

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 100

HOUSE BILL 2268

AN ACT

AMENDING SECTIONS 32-1800, 32-1802, 32-1803, 32-1804, 32-1821, 32-1822, 32-1829, 32-1855, 32-1861 AND 32-1871, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 17, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1832; RELATING TO THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-1800, Arizona Revised Statutes, is amended to
3 read:

4 32-1800. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Active license" means a valid license to practice medicine AND
7 INCLUDES THE LICENSE OF A LICENSEE WHO HAS BEEN PLACED ON PROBATION OR ON
8 WHOSE LICENSE THE BOARD HAS PLACED RESTRICTIONS.

9 2. "ADDRESS OF RECORD" MEANS EITHER:

10 (a) THE ADDRESS WHERE A PERSON WHO IS REGULATED PURSUANT TO THIS
11 CHAPTER PRACTICES MEDICINE OR IS OTHERWISE EMPLOYED.

12 (b) THE RESIDENTIAL ADDRESS OF A PERSON WHO IS REGULATED PURSUANT TO
13 THIS CHAPTER IF THAT PERSON HAS MADE A WRITTEN REQUEST TO THE BOARD THAT THE
14 BOARD USE THAT ADDRESS AS THE ADDRESS OF RECORD.

15 ~~2-~~ 3. "Adequate records" means legible medical records containing, at
16 a minimum, sufficient information to identify the patient, support the
17 diagnosis, justify the treatment, accurately document the results, indicate
18 advice and cautionary warnings provided to the patient and provide sufficient
19 information for another licensed health care practitioner to assume
20 continuity of the patient's care at any point in the course of treatment.

21 4. "ADMINISTRATIVE WARNING" MEANS A DISCIPLINARY ACTION BY THE BOARD
22 IN THE FORM OF A WRITTEN WARNING TO A PHYSICIAN OF A VIOLATION OF THIS
23 CHAPTER INVOLVING PATIENT CARE THAT THE BOARD DETERMINES FALLS BELOW THE
24 COMMUNITY STANDARD.

25 ~~3-~~ 5. "Approved fellowship program" means that an applicant for
26 licensure completed training when the hospital or other facility in which the
27 training occurred was approved for fellowship by the American osteopathic
28 association or by the accreditation council on graduate medical education.

29 ~~4.~~ "Approved hospital internship" means that an applicant for
30 licensure completed training when the hospital or other facility in which the
31 training occurred was approved for internship by the American osteopathic
32 association or by the accreditation council on graduate medical education.

33 ~~5.~~ "Approved preceptorship" means that an applicant for licensure
34 completed training when the hospital or other facility in which the training
35 occurred was approved for preceptorship by the American osteopathic
36 association or by the accreditation council on graduate medical education.

37 ~~6.~~ "Approved residency" means that an applicant for licensure
38 completed training when the hospital or other facility in which the training
39 occurred was approved for residency by the American osteopathic association
40 or by the accreditation council on graduate medical education.

41 ~~7-~~ 6. "Approved school of osteopathic medicine" means a school or
42 college offering a course of study that, on successful completion, results in
43 the awarding of the degree of doctor of osteopathy and whose course of study
44 has been approved or accredited by the American osteopathic association.

1 ~~8.~~ 7. "Board" means the Arizona board of osteopathic examiners in
2 medicine and surgery.

3 ~~9.~~ "Completed application" means an application for which the
4 applicant has supplied all required fees, information and correspondence
5 required by the board on forms and in a manner approved by the board.

6 ~~10.~~ 8. "Decree of censure" means a formal written reprimand by the
7 board of a physician for a violation of this chapter that constitutes an
8 official A DISCIPLINARY action against a physician's license.

9 ~~11.~~ 9. "Direct supervision" means that a physician is within the same
10 room or office suite as the ~~medical assistant~~ UNLICENSED PERSON in order to
11 be available for consultation regarding those tasks the ~~medical assistant~~
12 UNLICENSED PERSON performs pursuant to section 32-1859.

13 ~~12.~~ 10. "Dispense" means the delivery by a physician of a prescription
14 drug or device to a patient, except for samples packaged for individual use
15 by licensed manufacturers or repackagers of drugs, and includes the
16 prescribing, administering, packaging, labeling and security necessary to
17 prepare and safeguard the drug or device for delivery.

18 ~~13.~~ 11. "Doctor of osteopathy" means a person who holds a license,
19 registration or permit to practice medicine pursuant to this chapter.

20 ~~14.~~ "Full time faculty member" means a physician employed full time as
21 a faculty member while holding the academic position of assistant professor
22 or a higher position at an approved school of osteopathic medicine.

23 ~~15.~~ 12. "Immediate family" means the spouse, natural or adopted
24 children, father, mother, brothers and sisters of the physician and the
25 natural and adopted children, father, mother, brothers and sisters of the
26 physician's spouse.

27 ~~16.~~ 13. "Inappropriate fee" means a fee that is not supported by
28 documentation of time, complexity or extreme skill required to perform the
29 service.

30 ~~17.~~ 14. "Investigative hearing" means a meeting between the board and
31 a physician to discuss issues set forth in the investigative hearing notice
32 and during which the board may hear statements from board staff, the
33 complainant and the physician.

