House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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CHAPTER 186

SENATE BILL 1175

AN ACT

AMENDING SECTIONS 32-2901, 32-2902, 32-2904, 32-2907, 32-2911, 32-2912, 32-2913, 32-2914, 32-2915, 32-2916, 32-2917, 32-2931, 32-2932, 32-2933, 32-2934, 32-2935, 32-2939, 32-2941 AND 32-2951, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-2901, Arizona Revised Statutes, is amended to read:

32-2901. Definitions

In this chapter, unless the context otherwise requires:

1. "Acupuncture" means a medical therapy in which ailments are diagnosed and treated by the specific application of needles, heat or physical and electromagnetic impulses or currents to specific anatomic points on the body through any of the following:

(a) The diagnosis and treatment of ailments according to the systematic principles of traditional Asian medicine.

(b) The diagnosis and treatment of pain, neuromuscular disorders and other ailments based on the body's biophysics and neuroanatomic structure.

(c) The use of devices to determine the biologic electrical response pattern of acupuncture points as a guide to diagnose bodily ailments and to guide the prescription of homeopathic substances, orthomolecular therapy or pharmaceutical medicine.

2. "Adequate records" means legible medical records that contain at a minimum sufficient information to identify the patient, support the diagnosis, document the treatment, accurately describe the results, indicate advice, cautionary warnings and informed consent discussions with the patient and provide sufficient information for another licensed health care practitioner to assume continuity of the patient's care and to continue or modify the treatment plan.

3. "Approved internship" means that the applicant has completed training in a hospital that was approved for internship, fellowship or residency training by the council on medical education in hospitals of the American medical association, the association of American medical colleges, the royal college of physicians and surgeons of Canada, the American osteopathic association or any board approved similar body in the United States or Canada that approves hospitals for internship, fellowship or residency training.

4. "Approved school of medicine":

(a) AS IT RELATES TO A PERSON WHO IS SEEKING LICENSURE PURSUANT TO SECTION 32-2912, SUBSECTION A, means a school or college that offers a course of study that on successful conclusion results in a degree of doctor of medicine or doctor of osteopathy and that offers a course of study that is approved or accredited by the association of American medical colleges, the association of Canadian medical colleges, the American medical association, the American osteopathic association or any board approved similar body in the United States or Canada that accredits this course of study.

(b) AS IT RELATES TO A PERSON WHO IS SEEKING LICENSURE PURSUANT TO SECTION 32-2912, SUBSECTION B, MEANS A SCHOOL OR COLLEGE THAT ON SUCCESSFUL COMPLETION RESULTS IN A DEGREE OF DOCTOR OF HOMEOPATHY AND THAT IS APPROVED OR ACCREDITED BY THE COUNCIL ON HOMEOPATHIC EDUCATION OR ANY BOARD APPROVED

SIMILAR BODY IN THE UNITED STATES OR CANADA THAT ACCREDITS THIS COURSE OF STUDY.

5. "Board" means the board of homeopathic and integrated medicine examiners.

6. "Chelation therapy" means an experimental medical therapy to restore cellular homeostasis through the use of intravenous, metal-binding and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation therapy is not an experimental therapy if it is used to treat heavy metal poisoning.

7. "Controlled substance" means a drug or substance or a drug's or substance's immediate precursor that is defined or listed in title 36, chapter 27, article 2.

8. "Drug" means a medication or substance that is any of the following:

(a) Recognized in the official compendia or for which standards or specifications are prescribed in the official compendia.

(b) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of human diseases.

(c) Articles other than food that are intended to affect the structure or function of the human body.

9. "Homeopathic medication" means a substance of animal, vegetable or mineral origin that is prepared according to homeopathic pharmacology and that is given usually in a homeopathic microdosage.

10. "Homeopathic microdosage" means a substance prepared so that it is diluted from ten to the minus one to ten to the minus ten thousandth or higher of its original concentration.

11. "Homeopathy" means a system of medicine that employs homeopathic medication in accordance with the principle that a substance that produces symptoms in a healthy person can cure those symptoms in an ill person.

12. "Immediate family" means a person's spouse, natural or adopted children, parents and siblings and the natural or adopted children, parents and siblings of the person's spouse.

13. "Letter of concern" means an advisory letter to notify a ~~physician~~ LICENSEE that, while there is insufficient evidence to support disciplinary action, the board believes the ~~physician~~ LICENSEE should modify or eliminate certain practices.

14. "Licensee" means a ~~homeopathic physician~~ PERSON WHO IS licensed ~~under~~ PURSUANT TO this chapter.

15. "Medical assistant" means an unlicensed person who has completed an educational program approved by the board, who assists in a homeopathic practice under the supervision of a doctor of homeopathy and who performs delegated procedures commensurate with the assistant's education and training but who does not diagnose, interpret, design or modify established treatment programs or violate any statute.

16. "Medical incompetence" means the lack of sufficient medical knowledge or skill by a licensee to a degree that is likely to endanger a patient's health. Medical incompetence includes the range of knowledge expected for basic licensure PURSUANT TO THIS CHAPTER OR as a medical or osteopathic physician in any professional regulatory jurisdiction of the United States and additional knowledge of homeopathic treatments and modalities expected of ~~physicians~~ PERSONS WHO ARE licensed ~~under~~ PURSUANT TO this chapter.

17. "Minor surgery" means surgical procedures that are conducted by a licensee WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION A in an outpatient setting and that involve the removal or repair of lesions or injuries to the skin, mucous membranes and subcutaneous tissues, the use of topical, local or regional anesthetic agents, the treatment by stabilizing or casting nondisplaced and uncomplicated fractures of the extremities and diagnostic endoscopies of the intestinal tract, nasopharynx and vagina. Minor surgery also includes diagnostic aspiration of joints and subcutaneous cysts, therapeutic injections of muscular trigger points, tendons, ligaments and scars and the subcutaneous implantation of medical therapeutic agents. Minor surgery does not include the use of general, spinal or epidural anesthesia, the opening of body cavities, the repair of blood vessels and nerves or the biopsy by incision, excision or needle aspiration of internal organs, the breast or the prostate.

18. "Neuromuscular integration" means musculoskeletal therapy that uses any combination of manual methods, physical agents and physical medicine procedures and devices to improve physiological function by normalizing body structure.

19. "Nutrition" means the recommendation by a licensee of therapeutic or preventative dietary measures, food factor concentrates, fasting and cleansing regimens and the rebalancing by a licensee of digestive system function to correct diseases of malnutrition, to resolve conditions of metabolic imbalance and to support optimal vitality.

20. "Orthomolecular therapy" means therapy to provide the optimum concentration of substances normally present in the human body such as vitamins, minerals, amino acids and enzymes. Orthomolecular therapy includes the diagnosis of ailments or physiologic stresses that occur as a result of genetic or environmental influences as well as acquired or inherited allergy and hypersensitivity responses.

21. "Pharmaceutical medicine" means a drug therapy that uses prescription-only and nonprescription pharmaceutical agents as well as medicinal agents of botanical, biological or mineral origin and that is based on current scientific indications or traditional or historical usage indications.

