

House Engrossed Senate Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

CHAPTER 141

# **SENATE BILL 1188**

AN ACT

AMENDING SECTIONS 32-1401, 32-1404 AND 32-1405, ARIZONA REVISED STATUTES;  
AMENDING TITLE 32, CHAPTER 13, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING  
SECTIONS 32-1451.03 AND 32-1451.04; 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, PRODUCED BY HAND  
9 OR ELECTRONICALLY, containing, at a minimum, sufficient information to  
10 identify the patient, support the diagnosis, justify the treatment,  
11 accurately document the results, indicate advice and cautionary warnings  
12 provided to the patient and provide sufficient information for another  
13 practitioner to assume continuity of the patient's care at any point in the  
14 course of treatment.

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

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

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

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

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

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

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

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

1           8. "Direct supervision" means that a physician, physician assistant  
2 licensed pursuant to chapter 25 of this title or nurse practitioner certified  
3 pursuant to chapter 15 of this title is within the same room or office suite  
4 as the medical assistant in order to be available for consultation regarding  
5 those tasks the medical assistant performs pursuant to section 32-1456.

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

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

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

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

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

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

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

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

41          17. "Medical peer review" means:

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

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

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

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

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

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

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

15 21. "Physician" means a doctor of medicine licensed pursuant to this  
16 chapter.

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

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

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

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

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

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

3           (a) Violating any federal or state laws, rules or regulations  
4 applicable to the practice of medicine.

5           (b) Intentionally disclosing a professional secret or intentionally  
6 disclosing a privileged communication except as either act may otherwise be  
7 required by law.

8           (c) False, fraudulent, deceptive or misleading advertising by a doctor  
9 of medicine or the doctor's staff, employer or representative.

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

14           (e) Failing or refusing to maintain adequate records on a patient.

15           (f) Habitual intemperance in the use of alcohol or habitual substance  
16 abuse.

17           (g) Using controlled substances except if prescribed by another  
18 physician for use during a prescribed course of treatment.

19           (h) Prescribing or dispensing controlled substances to members of the  
20 physician's immediate family.

21           (i) Prescribing, dispensing or administering schedule II controlled  
22 substances as defined in section 36-2513 including amphetamines and similar  
23 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a  
24 period in excess of thirty days in any one year, or the non-therapeutic use  
25 of injectable amphetamines.

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

28           (k) Signing a blank, undated or predated prescription form.

29           (l) Conduct that the board determines is gross malpractice, repeated  
30 malpractice or any malpractice resulting in the death of a patient.

31           (m) Representing that a manifestly incurable disease or infirmity can  
32 be permanently cured, or that any disease, ailment or infirmity can be cured  
33 by a secret method, procedure, treatment, medicine or device, if this is not  
34 true.

35           (n) Refusing to divulge to the board on demand the means, method,  
36 procedure, modality of treatment or medicine used in the treatment of a  
37 disease, injury, ailment or infirmity.

38           (o) Action that is taken against a doctor of medicine by another  
39 licensing or regulatory jurisdiction due to that doctor's mental or physical  
40 inability to engage safely in the practice of medicine or the doctor's  
41 medical incompetence or for unprofessional conduct as defined by that  
42 jurisdiction and that corresponds directly or indirectly to an act of  
43 unprofessional conduct prescribed by this paragraph. The action taken may  
44 include refusing, denying, revoking or suspending a license by that  
45 jurisdiction or a surrendering of a license to that jurisdiction, otherwise

1 limiting, restricting or monitoring a licensee by that jurisdiction or  
2 placing a licensee on probation by that jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

1 relationship with the licensee. For the purposes of this subdivision,  
2 "sexual conduct" includes:

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

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

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

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

13 (bb) Representing or claiming to be a medical specialist if this is  
14 not true.

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

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

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

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

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

36 (i) Adequate informed patient consent.

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

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

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

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

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

7 (kk) Failing to dispense drugs and devices in compliance with article  
8 6 of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (vi) Prescriptions written or prescription medications issued for  
18 administration of immunizations or vaccines listed in the United States  
19 centers for disease control and prevention's recommended immunization  
20 schedule to a household member of a patient.

21 (tt) Performing office based surgery using sedation in violation of  
22 board rules.

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

24 Sec. 2. Section 32-1404, Arizona Revised Statutes, is amended to read:  
25 32-1404. Meetings; quorum; committees; rules

26 A. The board shall hold regular quarterly meetings on a date and at  
27 the time and place designated by the chairman. The board shall hold special  
28 meetings, including meetings using communications equipment that allows all  
29 members participating in the meeting to hear each other, as the chairman  
30 determines are necessary to carry out the functions of the board. The board  
31 shall hold special meetings on any day that the chairman determines is  
32 necessary to carry out the functions of the board. The vice-chairman may  
33 call meetings and special meetings if the chairman is not available.

34 B. The presence of seven board members at a meeting constitutes a  
35 quorum. A majority vote of the quorum is necessary for the board to take any  
36 action.

37 C. The chairman may establish committees from the membership of the  
38 board and define committee duties necessary to carry out the functions of the  
39 board.

40 D. The board may adopt rules pursuant to title 41, chapter 6 that are  
41 necessary and proper to carry out the purposes of this chapter.

