

House Engrossed

FILED

KEN BENNETT

SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 35

HOUSE BILL 2149

AN ACT

AMENDING SECTIONS 32-2003, 32-2022, 32-2023, 32-2027, 32-2028, 32-2042, 32-2044, 32-2046 AND 32-2047, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF PHYSICAL THERAPY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2003, Arizona Revised Statutes, is amended to
3 read:

4 32-2003. Board; powers and duties

5 A. The board shall:

6 1. Evaluate the qualifications of applicants for licensure and
7 certification.

8 2. Provide for national examinations for physical therapists and
9 physical therapist assistants and adopt passing scores for these
10 examinations.

11 3. Issue licenses, permits and certificates to persons who meet the
12 requirements of this chapter.

13 4. Regulate the practice of physical therapy by interpreting and
14 enforcing this chapter.

15 5. Adopt and revise rules to enforce this chapter.

16 6. Meet at least once each quarter in compliance with the open meeting
17 requirements of title 38, chapter 3, article 3.1 and keep an official record
18 of these meetings.

19 7. Establish the mechanisms for assessing continuing professional
20 competence of physical therapists to engage in the practice of physical
21 therapy and the competence of physical therapist assistants to work in the
22 field of physical therapy.

23 8. At its first regular meeting after the start of each calendar year,
24 elect officers from among its members and as necessary to accomplish board
25 business.

26 9. Provide for the timely orientation and training of new professional
27 and public appointees to the board regarding board licensing and disciplinary
28 procedures, this chapter, board rules and board procedures.

29 10. Maintain a current list of all persons regulated under this
30 chapter. This list shall include the person's name, current business and
31 residential addresses, telephone numbers and license or certificate number.

32 11. Employ necessary personnel to carry out the administrative work of
33 the board. Board personnel are eligible to receive compensation pursuant to
34 section 38-611.

35 12. Enter into contracts for services necessary for adequate
36 enforcement of this chapter.

37 13. Report final disciplinary action taken against a licensee or a
38 certificate holder to a national disciplinary database recognized by the
39 board.

40 14. Publish, at least annually, final disciplinary actions taken
41 against a licensee or a certificate holder.

42 15. Publish, at least annually, board rulings, opinions and
43 interpretations of statutes or rules in order to guide persons regulated
44 pursuant to this chapter.

1 16. Not later than December 31 of each year, submit a written report of
2 its actions and proceedings to the governor.

3 17. Establish and collect fees.

4 18. Provide information to the public regarding the board, its
5 processes and consumer rights.

6 B. THE BOARD MAY ESTABLISH A COMMITTEE OR COMMITTEES TO ASSIST IT IN
7 CARRYING OUT ITS DUTIES FOR A TIME PRESCRIBED BY THE BOARD. THE BOARD MAY
8 REQUIRE A COMMITTEE APPOINTED PURSUANT TO THIS SUBSECTION TO MAKE REGULAR
9 REPORTS TO THE BOARD.

10 Sec. 2. Section 32-2022, Arizona Revised Statutes, is amended to read:
11 32-2022. Qualifications for licensure and certification

12 A. An applicant for a license as a physical therapist who has been
13 educated in the United States shall:

14 1. Be of good moral character.

15 2. Complete the application process.

16 3. Be a graduate of a professional physical therapy education program
17 accredited by a national accreditation agency approved by the board.

18 4. Have successfully passed the national examination approved by the
19 board.

20 5. Have successfully passed a jurisprudence examination that tests the
21 applicant's knowledge of board statutes and rules.

22 B. An applicant for a license as a physical therapist who has been
23 educated outside of the United States shall:

24 1. Be of good moral character.

25 2. Complete the application process.

26 3. Provide satisfactory evidence that the applicant's education is
27 substantially equivalent to the requirements of physical therapists educated
28 in accredited educational programs as determined by the board. If the board
29 determines that a foreign educated applicant's education is not substantially
30 equivalent, it may require the person to complete additional ~~course work~~
31 COURSEWORK before it proceeds with the application process. It is not
32 necessary that coursework completed by the applicant be identical in all
33 respects to that required by an education program in the United States for an
34 entry level physical therapy degree, but all required content areas must be
35 evident as required by board rules. Deficiencies may occur only in
36 coursework and not in essential areas of professional education and shall not
37 be of a magnitude that would cause the education to be deemed below entry
38 level preparation for practice in this state.