22. "Practice of homeopathic medicine":

(a) FOR THE PURPOSES OF A PERSON WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION A, means the practice of medicine in which a person purports to diagnose, treat or correct real or imagined human diseases, injuries, ailments, infirmities and deformities of a physical or mental origin and includes acupuncture, chelation therapy, homeopathy, minor surgery, neuromuscular integration, nutrition, orthomolecular therapy and pharmaceutical medicine.

(b) FOR THE PURPOSES OF A PERSON WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION B, MEANS THE PRACTICE OF MEDICINE IN WHICH A PERSON PURPORTS TO DIAGNOSE, TREAT OR CORRECT REAL OR IMAGINED HUMAN DISEASES, INJURIES, AILMENTS, INFIRMITIES AND DEFORMITIES OF A PHYSICAL OR MENTAL ORIGIN BY MEANS OF HOMEOPATHY OR NUTRITION.

23. "Preceptorship" means an extended period of individual study with one or more experienced homeopathic physicians or institutions.

24. "Prescription-only drug" does not include a controlled substance but does include:

(a) A drug that is generally regarded by medical experts to be unsafe if its use and dosage are not supervised by a medical practitioner.

(b) A drug that is approved for use under the supervision of a medical practitioner pursuant to the federal new drug application law or section 32-1962.

(c) A potentially harmful drug if its labeling does not contain full directions for its use by the patient.

(d) A drug that is required by federal law to bear on its label the following words: "Caution: Federal law prohibits dispensing without prescription."

25. "Professional negligence" means any of the following:

(a) That a licensee administers treatment to a patient in a manner that is contrary to accepted practices and that harms the patient if it can be shown to the board's satisfaction that accepted practices are inherently less hazardous.

(b) That a licensee commits an act of unprofessional conduct or displays an unreasonable lack of professional skill or fidelity.

(c) That a licensee's negligence, carelessness or disregard of established principles or practice results in a patient's injury, unnecessary suffering or death.

26. "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 in another jurisdiction of the United States and to determine the competence of a physician under investigation by a state licensing board.

Sec. 2. Section 32-2902, Arizona Revised Statutes, is amended to read:

32-2902. Board of homeopathic and integrated medicine examiners; membership; duties; removal; immunity

A. The board of homeopathic and integrated medicine examiners is established consisting of the following ~~six~~ members appointed by the governor:

1. Two public members.

2. UNTIL JANUARY 1, 2015, four ~~homeopathic physicians~~ MEMBERS WHO ARE licensed ~~under this chapter~~ PURSUANT TO SECTION 32-2912, SUBSECTION A.

3. BEGINNING JANUARY 1, 2015, FIVE MEMBERS WHO ARE LICENSED PURSUANT TO THIS CHAPTER, ONE OF WHOM IS LICENSED PURSUANT TO 32-2912, SUBSECTION B.

B. Board members serve staggered three year terms ending on June 30. Board members shall not serve more than three consecutive terms. A board member may continue to serve until that member's replacement takes office.

C. Board members shall be residents of this state for at least three consecutive years immediately before their appointment.

D. The governor may remove a board member from office because of that member's neglect of duty, malfeasance, misfeasance, incompetence or unprofessional or dishonorable conduct.

E. A board member's term of office automatically ends if that member is absent from this state for more than six months or if that member fails to attend three consecutive regularly scheduled board meetings.

F. Board members and board employees are immune from civil liability for any good faith action they take to implement this chapter.

Sec. 3. Section 32-2904, Arizona Revised Statutes, is amended to read:

32-2904. Powers and duties

A. The board shall:

1. Conduct all examinations for applicants for a license under this chapter, issue licenses, conduct hearings, regulate the conduct of licensees and administer and enforce this chapter.

2. Enforce the standards of practice prescribed by this chapter and board rules.

3. Collect and account for all fees under this chapter and deposit, pursuant to sections 35-146 and 35-147, the monies in the appropriate fund.

4. Maintain a record of its acts and proceedings, including the issuance, refusal to issue, renewal, suspension or revocation of licenses to practice according to this chapter.

5. Maintain a roster of all ~~homeopathic physicians~~ PERSONS WHO ARE licensed ~~under~~ PURSUANT TO this chapter~~, which shall indicate~~ THAT INCLUDES:

(a) The LICENSEE'S name ~~of the licensed physician~~.

(b) The current professional office address.

(c) The date and number of the license issued under this chapter.

(d) Whether the licensee is in good standing.

6. Adopt and use a seal, the imprint of which, together with the signatures of the president or vice-president of the board and the secretary-treasurer, shall evidence its official acts.

7. Contract with the department of administration for administrative and record keeping services.

8. Charge additional fees that do not exceed the cost of the services for services the board deems necessary to carry out its intent and purposes.

9. Adopt rules regarding the regulation and the qualifications of medical assistants.

10. Keep board records open to public inspection during normal business hours.

B. The board may:

1. Adopt rules necessary or proper for the administration of this chapter.

2. Hire permanent or temporary personnel to carry out the purposes of this chapter.

3. Hire or contract with investigators to assist in the investigation of violations of this chapter and contract with other state agencies if required to carry out this chapter.

4. Appoint one of its members to the jurisdiction arbitration panel pursuant to section 32-2907, subsection B.

5. Employ consultants to perform duties the board determines are necessary to implement this chapter.

6. Appoint from its membership a temporary secretary to perform the duties of the executive director if that office is vacant. The temporary secretary is eligible to receive compensation pursuant to section 38-611.

7. Compile and publish an annual directory.

8. Adopt rules to establish competency or professional review standards for any minor surgical procedure.

9. Appoint two or more board members to a subcommittee that reviews and approves applications and issues permits pertaining to homeopathic medical assistants and associated practical educational programs, pursuant to board rules.

10. Appoint two or more board members to a subcommittee that reviews and approves applications and issues permits pertaining to drugs and device dispensing practices, pursuant to board rules.

Sec. 4. Section 32-2907, Arizona Revised Statutes, is amended to read:

32-2907. Jurisdiction arbitration panel; members; procedures; duties

A. When the board receives a complaint on a ~~homeopathic physician~~ LICENSEE who is also licensed pursuant to chapter 13 or 17 of this title, the board shall immediately notify the other board ~~with which the homeopathic physician holds a license~~.

B. If the boards disagree and if both boards continue to claim jurisdiction over the dual licensee, an arbitration panel shall decide

jurisdiction. The panel shall consist of one member from each board, one legal representative from each board and one attorney who is licensed to practice law in this state, who is selected by the supreme court and who shall serve as chairman.

C. The chairman shall fix a date, time and place for a meeting within thirty days ~~from~~ AFTER the date the action is referred to the panel.

D. The panel shall determine which board shall investigate the complaint or whether both boards shall conduct their own investigation and hearing.

E. After conducting its investigation, the board chosen to conduct the investigation shall transmit all investigation materials, findings and conclusions to the other board ~~with which the physician is licensed~~. That board shall review this information to determine if it shall take any action against the ~~physician~~ LICENSEE or dismiss the complaint.

F. If the licensing boards decide without resorting to arbitration which board shall conduct the investigation, the board conducting the investigation shall transmit all materials, findings and conclusions to the other ~~boards with which the physician is licensed~~ BOARD.

Sec. 5. Section 32-2911, Arizona Revised Statutes, is amended to read:

32-2911. Persons and acts not affected by chapter

This chapter does not prevent:

1. The practice of any other method, system or science of healing by a person who is licensed pursuant to the laws of this state if that person is acting within the scope of that license.

