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KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 227

SENATE BILL 1176

AN ACT

AMENDING SECTIONS 32-1401, 32-1403.01, 32-1452 AND 32-1452.01, ARIZONA
REVISED STATUTES; RELATING TO THE ARIZONA MEDICAL BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1401, Arizona Revised Statutes, is amended to
3 read:

4 32-1401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Active license" means a valid and existing license to practice
7 medicine.

8 2. "Adequate records" means legible medical records containing, at a
9 minimum, sufficient information to identify the patient, support the
10 diagnosis, justify the treatment, accurately document the results, indicate
11 advice and cautionary warnings provided to the patient and provide sufficient
12 information for another practitioner to assume continuity of the patient's
13 care at any point in the course of treatment.

14 3. "Advisory letter" means a nondisciplinary letter to notify a
15 licensee that either:

16 (a) While there is insufficient evidence to support disciplinary
17 action, the board believes that continuation of the activities that led to
18 the investigation may result in further board action against the licensee.

19 (b) The violation is a minor or technical violation that is not of
20 sufficient merit to warrant disciplinary action.

21 (c) While the licensee has demonstrated substantial compliance through
22 rehabilitation or remediation that has mitigated the need for disciplinary
23 action, the board believes that repetition of the activities that led to the
24 investigation may result in further board action against the licensee.

25 4. "Approved hospital internship, residency or clinical fellowship
26 program" means a program at a hospital that at the time the training occurred
27 was legally incorporated and that had a program that was approved for
28 internship, fellowship or residency training by the accreditation council for
29 graduate medical education, the association of American medical colleges, the
30 royal college of physicians and surgeons of Canada or any similar body in the
31 United States or Canada approved by the board whose function is that of
32 approving hospitals for internship, fellowship or residency training.

33 5. "Approved school of medicine" means any school or college offering
34 a course of study that, on successful completion, results in the degree of
35 doctor of medicine and whose course of study has been approved or accredited
36 by an educational or professional association, recognized by the board,
37 including the association of American medical colleges, the association of
38 Canadian medical colleges or the American medical association.

39 6. "Board" means the Arizona medical board.

40 7. "Completed application" means that the applicant has supplied all
41 required fees, information and correspondence requested by the board on forms
42 and in a manner acceptable to the board.

43 8. "Direct supervision" means that a physician, physician assistant
44 licensed pursuant to chapter 25 of this title or nurse practitioner certified
45 pursuant to chapter 15 of this title is within the same room or office suite

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

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

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

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

13 12. "Health care institution" means any facility as defined in section
14 36-401, any person authorized to transact disability insurance, as defined in
15 title 20, chapter 6, article 4 or 5, any person who is issued a certificate
16 of authority pursuant to title 20, chapter 4, article 9 or any other
17 partnership, association or corporation that provides health care to
18 consumers.

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

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

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

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

38 17. "Medical peer review" means:

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

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

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

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

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

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

10 20. "Office based surgery" means a medical procedure conducted in a
11 physician's office or other outpatient setting that is not part of a licensed
12 hospital or licensed ambulatory surgical center.

13 21. "Physician" means a doctor of medicine licensed pursuant to this
14 chapter.

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

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

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

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

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

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

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

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

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

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

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

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

17 (u) Charging a fee for services not rendered or dividing a
18 professional fee for patient referrals among health care providers or health
19 care institutions or between these providers and institutions or a
20 contractual arrangement that has the same effect. This subdivision does not
21 apply to payments from a medical researcher to a physician in connection with
22 identifying and monitoring patients for a clinical trial regulated by the
23 United States food and drug administration.