39 4. Provide written proof of legal authorization to practice as a
40 physical therapist without limitation in the country where the professional
41 education occurred. THE BOARD MAY WAIVE THIS REQUIREMENT ON RECEIPT OF
42 WRITTEN PROOF THAT THE APPLICANT CANNOT DEMONSTRATE LEGAL AUTHORIZATION BASED
43 ON THE CITIZENSHIP REQUIREMENTS OF THE COUNTRY WHERE THE PROFESSIONAL
44 EDUCATION OCCURRED.

1 5. Provide proof of legal authorization to reside and seek employment
2 in the United States or its territories.

3 6. Have passed the board approved English proficiency examinations if
4 the applicant's native language is not English.

5 7. Have participated in an interim supervised clinical practice period
6 before licensure as approved by the board or shall have already met this
7 requirement to the board's satisfaction by virtue of the applicant's clinical
8 practice in another jurisdiction of the United States.

9 8. Have successfully passed the national examination approved by the
10 board.

11 9. Have successfully passed a jurisprudence examination that tests the
12 applicant's knowledge of board statutes and rules.

13 C. Notwithstanding the requirements of subsection B, if the foreign
14 educated physical therapist applicant is a graduate of an accredited
15 educational program as determined by the board, the board may waive the
16 requirements of subsection B, paragraphs 3 and 7.

17 D. An applicant for certification as a physical therapist assistant
18 shall meet the following requirements:

19 1. Be of good moral character.

20 2. Complete the application process.

21 3. Be a graduate of a physical therapist assistant education program
22 accredited by an agency approved by the board.

23 4. Have successfully passed the national examination approved by the
24 board.

25 5. Have successfully passed a jurisprudence examination that tests the
26 applicant's knowledge of board statutes and rules.

27 E. For the purposes of subsection B, paragraph 3, "substantially
28 equivalent" means that the applicant provides documentation satisfactory to
29 the board that:

30 1. The applicant graduated from a physical therapist education program
31 that prepares the applicant to engage without restriction in the practice of
32 physical therapy.

33 2. The applicant's school of physical therapy education is recognized
34 by its own ministry of education. The board may waive this requirement for
35 good cause shown.

36 3. The applicant has undergone a credentials evaluation as directed by
37 the board that determines that the applicant has met uniform criteria for
38 educational requirements pursuant to board rules.

39 4. The applicant has completed any additional education required by
40 the board.

41 Sec. 3. Section 32-2023, Arizona Revised Statutes, is amended to read:

42 32-2023. Application; denial; hearing

43 A. An applicant for licensure or certification shall file a completed
44 application as required by the board. The applicant shall include the
45 application fee prescribed in section 32-2029.

1 B. THE BOARD MAY DENY A LICENSE OR CERTIFICATE TO AN APPLICANT, A
2 LICENSEE OR A CERTIFICATE HOLDER FOR ANY OF THE FOLLOWING:

3 1. KNOWINGLY MAKING A FALSE STATEMENT OF FACT REQUIRED TO BE REVEALED
4 IN THE INITIAL APPLICATION, RENEWAL APPLICATION OR REINSTATEMENT APPLICATION
5 FOR A LICENSE OR CERTIFICATE.

6 2. COMMITTING FRAUD IN THE PROCUREMENT OF A LICENSE OR CERTIFICATE.

7 3. COMMITTING A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR A
8 MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE CONVICTION BY A COURT
9 OF COMPETENT JURISDICTION IS CONCLUSIVE EVIDENCE OF THE COMMISSION.

10 4. ATTEMPTING TO ENGAGE IN CONDUCT THAT SUBVERTS OR UNDERMINES THE
11 INTEGRITY OF THE EXAMINATION OR THE EXAMINATION PROCESS, INCLUDING USING IN
12 ANY MANNER RECALLED OR MEMORIZED EXAMINATION QUESTIONS FROM OR WITH A PERSON
13 OR ENTITY, FAILING TO COMPLY WITH ALL TEST CENTER SECURITY PROCEDURES,
14 COMMUNICATING OR ATTEMPTING TO COMMUNICATE WITH OTHER EXAMINEES DURING THE
15 EXAMINATION OR COPYING OR SHARING EXAMINATION QUESTIONS OR PORTIONS OR
16 QUESTIONS.