2. The practice by ~~homeopathic physicians~~ LICENSEES discharging their duties while members of the armed forces of the United States or other federal agencies.

3. A person from administering a lawful domestic or family remedy, health food or health food supplement to that person's immediate family members.

4. A person from administering over-the-counter homeopathic remedies in the course of providing medical assistance in an emergency.

5. The practice of any of the healing arts offered by this state's Indian tribes.

6. The practice of religion, treatment by prayer or the laying on of hands as a religious rite or ordinance.

7. Any act competently performed by a physician assistant that is within the scope of that person's duties.

8. A ~~physician~~ PERSON WHO IS licensed TO PRACTICE HOMEOPATHIC MEDICINE in any state, district or territory of the United States from infrequently consulting with a person licensed under this chapter or acting pursuant to an invitation by a legitimate sponsor to visit this state to promote professional education through lectures, clinics or demonstrations if that ~~visiting physician~~ PERSON does not open an office, meet with patients or

receive calls relating to the practice of homeopathic medicine outside of the sponsoring institution's facilities and programs.

9. The independent practice of acupuncture as a traditional Asian healing art.

10. The practice of providing treatment of the spiritual vital force in accordance with hahnemanian principles through the use of remedies that are diluted beyond the concentration of substances in drinking water and prepared in the manner described in the homeopathic pharmacopoeia of the United States.

Sec. 6. Section 32-2912, Arizona Revised Statutes, is amended to read:

32-2912. Qualifications of applicant; applications; scope of practice

A. The board shall grant a license to practice ~~medicine as a homeopathic physician~~ PURSUANT TO THIS CHAPTER to an applicant who meets all of the following requirements:

1. Is a person of good moral character.

2. Holds a degree from an approved school of medicine or has received a medical education that the board determines is of equivalent quality.

3. Holds a license in good standing to practice medicine or osteopathic medicine that is issued under chapter 13 or 17 of this title or by another state, district or territory of the United States.

4. Has a professional record that indicates that the applicant has not had a license to practice medicine refused, revoked, suspended or restricted in any way by any state, territory, district or country for reasons that relate to the ~~physician's~~ APPLICANT'S ability to competently and safely practice medicine.

5. Has a professional record that indicates that the applicant has not committed any act or engaged in any conduct that would constitute grounds for disciplinary action against a licensee under this chapter.

6. Has the physical and mental capacity to safely engage in the practice of medicine.

7. Pays all fees and costs required by the board.

8. Completes the application required by the board.

B. NOTWITHSTANDING SUBSECTION A, PARAGRAPHS 2, 3 AND 4 OF THIS SECTION, THE BOARD SHALL ISSUE A LICENSE PURSUANT TO THIS CHAPTER TO AN APPLICANT WHO MEETS THE REQUIREMENTS OF SUBSECTION A, PARAGRAPHS 1, 5, 6, 7 AND 8 OF THIS SECTION AND WHO HOLDS A DEGREE FROM AN APPROVED SCHOOL OF MEDICINE.

~~B.~~ C. The board may require an applicant to submit additional written or oral information and may conduct additional investigations if it determines that this is necessary to adequately inform itself of the applicant's ability to meet the requirements of this chapter. If an applicant has had a license revoked by or has surrendered a license to~~,~~ another jurisdiction, the applicant may attempt to demonstrate to the board's satisfaction that the applicant is completely rehabilitated with respect to

the conduct that was the basis for the revocation or surrender of the license.

~~C.~~ D. The board shall vacate its previous order to deny a license if that denial was based on the applicant's conviction of a felony or an offense involving moral turpitude and that conviction has been reversed on appeal. The ~~physician~~ APPLICANT may resubmit an application for licensure as soon as the court enters the reversal.

~~D.~~ E. If the board finds that an applicant has committed an act or engaged in conduct that would constitute grounds for disciplinary action, the board shall determine to its satisfaction that the conduct has been corrected, monitored and resolved. If the matter has not been resolved, before it issues a license the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

~~E.~~ F. Except as provided in subsection ~~C~~ D OF THIS SECTION, a person shall not submit an application for reinstatement or a new application within five years after the person has completely corrected the conduct and made full legal restitution to the board's satisfaction.

~~F.~~ G. An applicant shall submit a verified completed application to the board in a form and within a period of time prescribed by the board. The application shall include:

1. The application fee.

2. Affidavits from three ~~physicians~~ PERSONS who are ACTIVELY licensed to practice ALLOPATHIC, OSTEOPATHIC OR HOMEOPATHIC medicine in any state or district of the United States and who are ~~in active practice. The physicians shall~~ ABLE TO attest to the applicant's good moral character and fitness to practice ~~homeopathic medicine~~ PURSUANT TO THIS CHAPTER.

3. A diploma or certificate ~~conferring the degree of doctor of medicine in homeopathy~~ issued by a homeopathic college or any other educational institution approved by the board or documentation of the applicant's successful completion of preceptorships or formal postgraduate courses approved by the board.

4. IF THE PERSON IS APPLYING FOR LICENSURE PURSUANT TO SUBSECTION A OF THIS SECTION, proof that the applicant has served a board approved internship.

5. The applicant's oath that:

(a) All of the information contained in the application and the accompanying evidence or other credentials is correct.

(b) The applicant submitted the credentials without fraud or misrepresentation and that the applicant is the lawful holder of the credentials.

(c) The applicant authorizes the release to the board of any information from any source that the board determines is necessary for it to act on the application.

~~G.~~ H. The board shall promptly inform an applicant in writing of any deficiency in the application that prevents the board from acting on it.

~~H.~~ I. The board shall consider an application withdrawn if any of the following is true:

1. The applicant submits a written request to withdraw the application.

2. The applicant without good cause fails to appear for a board interview.

3. The applicant fails to submit information to the board within one year of the board's request for that information.

4. The applicant fails to complete the required examination or personal interview within one year of submitting the application.

J. A PERSON WHO IS ISSUED A LICENSE PURSUANT TO SUBSECTION B OF THIS SECTION SHALL PRACTICE ONLY WITHIN THE SCOPE OF PRACTICE AS PRESCRIBED BY THIS CHAPTER. A LICENSEE WHO ACTS OUTSIDE THAT SCOPE OF PRACTICE COMMITS AN ACT OF UNPROFESSIONAL CONDUCT. IN ADDITION TO ALL OTHER AVAILABLE REMEDIES, THE BOARD MAY SEEK INJUNCTIVE RELIEVE PURSUANT TO SECTION 32-2940.

Sec. 7. Section 32-2913, Arizona Revised Statutes, is amended to read:

32-2913. Examination; reexamination

A. An applicant for licensure shall successfully pass an examination prescribed by the board.

B. Examination for a license to practice under this chapter shall include all subjects that are generally accepted as necessary for a thorough knowledge of the practice of ~~medicine as~~ homeopathic ~~physicians~~ MEDICINE. The board shall prescribe rules for conducting the examination and shall set the passing grade. IF A PERSON IS SEEKING LICENSURE PURSUANT TO SECTION 32-2912, SUBSECTION A, THE EXAMINATION MAY INCLUDE SUBJECTS THAT ARE UNIQUE TO THAT SCOPE OF PRACTICE.

