestricted and has
35 not been revoked or suspended for any reason and there are no unresolved
36 complaints or formal charges filed against the applicant with any licensing
37 board.
38 4. The doctor of medicine or doctor of osteopathy for whom the
39 applicant for registration under this section is substituting or assisting
40 provides to the board a written request for locum tenens registration of the
41 applicant.
42 5. The applicant pays the fee prescribed under section 32-1436.
43 B. Locum tenens registration granted pursuant to this section is valid
44 for a period of one hundred eighty consecutive days. A doctor of medicine is

eligible to apply for and be granted locum tenens registration once every three years.

~~C. The board may issue a pro bono registration to allow a doctor who is not a licensee to practice in this state for sixty days each calendar year if the doctor:~~

~~1. Holds an active and unrestricted license to practice medicine in a state, territory or possession of the United States or an inactive license pursuant to section 32-1431.~~

~~2. Has never had the license revoked or suspended.~~

~~3. Is not the subject of an unresolved complaint.~~

~~4. Applies for registration on a yearly basis as prescribed by the board.~~

~~5. Provides proof satisfactory to the board that the doctor meets the applicable requirements of section 32-1422, 32-1423 or 32-1424.~~

~~6. Agrees to render all medical services without accepting a fee or salary or performs only initial or follow-up examinations at no cost to the patient and the patient's family through a charitable organization.~~

Sec. 10. Section 32-1430, Arizona Revised Statutes, is amended to read:

32-1430. License renewal; expiration

~~A. The executive director shall issue an active license to practice medicine in this state when the applicant has satisfied all of the requirements for licensure under this article and pays the licensee fee.~~

~~B.~~ A. ~~Beginning on January 1, 2001,~~ Each person holding an active license to practice medicine in this state shall renew the license every other year on or before the licensee's birthday and shall pay the fee required by this article, accompanied by a completed renewal form. A licensee who does not renew an active license as required by this subsection on or before thirty days after the licensee's birthday must also pay a penalty fee as required by this article for late renewal. A licensee's license automatically expires if the licensee does not renew an active license within four months after the licensee's birthday. A person who practices medicine in this state after that person's active license has expired is in violation of this chapter.

~~C.~~ B. A person renewing an active license to practice medicine in this state shall attach to the completed renewal form a report of disciplinary actions, restrictions or any other action placed on or against that person's license or practice by another state licensing or disciplinary board or agency of the federal government. This action may include denying a license or failing the special purpose licensing examination. The report shall include the name and address of the sanctioning agency or health care institution, the nature of the action taken and a general statement of the charges leading to the action taken.

~~D.~~ C. A person whose license has expired may reapply for a license to practice medicine as provided in this chapter.

Sec. 11. Section 32-1431, Arizona Revised Statutes, is amended to read:

32-1431. Inactive license; application; practice prohibitions

A. A person holding a current active license to practice medicine in this state may request an inactive license from the board if both of the following are true:

1. The licensee is not presently under investigation by the board.

2. The board has not commenced any disciplinary proceeding against the licensee.

B. The board may grant an inactive license and waive the renewal fees and requirements for continuing medical education specified by section 32-1434 if the licensee provides evidence to the board's satisfaction that the licensee has totally retired from the practice of medicine in this state and any state, territory and district of the United States or any foreign country and has paid all of the fees required by this chapter before the request. The board may grant pro bono registration pursuant to section ~~32-1429, subsection C~~ 32-1428 to a physician who holds an inactive license under this section.

C. During any period in which a medical doctor holds an inactive license, that person shall not engage in the practice of medicine or continue to hold or maintain a drug enforcement administration controlled substances registration certificate, except as permitted by a pro bono registration pursuant to section ~~32-1429, subsection C~~ 32-1428. Any person who engages in the practice of medicine while on inactive license status is considered to be a person who practices medicine without a license or without being exempt from licensure as provided in this chapter.

D. The board may convert an inactive license to an active license if the applicant pays the renewal fee and presents evidence satisfactory to the board that the applicant possesses the medical knowledge and is physically and mentally able to safely engage in the practice of medicine. The board may require any combination of physical examination, psychiatric or psychological evaluation or successful passage of the special purpose licensing examination or interview it finds necessary to assist it in determining the ability of a physician holding an inactive license to return to the active practice of medicine.