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

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

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

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

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

- 1 (i) Engaging in or soliciting sexual relationships, whether consensual
2 or nonconsensual.
- 3 (ii) Making sexual advances, requesting sexual favors or engaging in
4 any other verbal conduct or physical contact of a sexual nature.
- 5 (iii) Intentionally viewing a completely or partially disrobed patient
6 in the course of treatment if the viewing is not related to patient diagnosis
7 or treatment under current practice standards.
- 8 (aa) Procuring or attempting to procure a license to practice medicine
9 or a license renewal by fraud, by misrepresentation or by knowingly taking
10 advantage of the mistake of another person or an agency.
- 11 (bb) Representing or claiming to be a medical specialist if this is
12 not true.
- 13 (cc) Maintaining a professional connection with or lending one's name
14 to enhance or continue the activities of an illegal practitioner of medicine.
- 15 (dd) Failing to furnish information in a timely manner to the board or
16 the board's investigators or representatives if legally requested by the
17 board.
- 18 (ee) Failing to allow properly authorized board personnel on demand to
19 examine and have access to documents, reports and records maintained by the
20 physician that relate to the physician's medical practice or medically
21 related activities.
- 22 (ff) Knowingly failing to disclose to a patient on a form that is
23 prescribed by the board and that is dated and signed by the patient or
24 guardian acknowledging that the patient or guardian has read and understands
25 that the doctor has a direct financial interest in a separate diagnostic or
26 treatment agency or in nonroutine goods or services that the patient is being
27 prescribed and if the prescribed treatment, goods or services are available
28 on a competitive basis. This subdivision does not apply to a referral by one
29 doctor of medicine to another doctor of medicine within a group of doctors of
30 medicine practicing together.
- 31 (gg) Using chelation therapy in the treatment of arteriosclerosis or
32 as any other form of therapy, with the exception of treatment of heavy metal
33 poisoning, without:
- 34 (i) Adequate informed patient consent.
- 35 (ii) Conforming to generally accepted experimental criteria, including
36 protocols, detailed records, periodic analysis of results and periodic review
37 by a medical peer review committee.
- 38 (iii) Approval by the federal food and drug administration or its
39 successor agency.
- 40 (hh) Prescribing, dispensing or administering anabolic-androgenic
41 steroids to a person for other than therapeutic purposes.
- 42 (ii) Lack of or inappropriate direction, collaboration or direct
43 supervision of a medical assistant or a licensed, certified or registered
44 health care provider employed by, supervised by or assigned to the physician.

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

4 (kk) Failing to dispense drugs and devices in compliance with article
5 6 of this chapter.

6 (ll) Conduct that the board determines is gross negligence, repeated
7 negligence or negligence resulting in harm to or the death of a patient.

8 (mm) The representation by a doctor of medicine or the doctor's staff,
9 employer or representative that the doctor is boarded or board certified if
10 this is not true or the standing is not current or without supplying the full
11 name of the specific agency, organization or entity granting this standing.

12 (nn) Refusing to submit to a body fluid examination or any other
13 examination known to detect the presence of alcohol or other drugs as
14 required by the board pursuant to section 32-1452 or pursuant to a board
15 investigation into a doctor of medicine's alleged substance abuse.

16 (oo) Failing to report in writing to the Arizona medical board or the
17 Arizona regulatory board of physician assistants any evidence that a doctor
18 of medicine or a physician assistant is or may be medically incompetent,
19 guilty of unprofessional conduct or mentally or physically unable to safely
20 practice medicine or to perform as a physician assistant.

21 (pp) The failure of a physician who is the chief executive officer,
22 the medical director or the medical chief of staff of a health care
23 institution to report in writing to the board that the hospital privileges of
24 a doctor of medicine have been denied, revoked, suspended, supervised or
25 limited because of actions by the doctor that appear to show that the doctor
26 is or may be medically incompetent, is or may be guilty of unprofessional
27 conduct or is or may be unable to engage safely in the practice of medicine.

28 (qq) Claiming to be a current member of the board, its staff or a
29 board medical consultant if this is not true.

30 (rr) Failing to make patient medical records in the physician's
31 possession promptly available to a physician assistant, a nurse practitioner,
32 a person licensed pursuant to this chapter or a podiatrist, chiropractor,
33 naturopathic physician, osteopathic physician or homeopathic physician
34 licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper
35 authorization to do so from the patient, a minor patient's parent, the
36 patient's legal guardian or the patient's authorized representative or
37 failing to comply with title 12, chapter 13, article 7.1.