C. The board shall review the examination of any applicant ~~upon~~ ON the applicant's request. A grade on an examination reviewed by the board may be changed only by the majority vote of the members of the board. A person who fails to pass the initial licensure examination may be reexamined within one year ~~of~~ AFTER the date of the receipt of the original application fee without payment of additional fees. However, the applicant shall pay all additional fees associated with board prescribed investigatory examinations such as the special purpose licensing examination.

D. In a written examination, applicants shall be designated by numbers only and the corresponding names shall be kept secret until after the grading of the examinations.

Sec. 8. Section 32-2914, Arizona Revised Statutes, is amended to read:

32-2914. Fees

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

1. Five hundred fifty dollars for an application for a license to practice homeopathic medicine pursuant to section 32-2912, subsection ~~F~~ G, paragraph 1.

2. Two hundred fifty dollars for issuance of an initial license.

3. Fifty dollars for issuance of a duplicate license.
4. One thousand dollars for annual renewal of a license.
5. Three hundred fifty dollars for late renewal of a license.
6. Two hundred dollars for initial and annual renewal of a permit to dispense drugs and devices.
7. Five hundred dollars for an application for a locum tenens registration.
8. Two hundred fifty dollars for issuance of a locum tenens registration.
9. Two hundred dollars for annual renewal of a homeopathic medical assistant registration.
10. Twenty-five cents per page for copying board records, documents, letters, minutes, applications and files.
11. Thirty-five dollars for a copy of an audiotape.
12. One hundred dollars for the sale of computerized tapes or diskettes that do not require programming.
13. Two hundred dollars for supervising a homeopathic medical assistant.
14. Three hundred dollars for each initial application and annual renewal of a registration to conduct a practical educational program for supervised medical assistants.

B. The board may charge a licensee with the board's costs to administer a special purpose licensing examination related to its investigation of the licensee's competence.

C. The board may charge the actual cost of completing a professional conduct investigation to the licensee who is the subject of the investigation if the board determines that the licensee violated this chapter or a board rule.

D. The board shall charge additional fees for services that it is not required to provide under this chapter but that it determines are necessary to carry out its purpose. The board shall charge only the actual cost of providing these services.

Sec. 9. Section 32-2915, Arizona Revised Statutes, is amended to read:

32-2915. Licensure; issuance; duplicate licenses; renewal; continuing education; expiration; cancellation

A. The board shall issue a license to practice homeopathic medicine in this state if the applicant meets all board requirements for licensure and pays the licensure fee.

B. The board may issue a duplicate license to a person who holds a license under this chapter on payment of the duplicate license fee.

C. Until January 1, 2009, by December 1 of each year the executive director shall notify each licensee of the renewal date and provide the current renewal form. The executive director shall send this notice by first class mail to the address the licensee most recently provided to the board.

D. Except as provided in section 32-4301, until January 1, 2009, a licensee shall renew the license on or before January 1 of each year by submitting a completed renewal form and the renewal fee. A licensee who fails to do this by February 1 shall also submit the late fee prescribed in this article. A license expires if it is not renewed as prescribed by this subsection on or before May 1.

E. Beginning January 1, 2009, at least thirty days before the first day of the month in which a ~~physician's~~ license was initially issued, the executive director shall notify the licensee of the renewal date and provide a renewal form. The executive director shall send this notice by first class mail to the address the licensee most recently provided to the board.

F. Beginning January 1, 2010, each licensee shall include with the renewal form a statement that the licensee has completed at least twenty hours of board approved continuing education in the preceding year. The board shall not renew a license if the licensee does not fully document compliance with this subsection. The board may waive the continuing education requirements of this subsection for a period prescribed by the board if the licensee's noncompliance was due to disability, military service, absence from the United States or circumstances beyond the control of the licensee. If a licensee fails to complete the continuing education requirements of this subsection for any other reason, the board may grant an extension of not more than sixty days. A licensee who fails to comply with the continuing education requirements of this subsection and who has not been granted a waiver pursuant to this subsection commits an act of unprofessional conduct and is subject to probation or licensure suspension or revocation.

G. Beginning January 1, 2009, a licensee shall submit a completed application for license renewal and the renewal fee each year on or before the last day of the month in which the license was initially issued. A license expires if it is not renewed within sixty days. A licensee who fails to do this by the first day of the following month must also submit a late fee as prescribed by the board. A person who practices homeopathic medicine after a license has expired is in violation of this chapter.

H. The board may issue a license to a person whose license has expired only if that person applies for a license as prescribed in sections 32-2912 and 32-2913.

I. With each application for licensure renewal, the licensee shall include a report of disciplinary actions, restriction and any other action placed on or against the license or practice by any other state regulatory board or agency of the federal government, including the denial of a license for failing a special purpose licensing examination. The report shall include the name and address of the sanctioning agency, the nature of the action taken and a general statement of the charges leading to the action taken.

J. On request of a licensee the board shall cancel that person's license to practice homeopathic medicine if the licensee is not the subject

of a board investigation or disciplinary proceeding. The board may cancel the license of a person under investigation for violating this chapter or board rules if the licensee admits to the violations in writing and on the board record.

Sec. 10. Section 32-2916, Arizona Revised Statutes, is amended to read:

32-2916. Directory; change of address; civil penalty; fees

A. The board may publish an annual directory containing the following:

1. The names and addresses of the officers and members of the board.

2. The names and addresses of all persons certified, licensed or registered by the board.

3. The current certified board rules.

4. A copy of this chapter.

5. A list of approved postgraduate and continuing education courses in the treatment modalities pertinent to the practice of ~~a~~ homeopathic ~~physician~~ MEDICINE.

6. A LIST OF APPROVED SCHOOLS OF MEDICINE.

~~6.~~ 7. Additional information that the board determines is of interest and importance to ~~homeopathic physicians~~ LICENSEES.

B. Each licensee shall inform the board in writing of the licensee's home address, home telephone number, office address and office telephone number as requested by the board and within forty-five days of a change in any of this information. The board shall keep a licensee's home address and home telephone number confidential. The board may assess a licensee who fails to comply with this subsection with the board's costs to locate the licensee. The board may also impose a civil penalty on that licensee of not more than one hundred dollars.

C. The board shall provide each licensee with one copy of the directory free of charge. The board may provide additional copies to the public and licensee for a cost of not more than twenty-five dollars for each directory.

D. The board shall deposit, pursuant to sections 35-146 and 35-147, monies collected under this section in the board of homeopathic and integrated medicine examiners' fund.

Sec. 11. Section 32-2917, Arizona Revised Statutes, is amended to read:

32-2917. Locum tenens registration

A. The board president or a person designated by the board may issue locum tenens registration to a person who meets all of the following requirements:

1. Submits proof satisfactory to the board that the applicant for registration holds an unrestricted license to practice ALLOPATHIC, OSTEOPATHIC OR HOMEOPATHIC medicine ~~or osteopathic medicine~~ in another state, district or territory of the United States, ~~and~~ that the license has not been revoked or suspended for any reason and that there are no unresolved

complaints or formal charges filed against the applicant with any licensing board.

2. Submits an application as prescribed by section 32-2912.

3. The ~~homeopathic physician~~ LICENSEE for whom the applicant for registration under this section is substituting or assisting provides the board with a written request for the applicant's registration.