Sec. 12. Section 32-1436, Arizona Revised Statutes, is amended to read:

32-1436. Fees and penalty

A. The board shall by a formal vote, at its annual fall meeting, establish nonrefundable fees and penalties that do not exceed the following:

1. For processing an application for an active license, seven hundred dollars.

2. For issuance of an active license, seven hundred dollars.

3. For an application to reactivate an inactive status license, five hundred dollars.

1 ~~4. For an application for a temporary license to practice medicine,~~
2 ~~two hundred dollars.~~
3 ~~5.~~ 4. For issuance of a duplicate license, fifty dollars.
4 ~~6.~~ 5. For renewal of an active license, seven hundred dollars.
5 ~~7.~~ 6. For late renewal of an active license, an eight hundred dollar
6 penalty.
7 ~~8.~~ 7. For annual registration of an approved internship, residency,
8 clinical fellowship program or short-term residency program, fifty dollars.
9 ~~9.~~ 8. For an annual teaching license at an approved school of
10 medicine or at an approved teaching hospital's accredited graduate medical
11 education program, four hundred dollars.
12 ~~10.~~ 9. For a five day educational teaching permit at an approved
13 school of medicine or at an approved teaching hospital's accredited graduate
14 medical education program, one hundred dollars.
15 ~~11.~~ 10. For locum tenens registration, five hundred dollars.
16 ~~12.~~ 11. For the sale of those copies of the annual medical directory
17 ~~which~~ THAT are not distributed free of charge, thirty dollars.
18 ~~13.~~ 12. For the sale of the annual medical directory on CD-ROM, one
19 hundred dollars.
20 ~~14.~~ 13. For the sale of computerized tapes or diskettes not requiring
21 programming, one hundred dollars.
22 ~~15.~~ 14. For verification of a license, ten dollars.
23 ~~16.~~ 15. For a copy of the minutes to board meetings during the current
24 calendar year, twenty-five dollars for each set of minutes.
25 ~~17.~~ 16. For copying records, documents, letters, minutes, applications
26 and files, one dollar for the first three pages and twenty-five cents for
27 each additional page.
28 ~~18.~~ 17. For initial and annual registration to dispense drugs and
29 devices, two hundred dollars.
30 ~~19.~~ 18. For renewal applications that the board returns to the
31 licensee for proper completion, a fee that does not exceed the cost of
32 processing the incomplete application.
33 B. The board shall charge additional fees for services THAT ARE not
34 required to be provided by this chapter but ~~which~~ THAT the board deems
35 necessary and appropriate to carry out its intent and purpose, except that
36 ~~such~~ THESE fees shall not exceed the actual cost of providing ~~such service~~
37 THOSE SERVICES.
38 C. Notwithstanding subsection A of this section, the board may return
39 the license renewal fee on special request.
40 D. The board shall provide computerized tapes or diskettes free to the
41 management information systems office of the Arizona health care cost
42 containment system.
43 E. The fee for minutes provided pursuant to this section includes
44 postage. Annual subscription requests and fees for minutes shall be paid