34 ~~18.~~ 15. "Letter of concern" means an advisory letter to notify a
35 physician that while there is insufficient evidence to support direct
36 DISCIPLINARY action against the physician's license there is sufficient
37 evidence for the board to notify the physician of its concern. ~~A letter of~~
38 ~~concern is a public document for five years after it is issued and may be~~
39 ~~used in future disciplinary actions against the physician.~~

40 16. "LIMITED LICENSE" MEANS A LICENSE THAT RESTRICTS THE SCOPE AND
41 SETTING OF A LICENSEE'S PRACTICE.

42 ~~19.~~ 17. "Medical assistant" means an unlicensed person who has
43 completed an educational program approved by the board, who assists in a
44 medical practice under the supervision of a doctor of osteopathic medicine
45 and who performs delegated procedures commensurate with the assistant's

1 education and training but who does not diagnose, interpret, design or modify
2 established treatment programs or violate any statute.

3 ~~20. "Medical peer review" means the participation by a doctor of~~
4 ~~osteopathy in the review and evaluation of the medical management of a~~
5 ~~patient and the use of resources for patient care as well as activities~~
6 ~~relating to a health care institution's decision to grant or continue~~
7 ~~privileges to practice at that institution.~~

8 ~~21. "Medically incompetent" means that a person lacks sufficient~~
9 ~~medical knowledge or skills, or both, to a degree likely to endanger the~~
10 ~~health of patients or fails to obtain a scaled score of at least seventy five~~
11 ~~per cent on the written special purpose licensing examination administered by~~
12 ~~the board.~~

13 ~~22.~~ 18. "Medicine" means osteopathic medicine as practiced by a person
14 who receives a degree of doctor of osteopathy.

15 ~~23.~~ 19. "Physician" means a doctor of osteopathic medicine who holds a
16 license, A PERMIT OR A LOCUM TENENS REGISTRATION to practice osteopathic
17 medicine pursuant to this chapter.

18 ~~24.~~ 20. "Practice of medicine" or "practice of osteopathic medicine"
19 means all of the following:

20 (a) To examine, diagnose, treat, prescribe for, palliate, prevent or
21 correct human diseases, injuries, ailments, infirmities and deformities,
22 physical or mental conditions, real or imaginary, by the use of drugs,
23 surgery, manipulation, electricity or any physical, mechanical or other means
24 as provided by this chapter.

25 (b) Suggesting, recommending, prescribing or administering any form of
26 treatment, operation or healing for the intended palliation, relief or cure
27 of any physical or mental disease, ailment, injury, condition or defect.

28 (c) The practice of osteopathic medicine alone or the practice of
29 osteopathic surgery or osteopathic manipulative therapy, or any combination
30 of either practice.

31 ~~25. "Special purpose licensing examination" means an examination~~
32 ~~developed by the national board of medical examiners, on behalf of the~~
33 ~~federation of state medical boards or the national board of osteopathic~~
34 ~~medical examiners for use by state licensing boards, to test the basic~~
35 ~~medical competency of physicians who are applying for licensure and who have~~
36 ~~been in practice in another jurisdiction or to determine the competency of a~~
37 ~~physician who has not been in practice for a considerable period of time or~~
38 ~~who is under investigation.~~

39 ~~26.~~ 21. "Specialist" means a physician who has successfully completed
40 postdoctoral training in an approved fellowship program, an approved
41 preceptorship or an approved residency or who is board certified by a
42 specialty board approved by the board.

43 ~~27.~~ 22. "Subscription provider of health care" means an entity that,
44 through contractual agreement, is responsible for the payment, in whole or in

1 part, of debts incurred by a person for medical or other health care
2 services.

3 Sec. 2. Section 32-1802, Arizona Revised Statutes, is amended to read:

4 32-1802. Meetings; organization; compensation

5 A. The board shall hold an annual meeting during the month of January
6 each year in the ~~city of~~ Phoenix METROPOLITAN AREA and may hold other
7 meetings at times and places determined by a majority of the board on notice
8 to each member and the general public pursuant to title 38, chapter 3,
9 article 3.1. A majority of the members of the board constitutes a quorum,
10 and a majority vote of a quorum present at any meeting governs all board
11 actions.

12 B. At each annual meeting the board shall select from among its
13 membership a president and vice-president who shall serve until their
14 successors are chosen. If either of these offices becomes vacant before the
15 annual meeting, the board may elect a replacement at any other board meeting.

16 C. Members of the board are eligible to receive compensation in the
17 amount of two hundred fifty dollars for each day of actual service in the
18 business of the board and reimbursement of all expenses necessarily and
19 properly incurred in attending meetings of the board.

20 D. Board members, the executive director, permanent or temporary board
21 personnel, board consultants and professional medical investigators are
22 immune from civil liability for any act they do in good faith to implement
23 this chapter.