4. Submits the fees required under section 32-2914.

B. The board may authorize the applicant to provide locum tenens services if it is satisfied that the applicant has met the requirements of subsection A of this section.

C. Locum tenens registration granted under this section is valid for thirty days. The board may extend registration for an additional thirty days on written request by the ~~homeopathic physician~~ PERSON who made the original request for registration. This request shall explain why the extension is necessary and shall include prescribed fees and other information requested by the board.

Sec. 12. Section 32-2931, Arizona Revised Statutes, is amended to read:

32-2931. Violations; classification

A. The following acts are class 5 felonies:

1. Practicing medicine as a homeopathic ~~physician~~ DOCTOR PURSUANT TO THIS CHAPTER without being licensed or exempt from licensure ~~under~~ PURSUANT TO this chapter.

2. Securing a license to ENGAGE IN THE practice OF homeopathic medicine PURSUANT TO THIS CHAPTER by fraud or deceit.

3. Impersonating a member of the board.

B. The following acts are class 2 misdemeanors:

1. Using the designation "doctor of homeopathy", "homeopathic ~~medical~~ doctor", "MEDICAL DOCTOR-HOMEOPATHIC", "DOCTOR OF OSTEOPATHY-HOMEOPATHIC" OR "homeopathic physician"~~, "doctor of medicine (homeopathic)" or "homeopath"~~ without being licensed ~~under~~ PURSUANT TO this chapter.

2. Using any words, initials or symbols that lead the public to believe that a person is licensed to ENGAGE IN THE practice OF homeopathic medicine in this state if this is not true.

Sec. 13. Section 32-2932, Arizona Revised Statutes, is amended to read:

32-2932. Use of title or abbreviation by a licensee

A person ~~practicing~~ WHO IS LICENSED pursuant to this chapter ~~shall designate himself~~ MAY USE THE DESIGNATION and sign ~~his~~ THE LICENSEE'S name, wherever required, in any capacity, as "homeopathic ~~physician~~ DOCTOR" ~~or "doctor of medicine (homeopathic)"~~. IF THE LICENSEE IS A GRADUATE OF A BOARD APPROVED ALLOPATHIC SCHOOL OF MEDICINE, THE LICENSEE MAY ALSO USE THE DESIGNATION "MEDICAL DOCTOR-HOMEOPATHIC" OR "HOMEOPATHIC PHYSICIAN". IF THE LICENSEE IS A GRADUATE OF A BOARD APPROVED OSTEOPATHIC SCHOOL OF MEDICINE, THE LICENSEE MAY ALSO USE THE DESIGNATION "DOCTOR OF OSTEOPATHY-HOMEOPATHIC"

OR "HOMEOPATHIC PHYSICIAN". IF THE LICENSEE IS A GRADUATE OF A BOARD APPROVED HOMEOPATHIC MEDICAL SCHOOL, THE LICENSEE SHALL ONLY USE THE DESIGNATION "HOMEOPATHIC DOCTOR" OR "DOCTOR OF HOMEOPATHY".

Sec. 14. Section 32-2933, Arizona Revised Statutes, is amended to read:

32-2933. Definition of unprofessional conduct

A. IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, "unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

1. Performing an invasive surgical procedure not specifically permitted by this chapter or by board rules or pursuant to a license issued under chapter 13 or 17 of this title.

2. Wilful betrayal of a professional secret or wilful violation of a privileged communication except as either of these may otherwise be required by law. This paragraph does not prevent members of the board from the full and free exchange of information with the licensing and disciplinary boards of other states, territories or districts of the United States or with foreign countries or with the Arizona homeopathic and integrative medical association or any of its component organizations or with the homeopathic medical organizations of other states, counties, districts or territories or with those of foreign countries.

3. Commission of a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is deemed conclusive evidence of guilt.

4. Habitual intemperance in the use of alcohol or habitual substance abuse.

5. Violating federal, state, county or municipal laws or regulations applicable to the practice of medicine or relating to public health.

6. Prescribing a controlled substance for other than accepted therapeutic purposes.

7. Conduct that the board determines is gross professional negligence, repeated professional negligence or any negligence that causes the death of a patient.

8. Impersonating another ~~physician~~ PERSON LICENSED PURSUANT TO THIS CHAPTER.

9. Acting or assuming to act as a member of the board if this is not true.

10. Procuring or attempting to procure a license to practice homeopathic medicine by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another.

11. Having professional connection with or lending one's name to an illegal practitioner of homeopathic medicine or of any of the other healing arts.

12. Representing that a manifestly incurable disease, injury, ailment or infirmity can be permanently cured or that a curable disease, injury, ailment or infirmity can be cured within a stated time if this is not true.

13. Offering, undertaking or agreeing to cure or treat a disease, injury, ailment or infirmity by a secret means, method, device or instrumentality.

14. Refusing to divulge to the board on demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment or infirmity.

15. Giving or receiving or aiding or abetting the giving or receiving of rebates, either directly or indirectly.

16. Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of homeopathic medicine except as the same may be necessary for accepted therapeutic purposes.

17. Immorality or misconduct that tends to discredit the profession.

18. Being disciplined by another regulatory jurisdiction because of the licensee's mental or physical inability to engage safely in the practice of medicine, medical incompetence or unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly with an act of unprofessional conduct prescribed by this section. The disciplinary action may include refusing, denying, revoking or suspending a license, issuing a formal reprimand, issuing a decree of censure or otherwise limiting, restricting or monitoring the licensee or placing the licensee on probation.

19. Any conduct or practice contrary to recognized standards of ethics of the homeopathic medical profession, any conduct or practice that does or might constitute a danger to the health, welfare or safety of the patient or the public or any conduct, practice or condition that does or might impair the ability to practice homeopathic medicine safely and skillfully.

20. Failing or refusing to maintain adequate records on a patient or to make patient records promptly available to another ~~physician~~ LICENSEE on request and receipt of proper authorization.

21. Advertising in a false, deceptive or misleading manner.

22. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate this chapter or any board rule.

23. Using a controlled substance unless it is prescribed by ~~another~~ A physician for use during a prescribed course of treatment.

24. Prescribing, dispensing or administering anabolic androgenic steroids for other than therapeutic purposes.

25. Prescribing or dispensing controlled substances to members of the ~~homeopathic physician's~~ LICENSEE'S immediate family.

26. Prescribing, dispensing or administering schedule II controlled substances as defined in section 36-2513, including amphetamines and similar schedule II sympathomimetic drugs in the treatment of exogenous obesity for a

period in excess of thirty days in any one year, or the nontherapeutic use of injectable amphetamines.

27. The use of experimental forms of diagnosis and treatment without adequate informed patient consent, without a board approved written disclosure that the form of diagnosis and treatment to be used is experimental and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a peer review committee.

28. Sexual intimacies with a patient.

29. Use of the designation "M.D." or "D.O." in a way that would lead the public to believe that a person is licensed by the Arizona medical board or the board of osteopathic examiners in medicine and surgery in this state if this is not the case.

30. Falsely or fraudulently representing or holding oneself out as being a homeopathic medical specialist.

31. Failing to dispense drugs and devices in compliance with article 4 of this chapter.

32. Violating a formal board order, terms of probation or a stipulation issued or entered into by the board or its designee under this chapter.