38 (ss) Prescribing, dispensing or furnishing a prescription medication
39 or a prescription-only device as defined in section 32-1901 to a person
40 unless the licensee first conducts a physical examination of that person or
41 has previously established a doctor-patient relationship. This subdivision
42 does not apply to:

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

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

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

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

9 (v) Prescriptions written or antimicrobials dispensed to a contact as
10 defined in section 36-661 who is believed to have had significant exposure
11 risk as defined in section 36-661 with another person who has been diagnosed
12 with a communicable disease as defined in section 36-661 by the prescribing
13 or dispensing physician.

14 (vi) PRESCRIPTIONS WRITTEN OR PRESCRIPTION MEDICATIONS ISSUED FOR
15 ADMINISTRATION OF IMMUNIZATIONS OR VACCINES LISTED IN THE UNITED STATES
16 CENTERS FOR DISEASE CONTROL AND PREVENTION'S RECOMMENDED IMMUNIZATION
17 SCHEDULE TO A HOUSEHOLD MEMBER OF A PATIENT.

18 (tt) Performing office based surgery using sedation in violation of
19 board rules.

20 (uu) Practicing medicine under a false or assumed name in this state.

21 Sec. 2. Section 32-1403.01, Arizona Revised Statutes, is amended to
22 read:

23 32-1403.01. Licensees; profiles; required information; updates;
24 civil penalty

25 A. The board shall make available to the public a profile of each
26 licensee. The board shall make this information available through an
27 internet ~~web site~~ WEBSITE and, if requested, in writing. The profile shall
28 contain the following information:

29 1. A description of any conviction of a felony ~~or a misdemeanor~~
30 ~~involving moral turpitude within the last five years.~~ For purposes of this
31 paragraph, a licensee is deemed to be convicted if the licensee pled guilty,
32 PLED NO CONTEST or was found guilty by a court of competent jurisdiction.

33 2. A description of any CONVICTION OF A ~~felony charges or misdemeanor~~
34 ~~charges~~ involving moral turpitude THAT RESULTS IN DISCIPLINARY ACTION ~~within~~
35 ~~the last five years to which the licensee pled no contest.~~ FOR PURPOSES OF
36 THIS PARAGRAPH, A LICENSEE IS DEEMED TO BE CONVICTED IF THE LICENSEE PLED
37 GUILTY, PLED NO CONTEST OR WAS FOUND GUILTY BY A COURT OF COMPETENT
38 JURISDICTION.

39 3. ALL final board disciplinary ~~and nondisciplinary~~ actions ~~within the~~
40 ~~last five years.~~

41 4. ~~All~~ ANY medical malpractice court judgments and ~~all~~ ANY medical
42 malpractice awards or settlements in which a payment is made to a complaining
43 party THAT RESULTS IN DISCIPLINARY ACTION. ~~within the last five years.~~
44 ~~Information concerning malpractice actions shall also contain the following~~
45 ~~statement:~~

1 ~~The settlement of a medical malpractice action may occur for a~~
2 ~~variety of reasons that do not necessarily reflect negatively on~~
3 ~~the professional competence or conduct of the doctor. A payment~~
4 ~~in settlement of a medical malpractice action does not create a~~
5 ~~presumption that medical malpractice occurred.~~

6 5. The name and location of the licensee's medical school and the date
7 of graduation.

8 6. The name and location of the institution from which the licensee
9 received graduate medical education and the date that education was
10 completed.

11 7. The licensee's primary practice location.

12 B. Each licensee shall submit the information required pursuant to
13 subsection A each year as directed by the board. An applicant for licensure
14 shall submit this information at the time of application. The applicant and
15 licensee shall submit the information on a form prescribed by the board.
16 A licensee shall submit immediately any changes in information required
17 pursuant to subsection A, paragraphs 1, 2 and 4. The board shall update
18 immediately its internet ~~web site~~ WEBSITE to reflect changes in information
19 relating to subsection A, paragraphs 1 through 4. The board shall update the
20 internet ~~web site~~ WEBSITE information at least annually.