1 before February 1 of each year. Subscriptions for minutes of board meetings
2 are not available for past years.
3 F. The fee for copying provided in this section includes postage.
4 Copying fees for subpoenaed records shall be as prescribed in section 12-351.
5 G. The board may collect from the drawer of a dishonored check, draft
6 order or note an amount allowed pursuant to section 44-6852.
7 Sec. 13. Section 32-1451, Arizona Revised Statutes, is amended to
8 read:
9 32-1451. Grounds for disciplinary action; duty to report;
10 immunity; proceedings; board action; notice
11 requirements
12 A. The board on its own motion may investigate any evidence that
13 appears to show that a doctor of medicine is or may be medically incompetent,
14 is or may be guilty of unprofessional conduct or is or may be mentally or
15 physically unable safely to engage in the practice of medicine. On written
16 request of a complainant, the board shall review a complaint that has been
17 administratively closed by the executive director and take any action it
18 deems appropriate. Any person may, and a doctor of medicine, the Arizona
19 medical association, a component county society of that association and any
20 health care institution shall, report to the board any information that
21 appears to show that a doctor of medicine is or may be medically incompetent,
22 is or may be guilty of unprofessional conduct or is or may be mentally or
23 physically unable safely to engage in the practice of medicine. The board
24 or the executive director shall notify the doctor as to the content of the
25 complaint as soon as reasonable. Any person or entity that reports or
26 provides information to the board in good faith is not subject to an action
27 for civil damages. If requested, the board shall not disclose the name of
28 a person who supplies information regarding a licensee's drug or alcohol
29 impairment. It is an act of unprofessional conduct for any doctor of
30 medicine to fail to report as required by this section. The board shall
31 report any health care institution that fails to report as required by this
32 section to that institution's licensing agency.
33 B. The chief executive officer, the medical director or the medical
34 chief of staff of a health care institution shall inform the board if the
35 privileges of a doctor to practice in that health care institution are
36 denied, revoked, suspended or limited because of actions by the doctor that
37 appear to show that the doctor is or may be medically incompetent, is or may
38 be guilty of unprofessional conduct or is or may be mentally or physically
39 unable to safely engage in the practice of medicine, along with a general
40 statement of the reasons, including patient chart numbers, that led the
41 health care institution to take the action. The chief executive officer, the
42 medical director or the medical chief of staff of a health care institution
43 shall inform the board if a doctor under investigation resigns or if a doctor
44 resigns in lieu of disciplinary action by the health care institution.
45 Notification shall include a general statement of the reasons for the

1 resignation, including patient chart numbers. The board shall inform all
2 appropriate health care institutions in this state as defined in section
3 36-401 and the Arizona health care cost containment system administration of
4 a resignation, denial, revocation, suspension or limitation, and the general
5 reason for that action, without divulging the name of the reporting health
6 care institution. A person who reports information in good faith pursuant
7 to this subsection is not subject to civil liability.
8 C. The board or, if delegated by the board, the executive director
9 shall require any combination of mental, physical or oral or written medical
10 competency examinations and conduct necessary investigations, including
11 investigational interviews between representatives of the board and the
12 doctor to fully inform itself with respect to any information filed with the
13 board under subsection A of this section. These examinations may include
14 biological fluid testing AND OTHER EXAMINATIONS KNOWN TO DETECT THE PRESENCE
15 OF ALCOHOL OR OTHER DRUGS. The board or, if delegated by the board, the
16 executive director may require the doctor, at the doctor's expense, to
17 undergo assessment by a board approved rehabilitative, retraining or
18 assessment program.
19 D. If the board finds, based on the information it receives under
20 subsections A and B of this section, that the public health, safety or
21 welfare imperatively requires emergency action, and incorporates a finding
22 to that effect in its order, the board may restrict a license or order a
23 summary suspension of a license pending proceedings for revocation or other
24 action. If the board takes action pursuant to this subsection it shall also
25 serve the licensee with a written notice that states the charges and that the
26 licensee is entitled to a formal hearing before the board or an
27 administrative law judge within sixty days.
28 E. If, after completing its investigation, the board finds that the
29 information provided pursuant to subsection A of this section is not of
30 sufficient seriousness to merit disciplinary action against the license of
31 the doctor, the board or a board committee may take any of the following
32 actions:
33 1. Dismiss if, in the opinion of the board, the information is
34 without merit.
35 2. File an advisory letter. The licensee may file a written response
36 with the board within thirty days after receiving the advisory letter.
37 F. If the board finds that it can take rehabilitative or disciplinary
38 action without the presence of the doctor at a formal interview it may enter
39 into a consent agreement with the doctor to limit or restrict the doctor's
40 practice or to rehabilitate the doctor in order to protect the public and
41 ensure the doctor's ability to safely engage in the practice of
42 medicine. The board may also require the doctor to successfully complete a
43 board approved rehabilitative, retraining or assessment program at the
44 doctor's own expense.