33. Charging a fee for services not rendered or charging and collecting a clearly unreasonable fee. In determining the reasonableness of the fee, the board shall consider the fee customarily charged in this state for similar services in relation to modifying factors such as the time required, the complexity of the service and the skill required to perform the service properly. This paragraph does not apply if there is a clearly written contract for a fixed fee between the ~~physician~~ LICENSEE and the patient that is entered into before the ~~physician~~ LICENSEE provides the service.

34. Failing to appropriately direct, collaborate with or supervise a licensed, certified or registered health care provider, a homeopathic medical assistant or office personnel employed or assigned to the ~~physician~~ LICENSEE to assist in the medical care of patients.

35. Knowingly making a false or misleading statement on a form required by the board or in written correspondence with the board.

36. Failing to furnish legally requested information in a timely manner to the board or its investigators or representatives.

37. Failing to allow properly authorized board personnel to examine or have access to a licensee's documents, reports or records that relate to the licensee's medical practice or medically related activities.

38. Signing a blank, undated or predated prescription form.

39. Refusing to submit to a body fluid examination required under section 32-2941 or pursuant to a board investigation into the licensee's substance abuse.

40. 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 comprehensive physical or mental health status

examination of that person or has previously established a doctor-patient relationship. This paragraph does not apply to:

(a) A ~~physician~~ LICENSEE who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional.

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

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

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

41. Failing to obtain from a patient before an examination or treatment a signed informed consent that includes language that makes it clear the ~~physician~~ LICENSEE is providing homeopathic medical treatment instead of or in addition to standard conventional allopathic or osteopathic treatment.

B. IF A PERSON IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION B, UNPROFESSIONAL CONDUCT ALSO INCLUDES THE FOLLOWING:

1. PERFORMING AN INVASIVE PROCEDURE, INCLUDING PERFORMING INTRAVENOUS THERAPY, DRAWING BODILY FLUIDS OR ORDERING GENETIC TESTING.

2. PRESCRIBING, DISPENSING OR ADMINISTERING ANY CONTROLLED SUBSTANCE.

3. PRESCRIBING, DISPENSING OR ADMINISTERING A PRESCRIPTION DRUG.

4. USING THE TITLE "PHYSICIAN", "MEDICAL DOCTOR-HOMEOPATHIC", "DOCTOR OF OSTEOPATHY-HOMEOPATHIC", "DOCTOR OF MEDICINE (HOMEOPATHIC)" OR "HOMEOPATHIC PHYSICIAN" OR OTHERWISE IMPLYING THAT THE LICENSEE IS A LICENSED ALLOPATHIC OR OSTEOPATHIC PHYSICIAN.

5. FAILING TO CORRECT A KNOWN MISUNDERSTANDING REGARDING THE LICENSEE'S LICENSURE STATUS.

6. FAILING TO OBTAIN FROM A PATIENT BEFORE AN EXAMINATION OR TREATMENT A SIGNED INFORMED CONSENT THAT INCLUDES LANGUAGE THAT MAKES IT CLEAR THE LICENSEE IS NOT AN ALLOPATHIC OR OSTEOPATHIC PHYSICIAN AND IS PROVIDING HOMEOPATHIC TREATMENT UNDER THE LIMITED SCOPE OF PRACTICE OF HOMEOPATHIC MEDICINE PURSUANT TO THIS CHAPTER.

7. FAILING TO CONSULT WITH OR REFER PATIENTS TO OTHER HEALTH CARE PROVIDERS WHEN APPROPRIATE.

8. DISCONTINUING OR ADVISING A PATIENT TO DISCONTINUE A PHYSICIAN'S TREATMENT OR MEDICINE WITHOUT FIRST CONSULTING THE PRESCRIBING OR TREATING PHYSICIAN.

9. FAILING TO REFER A PATIENT WITH A LIFE THREATENING ILLNESS TO A LICENSED ALLOPATHIC OR OSTEOPATHIC PHYSICIAN CURRENTLY PRACTICING HOMEOPATHIC, ALLOPATHIC OR OSTEOPATHIC MEDICINE.

Sec. 15. Section 32-2934, Arizona Revised Statutes, is amended to read:

32-2934. Grounds for suspension or revocation of license; duty to report; unprofessional conduct hearing; decision of board

A. The board on its own motion may investigate any evidence that appears to show that a ~~homeopathic physician~~ LICENSEE is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of HOMEOPATHIC medicine. Any ~~homeopathic physician~~ LICENSEE, the Arizona homeopathic and integrative medical association or any health care institution as defined in section 36-401 shall, and any other person may, report to the board any information the person may have that appears to show that a ~~homeopathic physician~~ LICENSEE is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of HOMEOPATHIC medicine. The board shall notify the ~~homeopathic physician~~ LICENSEE about whom information is received as to the content of the information within one hundred twenty days after receipt of the information. Any person who reports or provides information to the board in good faith is not subject to an action for civil damages as a result of reporting or providing the information, and the person's name shall not be disclosed unless the person's testimony is essential to the disciplinary proceedings conducted pursuant to this section. It is an act of unprofessional conduct for any ~~homeopathic physician~~ LICENSEE to fail to report as required by this section. Any health care institution that fails to report as required by this section shall be reported by the board to the institution's licensing agency.

B. A health care institution shall inform the board if the privileges of a ~~homeopathic physician~~ LICENSEE to practice in the health care institution are denied, revoked, suspended or limited because of actions by the ~~homeopathic physician~~ LICENSEE that jeopardized patient health and welfare or if the ~~physician~~ LICENSEE resigns during pending proceedings for revocation, suspension or limitation of privileges. A report to the board pursuant to this subsection shall contain a general statement of the reasons the health care institution denied or took action to revoke, suspend or limit a ~~homeopathic physician's~~ LICENSEE'S privileges.

C. The board may conduct investigations necessary to fully inform itself with respect to any evidence filed with the board under subsection A of this section. As part of this investigation, the board may require the ~~physician~~ LICENSEE under investigation to be interviewed by board representatives or to undergo any combination of mental, physical, oral or written medical competency examinations.

D. If the information gathered under subsections A and B of this section indicates that the protection of public health requires that the board take emergency action, it may order the summary suspension of a license

pending the outcome of a formal disciplinary hearing pursuant to title 41, chapter 6, article 10. The board shall serve the suspended licensee with a written notice of the specific charges and the time and place of the formal hearing. The board shall hold this hearing within sixty days ~~of~~ AFTER the suspension unless the board for good reason shown by the licensee grants an extension on the hearing date.

E. If, after completing its investigation, the board finds that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit direct action against the license ~~of the homeopathic physician~~, it may take any of the following actions:

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

2. File a letter of concern.

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

F. If after completing its initial investigation under subsection A of this section the board determines that rehabilitative or disciplinary action can be taken without the presence of the licensee at an informal interview, the board and the licensee may enter into a stipulated agreement to limit or restrict the licensee's practice or to rehabilitate the licensee, protect the public and ensure the licensee's ability to safely engage in the practice of homeopathic medicine.