17 5. ENGAGING IN ANY CONDUCT THAT WOULD BE CONSIDERED A VIOLATION OF
18 SECTION 32-2044.

19 ~~B.~~ C. If the board denies an application because of deficiencies in
20 an application OR FOR A REASON PRESCRIBED IN SUBSECTION B OF THIS SECTION,
21 the board must inform an applicant of those specific deficiencies. On
22 receipt of a written request by an applicant who disagrees with the board's
23 decision to deny an application, the board shall hold a hearing pursuant to
24 title 41, chapter 6, article 10.

25 Sec. 4. Section 32-2027, Arizona Revised Statutes, is amended to read:
26 32-2027. License or certificate renewal; automatic suspension

27 A. A licensee or certificate holder shall renew the license or
28 certificate pursuant to board rules. Except as provided in section 32-4301,
29 a licensee or certificate holder who fails to renew the license or
30 certificate on or before its expiration date shall not practice as a physical
31 therapist or work as a physical therapist assistant in this state.

32 B. THE BOARD SHALL ADMINISTRATIVELY SUSPEND A LICENSE OR CERTIFICATE
33 IF THE LICENSEE OR CERTIFICATE HOLDER DOES NOT SUBMIT A COMPLETE APPLICATION
34 FOR RENEWAL AND PAY THE RENEWAL FEE PURSUANT TO BOARD RULES.

35 Sec. 5. Section 32-2028, Arizona Revised Statutes, is amended to read:
36 32-2028. Reinstatement of license or certificate

37 A. The board may reinstate a ~~lapsed~~ license or certificate THAT IT
38 SUSPENDED PURSUANT TO SECTION 32-2027, SUBSECTION B on payment of a renewal
39 fee and reinstatement fee and completion of the application process as
40 prescribed by the board.

41 B. If a person's license or certificate has ~~lapsed~~ BEEN SUSPENDED
42 PURSUANT TO SECTION 32-2027, SUBSECTION B for more than three consecutive
43 years, THE LICENSE OR CERTIFICATE EXPIRES AND that person shall reapply for a
44 license or certificate pursuant to section 32-2022 or 32-2026 and pay all
45 applicable fees. The person must also demonstrate to the board's

1 satisfaction competency by satisfying one or more of the following as
2 prescribed by the board:

- 3 1. Practicing for a specified time under an interim permit.
- 4 2. Completing remedial courses.
- 5 3. Completing continuing competence requirements for the period of the
6 lapsed license.
- 7 4. Passing an examination.

8 Sec. 6. Section 32-2042, Arizona Revised Statutes, is amended to read:
9 32-2042. Use of titles; restrictions; violation; classification

10 A. A physical therapist shall use the letters "P.T." "PT" in
11 connection with the physical therapist's name or place of business to denote
12 licensure under this chapter.

13 B. A physical therapist assistant shall use the letters "P.T.A." "PTA"
14 in connection with that person's name to denote certification pursuant to
15 this chapter.

16 C. A person or business entity or its employees, agents or
17 representatives shall not use in connection with that person's name or the
18 name or activity of the business the words "physical therapy", "physical
19 therapist", "physiotherapy", "physiotherapist" or "registered physical
20 therapist", the letters "P.T." "PT", "L.P.T." "LPT", "R.P.T." "RPT", "M.P.T."
21 "MPT" "DScPT" or "D.P.T." "DPT" or any other words, abbreviations or insignia
22 indicating or implying directly or indirectly that physical therapy is
23 provided or supplied, including the billing of services labeled as physical
24 therapy, unless these services are provided by or under the direction of a
25 physical therapist WHO IS licensed pursuant to this chapter. A person or
26 entity that violates this subsection is guilty of a class 1 misdemeanor.

27 D. A person or business entity shall not advertise, bill or otherwise
28 promote a person who is not licensed pursuant to this chapter as being a
29 physical therapist or offering physical therapy services.

30 E. A person shall not use the title "physical therapist assistant" or
31 use the letters "P.T.A." "PTA" in connection with that person's name or any
32 other words, abbreviations or insignia indicating or implying directly or
33 indirectly that the person is a physical therapist assistant unless that
34 person is certified as a physical therapist assistant pursuant to this
35 chapter. A person who violates this subsection is guilty of a class 1
36 misdemeanor.