24 Sec. 3. Section 32-1803, Arizona Revised Statutes, is amended to read:

25 32-1803. Powers and duties

26 A. The board shall:

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

29 ~~2. Conduct examinations for applicants for a license under this~~
30 ~~chapter, Issue licenses, conduct hearings, place physicians on probation,~~
31 ~~revoke or suspend licenses, enter into stipulated orders, issue letters of~~
32 ~~concern or decrees of censure and administer and enforce this chapter.~~

33 ~~3. Order and evaluate physical, psychological, psychiatric and~~
34 ~~competency testing of licensed physicians and candidates for licensure as the~~
35 ~~board determines is necessary to enforce this chapter.~~

36 ~~4. Initiate investigations and determine on its own motion if a doctor~~
37 ~~of osteopathic medicine has engaged in unprofessional conduct or provided~~
38 ~~incompetent medical care or is mentally or physically unable to engage in the~~
39 ~~practice of medicine.~~

40 ~~5. Enforce, within the osteopathic profession in this state, the~~
41 ~~standards of practice prescribed by this chapter and the rules adopted by the~~
42 ~~board pursuant to this chapter.~~

43 ~~6. Collect and account for all fees provided for by this chapter and~~
44 ~~deposit, pursuant to sections 35-146 and 35-147, all monies received in the~~
45 ~~appropriate fund.~~

1 ~~7. Charge additional fees for services that the board deems~~
2 ~~appropriate to carry out its intent and purpose and that do not exceed the~~
3 ~~costs of rendering the services.~~

4 ~~8.~~ 3. Maintain a record of its acts and proceedings, including the
5 issuance, ~~refusal~~ DENIAL, renewal, suspension or revocation of licenses to
6 practice according to this chapter. The board shall ~~only~~ delete records of
7 complaints ONLY as follows:

8 (a) If the board dismisses a complaint, the board shall delete the
9 public record of the complaint ~~three~~ FIVE years after it dismissed the
10 complaint.

11 (b) If the board has issued a letter of concern but has taken no
12 further action ON THE COMPLAINT, the board shall delete the public record of
13 the complaint five years after it issued the letter of concern.

14 (c) IF THE BOARD HAS REQUIRED ADDITIONAL CONTINUING MEDICAL EDUCATION
15 PURSUANT TO SECTION 32-1855 BUT HAS NOT TAKEN FURTHER ACTION, THE BOARD SHALL
16 DELETE THE PUBLIC RECORD OF THE COMPLAINT FIVE YEARS AFTER THE PERSON
17 SATISFIES THIS REQUIREMENT.

18 ~~9.~~ 4. Maintain a ~~roster~~ PUBLIC DIRECTORY of all osteopathic
19 physicians and surgeons who are OR WERE licensed pursuant to this chapter
20 that includes:

21 (a) The name of the ~~licensed~~ physician.

22 (b) The physician's current ~~professional office~~ OR LAST KNOWN address
23 OF RECORD.

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

26 ~~(d) Whether the license is in good standing.~~

27 (d) THE DATE THE LICENSE IS SCHEDULED TO EXPIRE IF NOT RENEWED OR THE
28 DATE THE LICENSE EXPIRED OR WAS REVOKED, SUSPENDED OR CANCELED.

29 (e) ANY DISCIPLINARY ACTIONS TAKEN AGAINST THE PHYSICIAN BY THE BOARD.

30 (f) LETTERS OF CONCERN, REMEDIAL CONTINUING MEDICAL EDUCATION ORDERED
31 AND DISMISSALS OF COMPLAINTS AGAINST THE PHYSICIAN UNTIL DELETED FROM THE
32 PUBLIC RECORD PURSUANT TO PARAGRAPH 3 OF THIS SUBSECTION.

33 (g) THE NUMBER OF MALPRACTICE CLAIMS PAID BY AWARD OR BY SETTLEMENT ON
34 BEHALF OF THE PHYSICIAN IN THE LAST TEN YEARS OF PRACTICE IN THIS STATE OR IN
35 ANOTHER STATE.

36 ~~10.~~ 5. Adopt rules regarding the regulation and the qualifications of
37 medical assistants.

38 ~~11. Establish a program that is reasonable and necessary to educate~~
39 ~~physicians regarding the uses and advantages of autologous blood~~
40 ~~transfusions.~~

41 ~~12. Review the credentials and the abilities of an applicant whose~~
42 ~~professional records or physical or mental capabilities may not meet the~~
43 ~~requirements for licensure or registration as prescribed in article 2 of this~~
44 ~~chapter in order for the board to determine if the applicant meets the~~
45 ~~requirements for licensure or registration pursuant to this chapter.~~