G. If after completing its investigation the board believes that this information is or may be true, the board may request an informal interview with the ~~homeopathic physician~~ LICENSEE. If the ~~homeopathic physician~~ LICENSEE refuses the invitation or accepts the invitation and the results of the interview indicate that suspension or revocation of the license may be in order, the board shall issue a formal complaint and conduct a formal hearing pursuant to title 41, chapter 6, article 10. If after completing the informal interview the board finds that the information provided under subsection A of this section is not of sufficient seriousness to merit suspension or revocation of the license, it may take the following actions:

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

2. File a letter of concern.

3. Issue a decree of censure. A decree of censure constitutes an official action against the ~~homeopathic physician's~~ license and may include a requirement for restitution of fees to a patient resulting from violations of this chapter or board rules.

4. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the ~~homeopathic physician~~ LICENSEE. The probation, if deemed necessary, may include temporary suspension of the license for not to exceed twelve months,

restriction of the ~~homeopathic physician's~~ license to practice HOMEOPATHIC medicine or a requirement for restitution of fees to a patient resulting from violations of this chapter or board rules. If a licensee fails to comply with the terms of probation, the board may file a summons, complaint and notice of hearing pursuant to title 41, chapter 6, article 10 based on the information considered by the board at the informal interview and any other acts or conduct alleged to be in violation of this chapter or board rules.

5. Enter into an agreement with the ~~homeopathic physician~~ LICENSEE to restrict or limit the ~~homeopathic physician's~~ LICENSEE'S practice or medical activities in order to rehabilitate the ~~homeopathic physician~~ LICENSEE, protect the public and ensure the ~~homeopathic physician's~~ LICENSEE'S ability to safely engage in the practice of HOMEOPATHIC medicine.

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

H. In an informal interview or a formal hearing the board, in addition to any other action that it may take, may impose an administrative penalty in an amount of not less than five hundred dollars but not to exceed two thousand dollars on a ~~homeopathic physician~~ LICENSEE who violates this chapter or a board rule. Actions to enforce the collection of these penalties shall be brought in the name of this state by the attorney general or the county attorney in the justice court or the superior court in the county in which the violation occurred. Penalties imposed under this section are in addition to and not in limitation of other penalties imposed pursuant to this chapter.

I. If in the opinion of the board it appears that the allegations concerning a ~~homeopathic physician~~ LICENSEE are of a magnitude as to warrant suspension or revocation of the license, the board shall serve on the ~~physician~~ LICENSEE a summons and a complaint fully setting forth the conduct or inability concerned and setting a date, time and place for a hearing pursuant to title 41, chapter 6, article 10 to be held before the board in not less than sixty days from the date of the notice.

J. A licensee who wishes to be present at the hearing in person or by representation, or both, shall file a verified answer with the board within twenty days after receiving service of the summons and complaint. The licensee may present witnesses at this hearing.

K. The board shall issue subpoenas for witnesses as it may need and for witnesses as the ~~physician~~ LICENSEE may request. Any person refusing to obey a subpoena shall be certified by the board to the superior court in the county in which service was made, and the court may institute proceedings for contempt of court.

L. Service of the summons and complaint shall be as required in civil cases.

M. Service of subpoenas for witnesses shall be as provided by law for the service of subpoenas generally.

N. ~~Any homeopathic physician~~ A LICENSEE who after a hearing is found to be guilty of unprofessional conduct or is found to be mentally or physically unable to engage safely in the practice of homeopathic medicine is subject to any combination of censure, probation or suspension of license or revocation of the license for a prescribed period of time or permanently and under conditions that the board deems appropriate for the protection of the public health and safety and just in the circumstances.

O. If the board acts to modify any ~~homeopathic physician's~~ LICENSEE'S prescription writing privileges, it shall immediately notify the Arizona state board of pharmacy of the modification.

P. Notwithstanding section 32-2906, subsection A, the board shall deposit, pursuant to sections 35-146 and 35-147, all monies collected from administrative penalties paid pursuant to this section in the state general fund.

Q. A letter of concern is a nondisciplinary public document that the board may use in future disciplinary actions.

Sec. 16. Section 32-2935, Arizona Revised Statutes, is amended to read:

32-2935. Right to examine and copy evidence; summoning witnesses and documents; taking testimony; right to counsel; court aid; process

A. In connection with the investigation by the board on its own motion or as the result of information received pursuant to section ~~32-2935~~ 32-2934, subsection A, the board or its authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documents, reports, records or any other physical evidence of any person being investigated, or the reports, records and any other documents maintained by and in possession of any hospital, clinic, ~~physician's~~ office, laboratory, pharmacy or any other public or private agency, and any health care institution as defined in section 36-401, if ~~such~~ THESE documents, reports, records or evidence relate to medical competence, unprofessional conduct or the mental or physical ability of a ~~homeopathic physician~~ LICENSEE to practice HOMEOPATHIC medicine safely.

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

1. The board on its own initiative, or ~~upon~~ ON application of any person involved in the investigation, may issue subpoenas compelling the attendance and testimony of witnesses, or demanding the production for examination or copying of documents or any other physical evidence if ~~such~~ THE evidence relates to medical competence, unprofessional conduct or the mental or physical ability of a ~~homeopathic physician~~ LICENSEE to practice HOMEOPATHIC medicine safely. Within five days after the service of a subpoena on any person requiring the production of any evidence in ~~his~~ THAT

PERSON'S possession or under ~~his~~ THAT PERSON'S control, ~~such~~ THE person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify ~~such~~ THE subpoena if in its opinion the evidence required does not relate to unlawful practices covered by this chapter, is not relevant to the charge ~~which~~ THAT is the subject matter of the hearing or investigation or does not describe with sufficient particularity the physical evidence whose production is required. Any member of the board or any agent designated by the board may administer oaths or affirmations, examine witnesses and receive ~~such~~ evidence.

2. Any person appearing before the board has the right to be represented by counsel.

C. The superior court, ~~upon~~ ON application by the board or by the person subpoenaed, may issue an order:

1. Requiring ~~such~~ THE person to appear before the board or the duly authorized agent to produce evidence relating to the matter under investigation. Any failure to obey ~~such~~ THE order of the court may be punished by ~~such~~ THE court as a contempt.

2. Revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to unlawful practices covered by this chapter, is not relevant to the charge ~~which~~ THAT is the subject matter of the hearing or investigation, or does not describe with sufficient particularity the evidence whose production is required.

D. Patient records, including clinical records, medical reports, laboratory statements and reports, any file, film, any other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or ~~his~~ THE PATIENT'S family might be identified or information received and records kept by the board as a result of investigation procedures ~~shall~~ ARE not ~~be~~ available to the public.

E. This section or any other provision of law making communications between a ~~homeopathic physician~~ LICENSEE and a patient a privileged communication does not apply to investigations or proceedings conducted pursuant to this chapter. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

F. Hospital records, medical staff records, medical staff review committee records and testimony concerning ~~such~~ THESE records, and proceedings related to the creation of ~~such~~ THESE records, are not available to the public, shall be kept confidential by the board and are subject to the same provisions concerning discovery and use in legal actions as are the original records in the possession and control of hospitals, their medical staffs and their medical staff review committees. The board shall use ~~such~~ records and testimony during the course of investigations and proceedings pursuant to this chapter.