37 Sec. 7. Section 32-2044, Arizona Revised Statutes, is amended to read:
38 32-2044. Grounds for disciplinary action

39 The following are grounds for disciplinary action:

- 40 1. Violating this chapter, board rules or a written board order.
- 41 2. Practicing or offering to practice beyond the scope of the practice
42 of physical therapy.
- 43 3. Obtaining or attempting to obtain a license or certificate by fraud
44 or misrepresentation.

1 4. Engaging in the performance of substandard care by a physical
2 therapist due to a deliberate or negligent act or failure to act regardless
3 of whether actual injury to the patient is established.

4 5. Engaging in the performance of substandard care by a physical
5 therapist assistant, including exceeding the authority to perform tasks
6 selected and delegated by the supervising licensee regardless of whether
7 actual injury to the patient is established.

8 6. Failing to supervise assistive personnel, physical therapy students
9 or interim permit holders in accordance with this chapter and rules adopted
10 pursuant to this chapter.

11 7. ~~Committing~~ CONVICTION OF a felony, whether or not involving moral
12 turpitude, or a misdemeanor involving moral turpitude. In either case
13 conviction by a court of competent jurisdiction is conclusive evidence of the
14 commission AND THE BOARD MAY TAKE DISCIPLINARY ACTION WHEN THE TIME FOR
15 APPEAL HAS LAPSED, WHEN THE JUDGMENT OF CONVICTION HAS BEEN AFFIRMED ON
16 APPEAL OR WHEN AN ORDER GRANTING PROBATION IS MADE SUSPENDING THE IMPOSITION
17 OF SENTENCE, IRRESPECTIVE OF A SUBSEQUENT ORDER. FOR THE PURPOSES OF THIS
18 PARAGRAPH, "CONVICTION" MEANS A PLEA OR VERDICT OF GUILTY OR A CONVICTION
19 FOLLOWING A PLEA OF NOLO CONTENDERE.

20 8. Practicing as a physical therapist or working as a physical
21 therapist assistant when physical or mental abilities are impaired by disease
22 or trauma, by the use of controlled substances or other habit-forming drugs,
23 chemicals or alcohol or by other causes.

24 9. Having had a license or certificate revoked or suspended or other
25 disciplinary action taken or an application for licensure or certification
26 refused, revoked or suspended by the proper authorities of another state,
27 territory or country.

28 10. Engaging in sexual misconduct. For the purposes of this paragraph,
29 "sexual misconduct" includes:

30 (a) Engaging in or soliciting sexual relationships, whether consensual
31 or nonconsensual, while a provider-patient relationship exists.

32 (b) Making sexual advances, requesting sexual favors or engaging in
33 other verbal conduct or physical contact of a sexual nature with patients.

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

37 11. Directly or indirectly requesting, receiving or participating in
38 the dividing, transferring, assigning, rebating or refunding of an unearned
39 fee or profiting by means of any credit or other valuable consideration such
40 as an unearned commission, discount or gratuity in connection with the
41 furnishing of physical therapy services. This paragraph does not prohibit
42 the members of any regularly and properly organized business entity
43 recognized by law and ~~comprised~~ COMPOSED of physical therapists from dividing
44 fees received for professional services among themselves as they determine
45 necessary to defray their joint operating expense.