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

H. If after completing its investigation the board believes that the information is or may be true, it may request a formal interview with the doctor. If the doctor refuses the invitation for a formal interview or accepts and the results indicate that grounds may exist for revocation or suspension of the doctor's license for more than twelve months, the board shall issue a formal complaint and order that a hearing be held pursuant to title 41, chapter 6, article 10. If after completing a formal interview the board finds that the protection of the public requires emergency action, it may order a summary suspension of the license pending formal revocation proceedings or other action authorized by this section.

I. If after completing the formal interview the board finds the information provided under subsection A of this section is not of sufficient seriousness to merit suspension for more than twelve months or revocation of the license, it may take the following actions:

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

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

3. Enter into an agreement with the doctor to restrict or limit the doctor's practice or professional activities or to rehabilitate, retrain or assess the doctor in order to protect the public and ensure the doctor's ability to safely engage in the practice of medicine. The board may also require the doctor to successfully complete a board approved rehabilitative, retraining or assessment program at the doctor's own expense pursuant to subsection F of this section.

4. File a letter of reprimand.

5. Issue a decree of censure. A decree of censure is an official action against the doctor's license and may include a requirement for restitution of fees to a patient resulting from violations of this chapter or rules adopted under this chapter.

6. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the doctor concerned. Probation may include temporary suspension for not to exceed twelve months, restriction of the doctor's license to practice medicine, a requirement for restitution of fees to a patient or education or rehabilitation at the licensee's own expense. If a licensee fails to comply with the terms of probation, the board shall serve the licensee with a written notice that states that the licensee is subject to a formal hearing based on the information considered by the board at the formal interview and any other acts or conduct alleged to be in violation of this chapter or rules adopted by the board pursuant to this chapter including noncompliance with the term

1 of probation, a consent agreement or a stipulated agreement. A licensee
2 shall pay the costs associated with probation monitoring each year during
3 which the licensee is on probation. The board may adjust this amount on an
4 annual basis. The board may allow a licensee to make payments on an
5 installment plan if a financial hardship occurs. A licensee who does not pay
6 these costs within thirty days after the due date prescribed by the board
7 violates the terms of probation.
8 J. If the board finds that the information provided in subsection A
9 of this section warrants suspension or revocation of a license issued under
10 this chapter, it shall initiate formal proceedings pursuant to title 41,
11 chapter 6, article 10.
12 K. In a formal interview pursuant to subsection H of this section or
13 in a hearing pursuant to subsection J of this section, the board in addition
14 to any other action may impose a civil penalty in the amount of not less than
15 one thousand dollars nor more than ten thousand dollars for each violation
16 of this chapter or a rule adopted under this chapter.
17 L. An advisory letter is a public document.
18 M. Any doctor of medicine who after a formal hearing is found by the
19 board to be guilty of unprofessional conduct, to be mentally or physically
20 unable safely to engage in the practice of medicine or to be medically
21 incompetent is subject to censure, probation as provided in this section,
22 suspension of license or revocation of license or any combination of these,
23 including a stay of action, and for a period of time or permanently and under
24 conditions as the board deems appropriate for the protection of the public
25 health and safety and just in the circumstance. The board may charge the
26 costs of formal hearings to the licensee who it finds to be in violation of
27 this chapter.
28 N. If the board acts to modify any doctor of medicine's prescription
29 writing privileges the board shall immediately notify the state board of
30 pharmacy of the modification.
31 O. If the board, during the course of any investigation, determines
32 that a criminal violation may have occurred involving the delivery of health
33 care, it shall make the evidence of violations available to the appropriate
34 criminal justice agency for its consideration.
35 P. The board may divide into review committees of not less than three
36 members including a public member. The committees shall review complaints
37 not dismissed by the executive director and may take the following actions:
38 1. Dismiss the complaint if a committee determines that the complaint
39 is without merit.
40 2. Issue an advisory letter. The licensee may file a written
41 response with the board within thirty days after the licensee receives the
42 advisory letter.
43 3. Conduct a formal interview pursuant to subsection H of this
44 section. This includes initiating formal proceedings pursuant to