Sec. 17. Section 32-2939, Arizona Revised Statutes, is amended to read:

32-2939. Medical assistants

~~Nothing in~~ This chapter ~~shall be construed to~~ DOES NOT prevent a medical assistant from assisting a ~~homeopathic physician~~ LICENSEE pursuant to rules adopted by the board.

Sec. 18. Section 32-2941, Arizona Revised Statutes, is amended to read:

32-2941. Substance abuse and treatment rehabilitation program; private contract; funding

A. The board may establish a program for the treatment and rehabilitation of licensees who are impaired by alcohol or substance abuse. This program shall include education, intervention, therapeutic treatment and ~~post-treatment~~ POSTTREATMENT monitoring and support.

B. The board may contract with other organizations to operate the program. A contract with a private organization shall include the following requirements:

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

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

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

4. Immediate reporting to the board of the name of an impaired licensee who the treating organization believes is misusing chemical substances.

5. Reports to the board as soon as possible of the name of the ~~doctor~~ LICENSEE who refuses to submit to treatment or whose impairment is not substantially alleviated through treatment.

C. A licensee who is impaired by alcohol or substance abuse shall agree to enter into a stipulation order with the board. The board shall place the licensee on probation if the licensee refuses to do so.

D. The board may charge the board's costs relating to the licensee's participation in the program to that licensee.

E. The board shall summarily suspend a ~~homeopathic physician's~~ license pursuant to section 32-2934 if the licensee continues or resumes alcohol or substance abuse after a board stipulation or probationary order that is no longer in effect. After this suspension the board may delay license revocation or other disciplinary actions if the licensee attends a treatment program pursuant to this section. Within ninety days after the licensee completes this program the board shall schedule formal proceedings for licensure revocation or other disciplinary action.

Sec. 19. Section 32-2951, Arizona Revised Statutes, is amended to read:

32-2951. Dispensing drugs and devices; conditions; definition

A. A ~~homeopathic physician~~ PERSON WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION A may dispense drugs and devices kept by the ~~physician~~ LICENSEE, including controlled substances, prescription-only drugs, homeopathic medications and nonprescription drugs, if:

1. The ~~physician~~ LICENSEE includes the following information on the label of each controlled substance and prescription-only drug and on the label or accompanying instruction sheets of each homeopathic medication or nonprescription drug:

(a) The ~~dispensing physician's~~ LICENSEE'S name, address and telephone number.

(b) The date the drug is dispensed.

(c) The patient's name.

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

(e) The number of authorized refills.

2. The ~~dispensing physician~~ LICENSEE enters into the patient's medical record the name, strength and potency of the drug dispensed, the date the drug is dispensed, the dosing schedule, the number of refills and the therapeutic reason.

3. The ~~dispensing physician~~ LICENSEE keeps all controlled substances in a locked cabinet or room, controls access to the cabinet or room by a written procedure and maintains an ongoing inventory of its contents.

4. The licensee pays a permit fee prescribed under section 32-2914.

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

C. Before a ~~physician~~ LICENSEE dispenses a controlled substance or a prescription-only pharmaceutical drug pursuant to this SUBSECTION A OF THIS section, the ~~physician~~ LICENSEE shall give the patient a written prescription on which appears the following statement in bold type:

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

D. The ~~physician~~ LICENSEE shall include the following information on a prescription order:

1. The date it is issued.

2. The patient's name and address.

3. The name, strength and quantity of the drug.

4. Two signature lines for the ~~physician~~ LICENSEE. The right side of the prescription form under the signature line shall contain the phrase

"Substitution Permissible" and the left side under the signature line shall contain the phrase "Dispense As Written".

5. The dispensing ~~homeopathic physician's~~ LICENSEE'S drug enforcement agency number for controlled substances.

6. THE DATE AND the printed name~~,~~ AND signature ~~and date~~ of the person who prepares, counts or measures the drug, labels the container or distributes a prepackaged drug to the patient or the patient's representative.

E. Before the ~~physician~~ LICENSEE dispenses a homeopathic medication, including a prescription-only homeopathic medication or a nonprescription drug, the ~~physician~~ LICENSEE shall give the patient a written statement on which appears the following statement in bold type: "Prescriptions may be filled by this prescribing physician or by a pharmacy of your choice."

F. A ~~physician~~ PERSON WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION A shall dispense controlled substances and prescription-only drugs for profit only to the ~~physician's~~ LICENSEE'S own patient and only for conditions being treated by that ~~physician~~ LICENSEE. The ~~physician~~ LICENSEE shall personally determine the legitimacy or advisability of the drugs dispensed and shall document in writing the ~~physician's~~ LICENSEE'S procedures for supervising the role of nurses and attendants in the dispensing process.

G. A PERSON WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION B MAY DISPENSE ONLY THOSE DRUGS AND DEVICES KEPT BY THAT LICENSEE THAT ARE HOMEOPATHIC MEDICATIONS AND NONPRESCRIPTION DRUGS INCLUDING NUTRITIONAL SUPPLEMENTS AND MUST INCLUDE THE FOLLOWING INFORMATION ON THE LABEL OR ACCOMPANYING INSTRUCTION SHEETS OF EACH HOMEOPATHIC MEDICATION OR NONPRESCRIPTION DRUG:

1. THE DISPENSING LICENSEE'S NAME, ADDRESS AND TELEPHONE NUMBER.

2. THE DATE THE SUBSTANCE IS DISPENSED.

3. THE PATIENT'S NAME.

4. THE NAME AND STRENGTH OF THE SUBSTANCE, THE QUANTITY DISPENSED, DIRECTIONS FOR ITS USE AND ANY CAUTIONARY STATEMENTS.

H. A LICENSEE WHO DISPENSES DRUGS AND DEVICES PURSUANT TO SUBSECTION G OF THIS SECTION MUST ENTER INTO THE PATIENT'S MEDICAL RECORD THE NAME, STRENGTH AND POTENCY OF THE SUBSTANCE DISPENSED, THE DATE THE SUBSTANCE IS DISPENSED, THE DOSING SCHEDULE AND THE THERAPEUTIC REASON.

I. A PERSON WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION B MAY NOT DISPENSE CONTROLLED SUBSTANCES OR PRESCRIPTION-ONLY SUBSTANCES.

~~G.~~ J. This section shall be enforced by the board, which shall establish rules regarding labeling, record keeping, storage and packaging of drugs that are consistent with the requirements of chapter 18 of this title. The board may conduct periodic inspections of dispensing practices to ~~assure~~ ENSURE compliance with this section and applicable rules.

~~H.~~ K. For the purposes of this section, "dispense" means the delivery by a ~~homeopathic physician~~ LICENSEE of a 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.

Sec. 20. Exemption from rule making

For the purposes of this act, the board homeopathic and integrated medicine examiners is exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

APPROVED BY THE GOVERNOR APRIL 19, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2011.

Passed the House April 12, 2011,

by the following vote: 36 Ayes,

23 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 28, 2011,

by the following vote: 23 Ayes,

6 Nays, 1 Not Voting

President of the Senate

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

S.B. 1175

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 13, 20 11

by the following vote: 24 Ayes,

6 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of April, 20 11

at 4:25 o'clock P. M.

Secretary to the Governor

Approved this 19th day of

April

at 9:03 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 19th day of April, 20 11

S.B. 1175

at 11:12 o'clock A M.

Secretary of State