- 1 ~~13-~~ 6. Discipline and rehabilitate osteopathic physicians.
- 2 B. The PUBLIC records of the board are open to ~~public~~ inspection at
- 3 all reasonable times DURING OFFICE HOURS.
- 4 C. The board may:
- 5 1. Adopt rules necessary or proper for the administration of this
- 6 chapter.
- 7 2. Appoint one of its members to the jurisdiction arbitration panel
- 8 pursuant to section 32-2907, subsection B.
- 9 3. Accept and spend federal monies and private grants, gifts,
- 10 contributions and devises. These monies do not revert to the state general
- 11 fund at the end of a fiscal year.
- 12 D. The board shall adopt and use a seal, the imprint of which,
- 13 together with the signature of either the president, vice-president or
- 14 executive director, is evidence of its official acts.
- 15 E. In conducting investigations pursuant to this chapter the board may
- 16 receive and review confidential internal staff reports relating to complaints
- 17 and malpractice claims.
- 18 F. The board may make available to academic and research organizations
- 19 public records regarding statistical information on doctors of osteopathic
- 20 medicine and applicants for licensure.
- 21 Sec. 4. Section 32-1804, Arizona Revised Statutes, is amended to read:
- 22 32-1804. Executive director; compensation; duties
- 23 A. The board shall appoint an executive director who is not a member
- 24 of the board. The executive director shall serve at the pleasure of the
- 25 board and shall receive compensation as determined pursuant to section 38-611
- 26 to be paid from the board fund.
- 27 B. The executive director or that person's designee shall:
- 28 1. Serve as administrative assistant to the board and manage the
- 29 board's offices.
- 30 2. Collect all monies due and payable to the board.
- 31 3. Deposit, pursuant to sections 35-146 and 35-147, all monies
- 32 received by the board in the appropriate fund.
- 33 4. Pay all bills for authorized board expenditures.
- 34 5. Administer oaths.
- 35 6. Act as custodian of the board's seal, ~~AND books, records, minutes~~
- 36 ~~and proceedings.~~
- 37 7. Employ special consultants or other agents to make investigations,
- 38 gather information, review complaints, review malpractice claims, suits and
- 39 settlements, prepare reports and perform other duties the executive director
- 40 determines are necessary to enforce this chapter. ~~Compensation for special~~
- 41 ~~consultants or agents may be determined on an hourly, daily or case basis but~~
- 42 ~~shall not exceed one hundred fifty dollars per day.~~
- 43 8. Employ, evaluate, dismiss, discipline and direct professional,
- 44 clerical, technical, investigative and administrative permanent or temporary

1 personnel necessary to carry out the purposes of this chapter. The personnel
2 are eligible to receive compensation pursuant to section 38-611.

3 9. Issue licenses, LIMITED LICENSES, registrations, permits, license
4 renewal extensions and ~~exemptions~~ WAIVERS to applicants who meet the
5 requirements of this chapter.

6 10. Enter into contracts pursuant to title 41, chapter 23 for goods and
7 services that are necessary to carry out board policies and directives.

8 11. Prepare minutes, ~~records, reports, registries, directories, books~~
9 ~~and newsletters~~ and records of all board transactions and orders.

10 12. Prepare a biannual budget.

11 13. As directed by the board, prepare and submit recommendations for
12 changes to this chapter for consideration by the legislature.

13 14. Initiate an investigation if evidence appears to demonstrate that a
14 physician may be engaged in unprofessional conduct or may be ~~medically~~
15 MENTALLY incompetent or physically unable to safely practice medicine.

16 15. Issue subpoenas ~~if necessary~~ to compel the attendance and testimony
17 of a witness and the production of evidence.

18 16. As directed by the board, provide assistance to the attorney
19 general in preparing and executing disciplinary orders, rehabilitation orders
20 and notices of hearings.

21 ~~17. Execute board directives.~~

22 ~~18.~~ 17. Represent the board with the federal government, other states
23 and jurisdictions of the United States, this state, political subdivisions of
24 this state, the news media and the public.

25 18. IF DELEGATED BY THE BOARD, DISMISS COMPLAINTS THAT, AFTER AN
26 INVESTIGATION, DEMONSTRATE INSUFFICIENT EVIDENCE THAT THE PHYSICIAN'S CONDUCT
27 VIOLATED THIS CHAPTER.

28 19. IF DELEGATED BY THE BOARD, ENTER INTO A STIPULATED AGREEMENT WITH A
29 LICENSEE FOR THE TREATMENT, REHABILITATION AND MONITORING OF THE LICENSEE'S
30 ABUSE OR MISUSE OF A CHEMICAL SUBSTANCE.

31 20. REVIEW ALL COMPLAINTS FILED PURSUANT TO SECTION 32-1855. IF
32 DELEGATED BY THE BOARD, THE EXECUTIVE DIRECTOR MAY ALSO DISMISS A COMPLAINT
33 IF THE COMPLAINT IS WITHOUT MERIT. THE EXECUTIVE DIRECTOR SHALL NOT DISMISS
34 A COMPLAINT IF A COURT HAS ENTERED A MEDICAL MALPRACTICE JUDGMENT AGAINST A
35 PHYSICIAN. THE EXECUTIVE DIRECTOR SHALL SUBMIT TO THE BOARD A REPORT OF EACH
36 COMPLAINT THE EXECUTIVE DIRECTOR DISMISSES FOR ITS REVIEW AT ITS NEXT REGULAR
37 BOARD MEETING. THE REPORT SHALL INCLUDE THE COMPLAINT NUMBER, THE NAME OF
38 THE PHYSICIAN AND THE INVESTIGATION TIMELINE FOR EACH DISMISSED COMPLAINT.

39 21. IF DELEGATED BY THE BOARD, DIRECTLY REFER COMPLAINTS FOR AN
40 INVESTIGATIVE INTERVIEW.

41 22. IF DELEGATED BY THE BOARD, CLOSE COMPLAINTS RESOLVED THROUGH
42 MEDIATION.