1 subsection J of this section and imposing civil penalties pursuant to
2 subsection K of this section.
3 4. Refer the matter for further review by the full board.
4 Q. Pursuant to sections 35-146 and 35-147, the board shall deposit
5 all monies collected from civil penalties paid pursuant to this chapter in
6 the state general fund.
7 R. Notice of a complaint and hearing is effective by a true copy of
8 it being sent by certified mail to the doctor's last known address of record
9 in the board's files. Notice of the complaint and hearing is complete on the
10 date of its deposit in the mail. The board shall begin a formal hearing
11 within one hundred twenty days of that date.
12 S. A physician who submits an independent medical examination pursuant
13 to an order by a court is not subject to a complaint for unprofessional
14 conduct unless a complaint is made or referred by a court to the board. For
15 purposes of this subsection, "independent medical examination" means a
16 professional analysis of medical status based on a person's past and present
17 physical and psychiatric history and conducted by a licensee or group of
18 licensees on a contract basis for a court.
19 T. The board may accept the surrender of an active license from a
20 person who admits in writing to any of the following:
21 1. Being unable to safely engage in the practice of medicine.
22 2. Having committed an act of unprofessional conduct.
23 3. Having violated this chapter or a board rule.
24 U. In determining the appropriate disciplinary action under this
25 section, the board shall consider all previous nondisciplinary and
26 disciplinary actions against a licensee.
27 Sec. 14. Section 32-1452, Arizona Revised Statutes, is amended to
28 read:
29 32-1452. Substance abuse treatment and rehabilitation program;
30 private contract; funding
31 A. The board may establish a confidential program for the treatment
32 and rehabilitation of doctors of medicine and physician assistants who are
33 impaired by alcohol or drug abuse. This program shall include education,
34 intervention, therapeutic treatment and posttreatment monitoring and support.
35 B. The board may contract with other organizations to operate the
36 program established pursuant to subsection A of this section. A contract
37 with a private organization shall include the following requirements:
38 1. Periodic reports to the board regarding treatment program activity.
39 2. Release to the board on demand of all treatment records.
40 3. Quarterly reports to the board regarding each doctor's diagnosis
41 and prognosis and the recommendations for continuing care, treatment and
42 supervision.

1 4. Immediate reporting to the board of the name of an impaired doctor
2 who the treating organization believes to be misusing chemical substances.
3 5. Reports to the board, as soon as possible, of the name of a doctor
4 who refuses to submit to treatment or whose impairment is not substantially
5 alleviated through treatment.
6 C. The board may allocate an amount of not to exceed forty dollars
7 from each fee it collects from the biennial renewal of active licenses
8 pursuant to section 32-1436 for the operation of the program established by
9 this section.
10 D. A doctor of medicine who is impaired by alcohol or drug abuse shall
11 agree to enter into a stipulation order with the board or the doctor shall
12 be placed on probation or shall be subject to other action as provided by
13 law.
14 E. In order to determine that a doctor of medicine who has been placed
15 on probationary order or who has entered into a stipulation order pursuant
16 to this section is not impaired by drugs or alcohol after that order is no
17 longer in effect, the board or its designee may require the doctor of
18 medicine to submit to body fluid examinations AND OTHER EXAMINATIONS KNOWN
19 TO DETECT THE PRESENCE OF ALCOHOL OR OTHER DRUGS at any time within five
20 consecutive years following termination of the probationary or stipulated
21 order.
22 F. A doctor of medicine who is impaired by alcohol or drug abuse and
23 who was under a board stipulation or probationary order that is no longer in
24 effect shall request the board to place the doctor's license on inactive
25 status with cause. If the doctor fails to do this the board shall summarily
26 suspend the license pursuant to section 32-1451, subsection D. In order to
27 reactivate the license the doctor shall successfully complete a long-term
28 care residential or inpatient hospital treatment program, or both, and shall
29 meet the applicable requirements of section 32-1431, subsection D. After the
30 doctor completes treatment the board shall determine if it should refer the
31 matter for a formal hearing for the purpose of suspending or revoking the
32 license or to place the doctor on probation for a minimum of five years with
33 restrictions necessary to assure the public's safety.
34 G. The board shall revoke the license of a doctor of medicine if that
35 doctor is impaired by alcohol or drug abuse and was previously placed on
36 probation pursuant to subsection F of this section and the probation is no
37 longer in effect. The board may accept the surrender of the license if the
38 doctor admits in writing to being impaired by alcohol or drug abuse.
39 H. An evaluator, teacher, supervisor or volunteer in the board's
40 substance abuse treatment and rehabilitation program who acts in good faith
41 within the scope of that program is not subject to civil liability, including
42 malpractice liability, for the actions of a doctor who is attending the
43 program pursuant to board action.