21 C. The board shall provide each licensee with ~~a copy of~~ the licensee's
22 profile and ~~give the licensee reasonable time to correct the profile before~~
23 ~~it is available to the public~~ ON REQUEST AND SHALL MAKE VALID AND VERIFIABLE
24 CORRECTIONS TO THE PROFILE ON NOTIFICATION AT ANY TIME BY THE LICENSEE. A
25 CHANGE MADE BY A LICENSEE TO AN ADDRESS OR TELEPHONE NUMBER IS SUBJECT TO THE
26 REQUIREMENTS OF SECTION 32-1435.

27 D. It is an act of unprofessional conduct for a licensee to provide
28 erroneous information pursuant to this section. In addition to other
29 disciplinary action, the board may impose a civil penalty of not more than
30 one thousand dollars for each erroneous statement.

31 E. IF THE BOARD ISSUES A NONDISCIPLINARY ORDER OR ACTION AGAINST A
32 LICENSEE, THE RECORD OF THE NONDISCIPLINARY ORDER OR ACTION IS AVAILABLE TO
33 THE PUBLIC BUT MAY NOT APPEAR ON THE BOARD'S WEBSITE, EXCEPT THAT A PRACTICE
34 LIMITATION OR RESTRICTION, AND DOCUMENTATION RELATING TO THAT ACTION, MAY
35 APPEAR ON THE BOARD'S WEBSITE.

36 Sec. 3. Section 32-1452, Arizona Revised Statutes, is amended to read:
37 32-1452. Substance abuse treatment and rehabilitation program;
38 private contract; funding; license restrictions;
39 immunity

40 A. The board may establish a confidential program for the treatment
41 and rehabilitation of doctors of medicine WHO ARE LICENSED PURSUANT TO THIS
42 CHAPTER and physician assistants who are LICENSED PURSUANT TO CHAPTER 25 OF
43 THIS TITLE AND WHO ARE impaired by alcohol or drug abuse. This program shall
44 include education, intervention, therapeutic treatment and posttreatment
45 monitoring and support.

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

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

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

6 ~~3. Quarterly reports to the board regarding each doctor's diagnosis
7 and prognosis and the recommendations for continuing care, treatment and
8 supervision.~~

9 ~~4.~~ 3. Immediate reporting to the board of the name of an impaired
10 doctor OR PHYSICIAN ASSISTANT who the treating organization believes to be
11 misusing chemical substances.

12 ~~5.~~ 4. Reports to the board, as soon as possible, of the name of a
13 doctor OR PHYSICIAN ASSISTANT who refuses to submit to treatment or whose
14 impairment is not substantially alleviated through treatment.

15 C. The board may allocate an amount of not to exceed forty dollars
16 from each fee it collects from the biennial renewal of active licenses
17 pursuant to section 32-1436 for the operation of the program established by
18 this section.

19 D. A doctor of medicine OR PHYSICIAN ASSISTANT who is impaired by
20 alcohol or drug abuse shall agree to enter into a stipulation order with the
21 board or the doctor OR PHYSICIAN ASSISTANT shall be placed on probation or
22 shall be subject to other action as provided by law.

23 E. In order to determine that a doctor of medicine OR PHYSICIAN
24 ASSISTANT who has been placed on probationary order or who has entered into a
25 stipulation order pursuant to this section is not impaired by drugs or
26 alcohol after that order is no longer in effect, the board or its designee
27 may require the doctor of medicine OR PHYSICIAN ASSISTANT to submit to body
28 fluid examinations and other examinations known to detect the presence of
29 alcohol or other drugs at any time within five consecutive years following
30 termination of the probationary or stipulated order.

31 F. A doctor of medicine OR PHYSICIAN ASSISTANT who is impaired by
32 alcohol or drug abuse and who was under a board stipulation or probationary
33 order that is no longer in effect shall request the board to place the
34 ~~doctor's~~ license on inactive status with cause. If the doctor OR PHYSICIAN
35 ASSISTANT fails to do this, the board shall summarily suspend the license
36 pursuant to section 32-1451, subsection D. In order to reactivate the
37 license, the doctor OR PHYSICIAN ASSISTANT shall successfully complete a
38 long-term care residential or inpatient hospital treatment program, or both,
39 and shall meet the applicable requirements of section 32-1431, subsection D.
40 After the doctor OR PHYSICIAN ASSISTANT completes treatment, the board shall
41 determine if it should refer the matter for a formal hearing for the purpose
42 of suspending or revoking the license or to place the doctor LICENSEE on
43 probation for a minimum of five years with restrictions necessary to assure
44 ENSURE the public's safety.