43 23. IF DELEGATED BY THE BOARD, ISSUE LETTERS OF CONCERN OR ORDERS FOR
44 NONDISCIPLINARY EDUCATION, OR BOTH.

1 24. IF DELEGATED BY THE BOARD, ENTER INTO A CONSENT AGREEMENT IF THERE
2 IS EVIDENCE OF DANGER TO THE PUBLIC HEALTH AND SAFETY.

3 25. IF DELEGATED BY THE BOARD, GRANT UNCONTESTED REQUESTS FOR
4 CANCELLATION OF A LICENSE PURSUANT TO SECTION 32-1827.

5 26. IF DELEGATED BY THE BOARD, REFER CASES TO THE BOARD FOR AN
6 INVESTIGATIVE INTERVIEW.

7 27. AS DIRECTED BY THE BOARD, PROVIDE ASSISTANCE TO THE ATTORNEY
8 GENERAL IN PREPARING AND EXECUTING DISCIPLINARY ORDERS, REHABILITATION ORDERS
9 AND NOTICES OF HEARINGS.

10 ~~19.~~ 28. Perform any other duty required by the board.

11 Sec. 5. Section 32-1821, Arizona Revised Statutes, is amended to read:

12 32-1821. Persons and acts not affected by chapter

13 This chapter does not prevent:

14 1. A duly licensed physician and surgeon of any other state, district
15 or territory from meeting a person ~~registered~~ LICENSED pursuant to this
16 chapter within this state for consultation or, pursuant to an invitation by a
17 sponsor, visiting this state for the sole purpose of promoting professional
18 education through lectures, clinics or demonstrations as long as the visiting
19 physician does not open an office, designate a place to meet patients or
20 receive calls relating to the practice of medicine outside of the facilities
21 and programs of the sponsor.

22 2. The practice of any other method, system or science of healing by a
23 person duly licensed pursuant to the laws of this state.

24 3. The practice by physicians and surgeons discharging their duties
25 while members of the armed forces of the United States or other federal
26 agencies.

27 4. Any act, task or function performed by a physician assistant OR
28 REGISTERED NURSE PRACTITIONER in the proper discharge of ~~the physician~~
29 ~~assistant's~~ THAT PERSON'S duties.

30 5. A person administering a lawful domestic or family remedy to a
31 member of that person's ~~own~~ IMMEDIATE family.

32 6. Providing medical assistance in case of an emergency.

33 7. The emergency harvesting of donor organs.

34 Sec. 6. Section 32-1822, Arizona Revised Statutes, is amended to read:

35 32-1822. Qualifications of applicant; application; fees

36 A. On a form and in a manner prescribed by the board, an applicant for
37 licensure shall submit proof that the applicant:

38 1. Is the person named on the application and on all supporting
39 documents submitted.

40 2. Is a citizen of the United States or a resident alien.

41 3. Is a graduate of a board approved school of osteopathic medicine.

42 4. Has completed an approved internship, the first year of an approved
43 multiple year residency or board approved equivalency.

1 5. Has passed the approved examinations for licensure within seven
2 years of application or has the board approved equivalency of practice
3 experience.

4 6. Has not engaged in any conduct that, if it occurred in this state,
5 would be considered unprofessional conduct or, if the applicant has engaged
6 in unprofessional conduct, is rehabilitated from the underlying conduct.

7 7. Is physically, mentally and emotionally able to practice medicine,
8 or, if limited, restricted or impaired in the ability to practice medicine,
9 consents to contingent licensure pursuant to subsection E of this section or
10 to entry into a program prescribed in section 32-1861.

11 8. IS OF GOOD MORAL CHARACTER.

12 B. An applicant must submit with the application the application fee
13 prescribed in section 32-1826 and pay the prescribed license issuance fee to
14 the board at the time the license is issued.

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

22 D. The board may deny a license for any unprofessional conduct that
23 would constitute grounds for disciplinary action pursuant to this chapter or
24 as determined by a competent domestic or foreign jurisdiction.

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

28 F. The executive director may issue licenses to applicants who meet
29 the requirements of this section.

30 G. A person whose license has been revoked, denied or surrendered in
31 this or any other state may apply for licensure not sooner than two years
32 after the revocation, denial or surrender.

33 H. A license issued pursuant to this section is valid for the
34 remainder of the calendar year in which it was issued, at which time it is
35 eligible for renewal.

36 Sec. 7. Section 32-1829, Arizona Revised Statutes, is amended to read:
37 32-1829. Training permits; issuance of permits

38 A. The board shall MAY grant a one year renewable training permit to a
39 person participating in a teaching hospital's accredited internship,
40 residency or clinical fellowship training program to allow that person to
41 ~~function~~ PRACTICE MEDICINE only in the supervised setting of that
42 program. Before the board issues the permit, the person shall: ~~comply with~~
43 ~~the applicable registration requirements of this article and~~

1 1. SUBMIT AN APPLICATION DEMONSTRATING THAT, EXCEPT FOR THE TRAINING
2 PROGRAM APPLIED FOR, THE PERSON MEETS THE REQUIREMENTS FOR LICENSURE
3 PRESCRIBED IN SECTION 32-1822.