1 Sec. 15. Title 32, chapter 13, article 3, Arizona Revised Statutes,
2 is amended by adding section 32-1452.01, to read:
3 32-1452.01. Mental, behavioral and physical health evaluation
4 and treatment program; private contract; funding
5 A. THE BOARD MAY ESTABLISH A CONFIDENTIAL PROGRAM FOR THE EVALUATION,
6 TREATMENT AND MONITORING OF PERSONS LICENSED PURSUANT TO THIS CHAPTER AND
7 CHAPTER 25 OF THIS TITLE WHO HAVE MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL OR
8 BEHAVIORAL HEALTH DISORDERS THAT MAY IMPACT A LICENSEE'S ABILITY TO SAFELY
9 PRACTICE MEDICINE OR PERFORM HEALTHCARE TASKS. THE PROGRAM SHALL INCLUDE
10 EDUCATION, INTERVENTION, THERAPEUTIC TREATMENT AND POSTTREATMENT MONITORING
11 AND SUPPORT.
12 B. A LICENSEE WHO HAS A MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL OR
13 BEHAVIORAL HEALTH DISORDER DESCRIBED IN SUBSECTION A OF THIS SECTION, WHO
14 VOLUNTARILY REPORTS THAT DISORDER TO THAT LICENSEE'S BOARD AND WHO HAS NOT
15 COMMITTED A STATUTORY VIOLATION UNDER THIS CHAPTER OR CHAPTER 25 OF THIS
16 TITLE, MAY AGREE TO ENTER INTO A CONFIDENTIAL CONSENT AGREEMENT FOR
17 PARTICIPATION IN A PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.
18 C. A LICENSEE WHO HAS A MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL OR
19 BEHAVIORAL HEALTH DISORDER DESCRIBED IN SUBSECTION A OF THIS SECTION, WHO IS
20 REPORTED TO THAT LICENSEE'S BOARD BY A PEER REVIEW COMMITTEE, HOSPITAL
21 MEDICAL STAFF, HEALTH PLAN OR OTHER HEALTH CARE PRACTITIONER OR HEALTH CARE
22 ENTITY AND WHO HAS NOT COMMITTED A STATUTORY VIOLATION UNDER THIS CHAPTER OR
23 CHAPTER 25 OF THIS TITLE, MAY AGREE TO ENTER INTO A CONFIDENTIAL CONSENT
24 AGREEMENT FOR PARTICIPATION IN A PROGRAM ESTABLISHED PURSUANT TO THIS
25 SECTION.
26 D. THE BOARD MAY CONTRACT WITH OTHER ORGANIZATIONS TO OPERATE A
27 PROGRAM ESTABLISHED PURSUANT TO THIS SECTION. A CONTRACT WITH A PRIVATE
28 ORGANIZATION MUST INCLUDE THE FOLLOWING REQUIREMENTS:
29 1. PERIODIC REPORTS TO THE BOARD REGARDING TREATMENT PROGRAM ACTIVITY.
30 2. RELEASE TO THE BOARD ON DEMAND OF ALL TREATMENT RECORDS.
31 3. QUARTERLY REPORTS TO THE BOARD REGARDING EACH PARTICIPANT'S
32 DIAGNOSIS AND PROGNOSIS AND THE RECOMMENDATIONS FOR CONTINUING CARE,
33 TREATMENT AND SUPERVISION.
34 4. IMMEDIATE REPORTING TO THE ARIZONA MEDICAL BOARD OF THE NAME OF A
35 LICENSEE WHO THE TREATING ORGANIZATION BELIEVES IS INCAPABLE OF SAFELY
36 PRACTICING MEDICINE OR PERFORMING HEALTHCARE TASKS. IF THE LICENSEE IS A
37 PHYSICIAN ASSISTANT, THE ARIZONA MEDICAL BOARD SHALL IMMEDIATELY REPORT THIS
38 INFORMATION TO THE ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS.
39 E. AN EVALUATOR, TEACHER, SUPERVISOR OR VOLUNTEER IN A PROGRAM
40 ESTABLISHED PURSUANT TO THIS SECTION WHO ACTS IN GOOD FAITH WITHIN THE SCOPE
41 OF THAT PROGRAM IS NOT SUBJECT TO CIVIL LIABILITY, INCLUDING MALPRACTICE
42 LIABILITY, FOR THE ACTIONS OF A LICENSEE WHO IS ATTENDING THE PROGRAM
43 PURSUANT TO BOARD ACTION.