- 1 12. Failing to adhere to the recognized standards of ethics of the
2 physical therapy profession.
- 3 13. Charging unreasonable or fraudulent fees for services performed or
4 not performed.
- 5 14. Making misleading, deceptive, untrue or fraudulent representations
6 in violation of this chapter or in the practice of the profession.
- 7 15. Having been adjudged mentally incompetent by a court of competent
8 jurisdiction.
- 9 16. Aiding or abetting a person who is not licensed or certified in
10 this state and who directly or indirectly performs activities requiring a
11 license or certificate.
- 12 17. Failing to report to the board any direct knowledge of an
13 unprofessional, incompetent or illegal act that appears to be in violation of
14 this chapter or board rules.
- 15 18. Interfering with an investigation or disciplinary proceeding by
16 failing to cooperate, by wilful misrepresentation of facts or by the use of
17 threats or harassment against any patient or witness to prevent the patient
18 or witness from providing evidence in a disciplinary proceeding or any legal
19 action.
- 20 19. Failing to maintain patient confidentiality without prior written
21 consent of the patient or unless otherwise required by law.
- 22 20. Failing to maintain adequate patient records. For the purposes of
23 this ~~subsection~~ PARAGRAPH, "adequate patient records" means legible records
24 that comply with board rules and that contain at a minimum an evaluation of
25 objective findings, a diagnosis, the plan of care, the treatment record, a
26 discharge summary and sufficient information to identify the patient.
- 27 21. Promoting an unnecessary device, treatment intervention or service
28 for the financial gain of the practitioner or of a third party.
- 29 22. Providing treatment intervention unwarranted by the condition of
30 the patient or treatment beyond the point of reasonable benefit.
- 31 23. Failing to report to the board a name change or a change in
32 business or home address within thirty days after that change.
- 33 24. FAILING TO COMPLETE CONTINUING COMPETENCE REQUIREMENTS AS
34 ESTABLISHED BY THE BOARD BY RULE.
- 35 Sec. 8. Section 32-2046, Arizona Revised Statutes, is amended to read:
36 32-2046. Informal and formal hearings
37 A. The board may request an informal hearing with a licensee, a
38 certificate holder or any unlicensed person in order to further its
39 investigation or to resolve a complaint.
- 40 B. If at an informal hearing the board finds a violation of this
41 chapter has occurred that constitutes grounds for disciplinary action, it may
42 take any disciplinary actions prescribed in section 32-2047, paragraph 1, ~~or~~
43 2 OR 6, EXCEPT THAT A CIVIL PENALTY MAY NOT EXCEED FIVE HUNDRED DOLLARS.

1 C. If the results of an informal hearing indicate that suspension,
2 revocation or a civil penalty might be in order, the board shall notify the
3 subject of the investigation of the time and place for a hearing pursuant to
4 title 41, chapter 6, article 10.

5 D. In lieu of or in addition to an informal hearing as provided in
6 subsection A of this section, the board may serve on a licensee or a
7 certificate holder a summons and complaint setting forth the grounds for
8 disciplinary action and notice of a hearing to be held before the board ~~not~~
9 ~~less than~~ AT LEAST thirty days after the date of the notice. The notice
10 shall state the time and place of the hearing.

11 E. A motion for rehearing or review of the board's decision in a
12 disciplinary action shall be filed pursuant to title 41, chapter 6, article
13 10.

14 F. The service of a summons and complaint and the service of a
15 subpoena shall be as provided for service in civil cases.

16 G. If a person disobeys a subpoena, the board may petition the
17 superior court for an order requiring appearance or the production of
18 documents.

19 Sec. 9. Section 32-2047, Arizona Revised Statutes, is amended to read:
20 32-2047. Disciplinary actions; penalties

21 On proof that any grounds prescribed in section 32-2044 have been
22 violated, the board may take the following disciplinary actions singly or in
23 combination:

24 1. Issue a decree of censure.

25 2. Restrict a license or a certificate. The board may require a
26 licensee or certificate holder to report regularly to the board on matters
27 related to the grounds for the restricted license or certificate.

28 3. Suspend a license or certificate for a period prescribed by the
29 board.

30 4. Revoke a license or certificate.

31 5. Refuse to issue or renew a license or certificate.

32 6. Impose a civil penalty of at least two hundred fifty dollars but
33 not more than ten thousand dollars for each violation of this chapter. In
34 addition the board may assess and collect the reasonable costs incurred in a
35 disciplinary hearing when action is taken against a person's license or
36 certificate.

37 7. Accept a voluntary surrendering of a license or certificate, ~~if~~
38 ~~approved~~ PURSUANT TO AN ORDER OF CONSENT by the board.

APPROVED BY THE GOVERNOR APRIL 9, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2010.

Passed the House February 22, 2010

Passed the Senate April 1, 2010

by the following vote: 56 Ayes,

by the following vote: 21 Ayes,

1 Nays, 3 Not Voting

7 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

5th day of April, 20 10

at 2:30 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 9th day of

April

at 10:30 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 9th day of April, 20 10

at 12:09 o'clock P. M.

[Signature]
Secretary of State