4 2. Pay the fee prescribed in this chapter.

5 B. If a person PERMITTEE who is participating in a teaching hospital's
6 accredited internship, residency or clinical fellowship training program must
7 repeat or make up time in the program due to resident progression or for
8 other reasons, the board may grant that person a- AN EXTENSION OF THE
9 training permit if requested to do so by the program's director of medical
10 education or a person who holds an equivalent position. The EXTENDED permit
11 limits the permittee to practicing only in the supervised setting of that
12 program FOR A PERIOD OF TIME SUFFICIENT TO REPEAT OR MAKE UP THE TRAINING.

13 C. The board shall MAY grant a training permit to a person who is not
14 licensed in this state and who is participating in a short-term training
15 program of four months or less FOR CONTINUING MEDICAL EDUCATION conducted in
16 an approved school of osteopathic medicine or a hospital that has an
17 accredited hospital internship, residency or clinical fellowship training
18 program in this state ~~for the purpose of continuing medical education.~~
19 Before the board issues the permit, the person shall: ~~comply with the~~
20 ~~applicable registration requirements of this article and~~

21 1. SUBMIT AN APPLICATION DEMONSTRATING THAT THE PERSON MEETS THE
22 REQUIREMENTS FOR LICENSURE PRESCRIBED IN SECTION 32-1822.

23 2. Pay the fee prescribed in this chapter.

24 D. A permittee is subject to the disciplinary provisions of this
25 chapter.

26 E. THE EXECUTIVE DIRECTOR MAY ISSUE A PERMIT TO AN APPLICANT WHO MEETS
27 THE REQUIREMENTS OF THIS CHAPTER.

28 F. IF A PERMIT IS NOT ISSUED PURSUANT TO SUBSECTION E OF THIS SECTION,
29 THE BOARD MAY ISSUE A PERMIT OR MAY:

30 1. ISSUE A PERMIT THAT IS CONTINGENT ON THE APPLICANT ENTERING INTO A
31 STIPULATED AGREEMENT THAT MAY INCLUDE A PERIOD OF PROBATION OR A RESTRICTION
32 ON THE PERMITTEE'S PRACTICE.

33 2. DENY A PERMIT TO AN APPLICANT WHO DOES NOT MEET THE REQUIREMENTS OF
34 THIS CHAPTER.

35 Sec. 8. Title 32, chapter 17, article 2, Arizona Revised Statutes, is
36 amended by adding section 32-1832, to read:

37 32-1832. Retired license; waiver of fees; reinstatement;
38 limited license; volunteer work

39 A. THE BOARD MAY WAIVE A PHYSICIAN'S BIENNIAL RENEWAL FEE IF THE
40 PHYSICIAN HAS PAID ALL PAST FEES AND PRESENTS AN AFFIDAVIT TO THE BOARD
41 STATING THAT THE PHYSICIAN HAS PERMANENTLY RETIRED FROM THE PRACTICE OF
42 OSTEOPATHIC MEDICINE.

43 B. A RETIRED PHYSICIAN WHOSE BIENNIAL FEE HAS BEEN WAIVED BY THE BOARD
44 PURSUANT TO THIS SECTION IS NOT REQUIRED TO COMPLY WITH ANY CONTINUING
45 MEDICAL EDUCATION REQUIREMENTS OF THIS CHAPTER.

1 C. A RETIRED PHYSICIAN WHO HAS HAD THE BIENNIAL RENEWAL FEE WAIVED BY
2 THE BOARD PURSUANT TO THIS SECTION AND WHO ENGAGES IN THE PRACTICE OF
3 OSTEOPATHIC MEDICINE IS SUBJECT TO THE SAME PENALTIES THAT ARE IMPOSED
4 PURSUANT TO THIS CHAPTER ON A PERSON WHO PRACTICES MEDICINE WITHOUT A LICENSE
5 OR WITHOUT BEING EXEMPT FROM LICENSURE.

6 D. THE BOARD MAY REINSTATE A RETIRED PHYSICIAN TO ACTIVE STATUS ON
7 PAYMENT OF THE BIENNIAL RENEWAL FEE AND PRESENTATION OF EVIDENCE SATISFACTORY
8 TO THE BOARD THAT THE PHYSICIAN MEETS THE QUALIFICATIONS PRESCRIBED PURSUANT
9 TO SECTION 32-1822.

10 E. IF AN APPLICANT FOR REINSTATEMENT TO ACTIVE STATUS HAS NOT BEEN
11 LICENSED AND ACTIVELY PRACTICING IN ANOTHER JURISDICTION OF THE UNITED STATES
12 OR CANADA IN THE THREE YEARS IMMEDIATELY PRECEDING THE APPLICATION, THE BOARD
13 MAY ISSUE A LIMITED LICENSE THAT REQUIRES GENERAL OR DIRECT SUPERVISION BY
14 ANOTHER LICENSED OSTEOPATHIC PHYSICIAN FOR NOT MORE THAN ONE YEAR.