1 Sec. 16. Section 32-2501, Arizona Revised Statutes, is amended to
2 read:
3 32-2501. Definitions
4 In this chapter, unless the context otherwise requires:
5 1. "Active license" means a regular or temporary license issued
6 pursuant to this chapter.
7 2. "Adequate records" means legible medical records containing, at a
8 minimum, sufficient information to identify the patient, support the
9 diagnosis, justify the treatment, accurately document the results, indicate
10 advice and cautionary warnings provided to the patient and provide sufficient
11 information for another practitioner to assume continuity of the patient's
12 care at any point in the course of treatment.
13 3. "Advisory letter" means a nondisciplinary letter to notify a
14 physician assistant that either:
15 (a) While there is insufficient evidence to support disciplinary
16 action, the board believes that continuation of the activities that led to
17 the investigation may result in further board action against the licensee.
18 (b) The violation is a minor or technical violation that is not of
19 sufficient merit to warrant disciplinary action.
20 (c) While the licensee has demonstrated substantial compliance through
21 rehabilitation or remediation that has mitigated the need for disciplinary
22 action, the board believes that repetition of the activities that led to the
23 investigation may result in further board action against the licensee.
24 4. "Approved program" means a physician assistant educational program
25 that has been fully or provisionally accredited by the committee on allied
26 health education and accreditation or by the commission on the accreditation
27 for allied health education programs, or successor agencies, on the
28 recommendation of the accreditation review committee on education for
29 physician assistants.
30 5. "Board" means the Arizona regulatory board of physician assistants.
31 6. "Completed application" means an application for which the
32 applicant has supplied all required fees, information and correspondence
33 requested by the board on forms and in a manner acceptable to the board.
34 7. "Immediate family" means the spouse, natural or adopted children,
35 father, mother, brothers and sisters of the physician assistant and the
36 natural or adopted children, father, mother, brothers and sisters of the
37 physician assistant's spouse.
38 8. "Letter of reprimand" means a disciplinary letter that is issued
39 by the board and that informs the physician assistant that the physician
40 assistant's conduct violates state or federal law and may require the board
41 to monitor the physician assistant.
42 9. "Limit" means a nondisciplinary action THAT IS taken by the board
43 AND that alters a physician assistant's practice or medical activities if
44 there is evidence that the physician assistant is or may be mentally or
45 physically unable to safely engage in health care tasks.

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

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

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

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

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

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

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

17. "Restrict" means a disciplinary action THAT IS taken by the board AND that alters a physician assistant's practice or medical activities if there is evidence that the physician assistant is or may be medically incompetent or guilty of unprofessional conduct.