1 G. The board shall revoke the license of a doctor of medicine OR
2 PHYSICIAN ASSISTANT if that ~~doctor~~ LICENSEE is impaired by alcohol or drug
3 abuse and was previously placed on probation pursuant to subsection F- D of
4 this section and the probation is no longer in effect. The board may accept
5 the surrender of the license if the ~~doctor~~ LICENSEE admits in writing to
6 being impaired by alcohol or drug abuse.

7 H. An evaluator, teacher, supervisor or volunteer in the board's
8 substance abuse treatment and rehabilitation program who acts in good faith
9 within the scope of that program is not subject to civil liability, including
10 malpractice liability, for the actions of a doctor OR PHYSICIAN ASSISTANT who
11 is attending the program pursuant to board action.

12 Sec. 4. Section 32-1452.01, Arizona Revised Statutes, is amended to
13 read:

14 32-1452.01. Mental, behavioral and physical health evaluation
15 and treatment program; private contract; immunity

16 A. The board may establish a confidential program for the evaluation,
17 treatment and monitoring of persons licensed pursuant to this chapter and
18 chapter 25 of this title who have medical, psychiatric, psychological or
19 behavioral health disorders that may impact a ~~licensee's~~ THEIR ability to
20 safely practice medicine or perform healthcare tasks. The program shall
21 include education, intervention, therapeutic treatment and posttreatment
22 monitoring and support.

23 B. A licensee who has a medical, psychiatric, psychological or
24 behavioral health disorder described in subsection A ~~of this section~~, who
25 voluntarily reports that disorder to that licensee's board and who has not
26 committed a statutory violation under this chapter or chapter 25 of this
27 title, ~~may~~ agree to enter into a confidential consent agreement for
28 participation in a program established pursuant to this section.

29 C. A licensee who has a medical, psychiatric, psychological or
30 behavioral health disorder described in subsection A ~~of this section~~, who is
31 reported to that licensee's board by a peer review committee, hospital
32 medical staff, health plan or other health care practitioner or health care
33 entity and who has not committed a statutory violation under this chapter or
34 chapter 25 of this title, ~~may~~ agree to enter into a confidential consent
35 agreement for participation in a program established pursuant to this
36 section.

37 D. The board may contract with other organizations to operate a
38 program established pursuant to this section. A contract with a private
39 organization must include the following requirements:

- 40 1. Periodic reports to the board regarding treatment program activity.
- 41 2. Release to the board on demand of all treatment records.
- 42 3. ~~Quarterly reports to the board regarding each participant's~~
43 ~~diagnosis and prognosis and the recommendations for continuing care,~~
44 ~~treatment and supervision.~~

1 4. 3. Immediate reporting to the Arizona medical board of the name of
2 a licensee who the treating organization believes is incapable of safely
3 practicing medicine or performing healthcare tasks. If the licensee is a
4 physician assistant, the Arizona medical board shall immediately report this
5 information to the Arizona regulatory board of physician assistants.

6 E. An evaluator, teacher, supervisor or volunteer in a program
7 established pursuant to this section who acts in good faith within the scope
8 of that program is not subject to civil liability, including malpractice
9 liability, for the actions of a licensee who is attending the program
10 pursuant to board action.

APPROVED BY THE GOVERNOR APRIL 25, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2011.

Passed the House April 14, 2011,

Passed the Senate March 9, 2011,

by the following vote: 36 Ayes,

by the following vote: 24 Ayes,

20 Nays, 4 Not Voting

5 Nays, 1 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 was received by the Governor this

18 day of April, 2011,

at 4:30 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 25th day of

April, 2011,

at 12:15 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25th day of April, 2011,

at 2:45 o'clock P. M.

[Signature]
Secretary of State

S.B. 1176