15 F. A RETIRED PHYSICIAN WHO HAS HAD THE BIENNIAL RENEWAL FEE WAIVED BY
16 THE BOARD PURSUANT TO THIS SECTION MAY PERFORM VOLUNTEER WORK OF NOT MORE
17 THAN TEN HOURS EACH WEEK AND MAY TEACH OR PROVIDE INSTRUCTION AT AN APPROVED
18 SCHOOL OF OSTEOPATHIC MEDICINE.

19 Sec. 9. Section 32-1855, Arizona Revised Statutes, is amended to read:
20 32-1855. Disciplinary action; duty to report; hearing; notice;
21 independent medical examinations; surrender of
22 license

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

1 B. The board may require a physician under investigation pursuant to
2 subsection A of this section to be interviewed by the board or its
3 representatives. The board or the executive director may require a licensee
4 who is under investigation pursuant to subsection A of this section to
5 undergo at the licensee's expense any combination of medical, physical or
6 mental examinations the board finds necessary to determine the physician's
7 competence.

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

18 D. If, after completing its investigation, the board finds that the
19 information provided pursuant to this section is not of sufficient
20 seriousness to merit direct action against the physician's license, it may
21 take any combination of the following actions:

22 1. Dismiss if, in the opinion of the board, the information is without
23 merit.

24 2. File a letter of concern.

25 3. In addition to the requirements of section 32-1825, require
26 continuing medical education on subjects and within a time period determined
27 by the board.

28 4. Issue a nondisciplinary order requiring the licensee to complete a
29 prescribed number of hours of continuing education in an area or areas
30 prescribed by the board to provide the licensee with the necessary
31 understanding of current developments, skills, procedures or treatment.

32 E. If, in the opinion of the board, it appears THAT information
33 provided pursuant to this section is or may be true, the board may request an
34 investigative hearing with the physician concerned. At an investigative
35 hearing the board may receive and consider sworn statements of persons who
36 may be called as witnesses in a formal hearing and other pertinent
37 documents. Legal counsel may be present and participate in the meeting. If
38 the physician refuses the request or if the physician accepts the request and
39 the results of the investigative hearing indicate suspension of more than
40 twelve months or revocation of the license may be in order, a complaint shall
41 be issued and an administrative hearing shall be held pursuant to title 41,
42 chapter 6, article 10. If, after the investigative hearing and a mental,
43 physical or medical competence examination as the board deems necessary, the
44 board finds the information provided pursuant to this section to be true but

1 not of sufficient seriousness to merit suspension or revocation of the
2 license, it may take any of the following actions:

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

5 2. File a letter of concern.

6 3. In addition to the requirements of section 32-1825, require
7 continuing medical education on subjects and within a time period determined
8 by the board.

9 4. Issue a decree of censure, which constitutes an official action
10 against a physician's license.

11 5. Fix a period and terms of probation best adapted to protect the
12 public health and safety and rehabilitate or educate the physician
13 concerned. Any costs incidental to the terms of probation are at the
14 physician's own expense.

15 6. Restrict or limit the physician's practice in a manner and for a
16 time determined by the board.

17 7. Suspend the physician's license for not more than twelve months.

18 8. Impose a civil penalty of not to exceed five hundred dollars for
19 each violation of this chapter.

20 9. Issue a nondisciplinary order requiring the licensee to complete a
21 prescribed number of hours of continuing education in an area or areas
22 prescribed by the board to provide the licensee with the necessary
23 understanding of current developments, skills, procedures or treatment.

24 10. ISSUE AN ADMINISTRATIVE WARNING.

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

32 G. If the physician wishes to be present at the investigative or
33 administrative hearing in person or by representation, or both, the physician
34 shall file with the board an answer to the charges in the complaint. The
35 answer shall be in writing, verified under oath and filed within twenty days
36 after service of the summons and complaint.

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

39 I. A physician who, after an investigative or administrative hearing,
40 is found to be guilty of unprofessional conduct or is found to be mentally or
41 physically unable safely to engage in the practice of osteopathic medicine is
42 subject to any combination of censure, probation, suspension of license,
43 revocation of license, an order to return patient fees, imposition of hearing
44 costs, imposition of a civil penalty of not to exceed five hundred dollars
45 for each violation for a period of time, or permanently, and under conditions

1 the board deems appropriate for the protection of the public health and
2 safety and just in the circumstances. The board may charge the costs of an
3 investigative or administrative hearing to the licensee if pursuant to that
4 hearing the board determines that the licensee violated this chapter or board
5 rules.

6 J. If the board acts to modify a physician's prescription writing
7 privileges, it shall immediately notify the state board of pharmacy and the
8 federal drug enforcement administration in the United States department of
9 justice of the modification.

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

12 L. Notice of a complaint and administrative hearing is effective when
13 a true copy of the notice is sent by certified mail to the licensee's last
14 known address of record in the board's files and is complete on the date of
15 its deposit in the mail. The board shall hold an administrative hearing
16 within one hundred twenty days after that date.

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

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

22 32-1861. Substance abuse treatment and rehabilitation program;
23 private contract; funding

24 A. The board may establish a CONFIDENTIAL program for the treatment
25 and rehabilitation of licensees who are impaired by substance abuse. This
26 program may include education, intervention, therapeutic treatment and
27 posttreatment monitoring and support.

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

31 1. Periodic reports to the board regarding treatment program activity.

32 2. Release to the board on demand of all treatment records.