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

19. "Supervising physician's agent" means a physician who holds a current unrestricted license, is a cosignatory on the notification of supervision, agrees to act as the supervising physician in the supervising physician's absence and is approved by the board. ~~For purposes of this paragraph, a limited license issued pursuant to section 32-1426, subsection C, before November 2, 1998 is not a restriction.~~

20. "Supervision" means a physician's opportunity or ability to provide or exercise control over the services of a physician assistant. Supervision does not require a physician's constant physical presence if the supervising

1 physician or the supervising physician's agent is or can be easily in contact
2 with the physician assistant by radio, telephone or telecommunication.
3 21. "Unprofessional conduct" includes the following acts by a physician
4 assistant that occur in this state or elsewhere:
5 (a) Violation of any federal or state law or rule that applies to the
6 performance of health care tasks as a physician assistant. Conviction in any
7 court of competent jurisdiction is conclusive evidence of a violation.
8 (b) Claiming to be a physician or knowingly permitting another person
9 to represent that person as a physician.
10 (c) Performing health care tasks that have not been delegated by the
11 supervising physician.
12 (d) Habitual intemperance in the use of alcohol or habitual substance
13 abuse.
14 (e) Signing a blank, undated or predated prescription form.
15 (f) Gross malpractice, repeated malpractice or any malpractice
16 resulting in the death of a patient.
17 (g) Representing that a manifestly incurable disease or infirmity can
18 be permanently cured or that a disease, ailment or infirmity can be cured by
19 a secret method, procedure, treatment, medicine or device, if this is not
20 true.
21 (h) Refusing to divulge to the board on demand the means, method,
22 procedure, modality of treatment or medicine used in the treatment of a
23 disease, injury, ailment or infirmity.
24 (i) Prescribing or dispensing controlled substances or
25 prescription-only drugs for which the physician assistant is not approved or
26 in excess of the amount authorized pursuant to this chapter.
27 (j) Any conduct or practice that is or might be harmful or dangerous
28 to the health of a patient or the public.
29 (k) Violation of a formal order, probation or stipulation issued by
30 the board.
31 (l) Failing to clearly disclose the person's identity as a physician
32 assistant in the course of the physician assistant's employment.
33 (m) Failing to use and affix the initials "P.A." or "P.A.-C." after
34 the physician assistant's name or signature on charts, prescriptions or
35 professional correspondence.
36 (n) Procuring or attempting to procure a physician assistant license
37 by fraud, misrepresentation or knowingly taking advantage of the mistake of
38 another.
39 (o) Having professional connection with or lending the physician
40 assistant's name to an illegal practitioner of any of the healing arts.
41 (p) Failing or refusing to maintain adequate records on a patient.
42 (q) Using controlled substances that have not been prescribed by a
43 physician, physician assistant, dentist or nurse practitioner for use during
44 a prescribed course of treatment.

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

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

(t) Knowingly making any written or oral false or fraudulent statement in connection with the performance of health care tasks or when applying for privileges or renewing an application for privileges at a health care institution.

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

(v) ~~Refusal, revocation, suspension, limitation or restriction of~~ HAVING a certification or license REFUSED, REVOKED, SUSPENDED, LIMITED OR RESTRICTED by any other licensing jurisdiction for the inability to safely and skillfully perform health care tasks or for unprofessional conduct as defined by that jurisdiction that directly or indirectly corresponds to any act of unprofessional conduct as prescribed by this paragraph.

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

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

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

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

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

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

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

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

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

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

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

(hh) Knowingly failing to disclose to a patient on a form that is prescribed by the board and that is dated and signed by the patient or guardian acknowledging that the patient or guardian has read and understands that the licensee has a direct financial interest in a separate diagnostic or treatment agency or in nonroutine goods or services that the patient is being prescribed and if the prescribed treatment, goods or services are available on a competitive basis. This subdivision does not apply to a referral by one physician assistant to another physician assistant or to a doctor of medicine or a doctor of osteopathy within a group working together.

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

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

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

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

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

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

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

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

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

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

APPROVED BY THE GOVERNOR MAY 26, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 27, 2004.

Passed the House March 15, 2004

by the following vote: 45 Ayes,

9 Nays, 6 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate May 13, 2004,

by the following vote: 23 Ayes,

3 Nays, 4 Not Voting

Ken Bennett
President of the Senate

Charmin Billington
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. 2025

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 19, 2004,

by the following vote: 57 Ayes,

1 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

20th day of May, 2004,

at 10:42 o'clock a. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 26 day of

May, 2004,

at 4:40 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 27 day of May, 2004

at 8:29 o'clock A M.

Janice K. Brewer
Secretary of State

H.B. 2025