33 3. Quarterly reports to the board regarding each physician's diagnosis
34 and prognosis and recommendations for continuing care, treatment and
35 supervision.

36 4. Immediate reporting to the board of the name of an impaired
37 physician who the treating organization believes to be incapable of safely
38 practicing medicine.

39 C. The board may allocate an amount of not more than twenty dollars
40 from each fee it collects from the renewal of licenses pursuant to section
41 32-1826 for the administration of the program established by this section.

1 Sec. 11. Section 32-1871, Arizona Revised Statutes, is amended to
2 read:

3 32-1871. Dispensing of drugs and devices; conditions

4 A. An osteopathic physician may dispense drugs and devices kept by the
5 physician if:

6 1. All drugs are dispensed in packages labeled with the following
7 information:

8 (a) The dispensing physician's name, address and telephone number.

9 (b) The date the drug is dispensed.

10 (c) The patient's name.

11 (d) The name and strength of the drug, directions for its use and any
12 cautionary statements.

13 2. The dispensing physician enters into the patient's medical record
14 the name and strength of the drug dispensed, the date the drug is dispensed
15 and the therapeutic reason.

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

19 4. The dispensing physician ANNUALLY registers with the board to
20 dispense drugs and devices ~~and pays the registration fee prescribed pursuant~~
21 ~~to section 32-1826.~~

22 5. THE DISPENSING PHYSICIAN PAYS THE REGISTRATION FEE PRESCRIBED BY
23 THE BOARD PURSUANT TO SECTION 32-1826. THIS PARAGRAPH DOES NOT APPLY IF THE
24 PHYSICIAN IS DISPENSING IN A NONPROFIT PRACTICE AND NEITHER THE PATIENT NOR A
25 THIRD PARTY PAYS OR REIMBURSES THE PHYSICIAN OR THE NONPROFIT PRACTICE FOR
26 THE DRUGS OR DEVICES DISPENSED.

27 6. THE DISPENSING PHYSICIAN LABELS DISPENSED DRUGS AND DEVICES AND
28 STORES THEM ACCORDING TO RULES ADOPTED BY THE BOARD.

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

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

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

39 D. A physician shall dispense ~~for profit~~ only to the physician's
40 patient and only for conditions being treated by that physician. The
41 physician shall ~~provide direct supervision of a nurse or attendant involved~~
42 ~~in the dispensing process. In this subsection, "direct supervision" means~~
43 ~~that a physician is present and makes the determination as to the legitimacy~~
44 ~~or the advisability of the drugs or devices to be dispensed.~~

1 E. The board shall enforce this section and shall establish rules
2 regarding labeling, record keeping, storage and packaging of drugs that are
3 consistent with the requirements of chapter 18 of this title. The board may
4 conduct periodic inspections of dispensing practices to assure compliance
5 with this section and applicable rules.

6 ~~F. For the purposes of this section, "dispense" means the delivery by
7 an osteopathic physician of a prescription drug or device to a patient,
8 except for samples packaged for individual use by licensed manufacturers or
9 repackagers of drugs, and includes the prescribing, administering, packaging,
10 labeling and security necessary to prepare and safeguard the drug or device
11 for delivery.~~

12 F. IF A PHYSICIAN FAILS TO RENEW A REGISTRATION TO DISPENSE OR CEASES
13 TO DISPENSE FOR ANY REASON, WITHIN THIRTY DAYS THAT PHYSICIAN MUST NOTIFY THE
14 BOARD IN WRITING OF THE REMAINING INVENTORY OF DRUGS AND DEVICES AND THE
15 MANNER IN WHICH THEY WERE DISPOSED.

APPROVED BY THE GOVERNOR APRIL 28, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2008.

Passed the House March 11, 20 08

Passed the Senate April 15, 20 08

by the following vote: 57 Ayes,

by the following vote: 22 Ayes,

3 Nays, 0 Not Voting

6 Nays, 2 Not Voting

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

Secretary of State

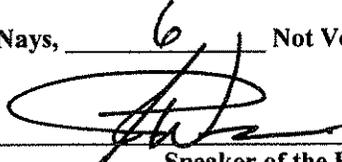
H.B. 2268

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

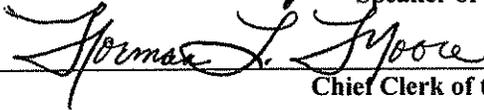
April 22, 2008,

by the following vote: 51 Ayes,

3 Nays, 6 Not Voting



Speaker of the House



Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

22nd day of April, 2008

at 2:40 o'clock p. M.



Secretary to the Governor

Approved this 28 day of

April, 20 08,

at 10th o'clock A. M.



Governor of Arizona

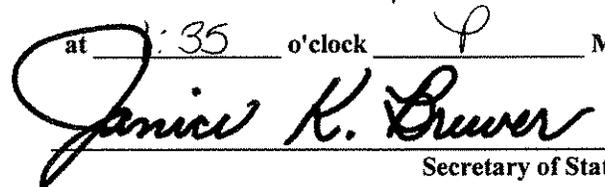
H.B. 2268

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 28 day of April, 2008,

at 1:35 o'clock P M.



Secretary of State