42 E. MEETINGS HELD PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE  
43 AUDIO RECORDED.

1           Sec. 3. Section 32-1405, Arizona Revised Statutes, is amended to read:  
2           32-1405. Executive director; compensation; duties; appeal to  
3                     the board

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

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

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

12           1. Employ, evaluate, dismiss, discipline and direct professional,  
13 clerical, technical, investigative and administrative personnel necessary to  
14 carry on the work of the board. INVESTIGATIVE PERSONNEL SHALL COMPLETE A  
15 NATIONALLY RECOGNIZED INVESTIGATOR TRAINING PROGRAM WITHIN ONE YEAR OF DATE  
16 OF HIRE. UNTIL INVESTIGATIVE PERSONNEL COMPLETES A TRAINING PROGRAM, THE  
17 INVESTIGATIVE PERSONNEL SHALL WORK UNDER THE SUPERVISION OF AN INVESTIGATOR  
18 WHO HAS COMPLETED A TRAINING PROGRAM.

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

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

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

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

29           6. Manage the board's offices.

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

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

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

35           10. Prepare an annual budget.

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

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

41           13. Issue subpoenas if necessary to compel the attendance and testimony  
42 of witnesses and the production of books, records, documents and other  
43 evidence.

1           14. Provide assistance to the attorney general in preparing and sign  
2 and execute disciplinary orders, rehabilitative orders and notices of  
3 hearings as directed by the board.

4           15. Enter into contracts for goods and services pursuant to title 41,  
5 chapter 23 that are necessary to carry out board policies and directives.

6           16. Execute board directives.

7           17. Manage and supervise the operation of the Arizona regulatory board  
8 of physician assistants.

9           18. Issue licenses to physician assistant applicants who meet the  
10 requirements of chapter 25 of this title.

11           19. Represent the board with the federal government, other states or  
12 jurisdictions of the United States, this state, political subdivisions of  
13 this state, the news media and the public.

14           20. On behalf of the Arizona medical board, enter into stipulated  
15 agreements with persons under the jurisdiction of either the Arizona medical  
16 board or the Arizona regulatory board of physician assistants for the  
17 treatment, rehabilitation and monitoring of chemical substance abuse or  
18 misuse.

19           21. Review all complaints filed pursuant to section 32-1451. If  
20 delegated by the board, the executive director may also dismiss a complaint  
21 if the complaint is without merit. The executive director shall not dismiss  
22 a complaint if a court has entered a medical malpractice judgment against a  
23 physician. The executive director shall submit a report of the cases  
24 dismissed with the complaint number, the name of the physician and the  
25 investigation timeline to the board for review at its regular board meetings.

26           22. If delegated by the board, directly refer cases to a formal  
27 hearing.

28           23. If delegated by the board, close cases resolved through mediation.

29           24. If delegated by the board, issue advisory letters.

30           25. If delegated by the board, enter into a consent agreement if there  
31 is evidence of danger to the public health and safety.

32           26. If delegated by the board, grant uncontested requests for inactive  
33 status and cancellation of a license pursuant to sections 32-1431 and  
34 32-1433.

35           27. If delegated by the board, refer cases to the board for a formal  
36 interview.

37           28. Perform all other administrative, licensing or regulatory duties  
38 required by the board.

39           D. Medical consultants and agents appointed pursuant to subsection C,  
40 paragraph 4 of this section are eligible to receive compensation determined  
41 by the executive director in an amount not to exceed two hundred dollars for  
42 each day of service.

43           E. A person who is aggrieved by an action taken by the executive  
44 director pursuant to subsection C, paragraphs 21 through 27 of this section  
45 or section 32-1422, subsection E, may request the board to review that action

1 by filing with the board a written request within thirty days after that  
2 person is notified of the executive director's action by personal delivery  
3 or, if the notification is mailed to that person's last known residence or  
4 place of business, within thirty-five days after the date on the  
5 notification. At the next regular board meeting, the board shall review the  
6 executive director's action. On review, the board shall approve, modify or  
7 reject the executive director's action.

8 Sec. 4. Title 32, chapter 13, article 3, Arizona Revised Statutes, is  
9 amended by adding sections 32-1451.03 and 32-1451.04, to read:

10 32-1451.03. Complaints; requirements; exception

11 A. THE BOARD SHALL NOT ACT ON ANY COMPLAINT IN WHICH AN ALLEGATION OF  
12 UNPROFESSIONAL CONDUCT OR ANY OTHER VIOLATION OF THIS CHAPTER OCCURRED MORE  
13 THAN SEVEN YEARS BEFORE THE COMPLAINT IS RECEIVED BY THE BOARD. THE TIME  
14 LIMITATION DOES NOT APPLY TO MEDICAL MALPRACTICE SETTLEMENTS OR JUDGMENTS.

15 B. THE BOARD SHALL NOT OPEN AN INVESTIGATION IF IDENTIFYING  
16 INFORMATION REGARDING THE COMPLAINANT IS NOT PROVIDED.

17 32-1451.04. Burden of proof

18 EXCEPT FOR DISCIPLINARY MATTERS BROUGHT PURSUANT TO SECTION 32-1401,  
19 PARAGRAPH 27, SUBDIVISION (z), THE BOARD HAS THE BURDEN OF PROOF BY CLEAR AND  
20 CONVINCING EVIDENCE FOR DISCIPLINARY MATTERS BROUGHT PURSUANT TO THIS  
21 CHAPTER.

APPROVED BY THE GOVERNOR MARCH 29, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2012.

Passed the House March 22, 2012

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate February 27, 2012

by the following vote: 28 Ayes,

2 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
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

**S.B. 1188**

**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

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate March 20, 20 12

by the following vote: 21 Ayes,

6 Nays, 3 Not Voting

Steve Fierce

President of the Senate

Chermin Bellison  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

27 day of March, 20 12

at 8:30 o'clock A M.

June Jones  
Secretary to the Governor

Approved this 29th day of

March

at 10:25 o'clock A. M.

Janice K. Brewer  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29th day of March, 20 12

S.B. 1188

at 4:58 o'clock  M.

Lu Blum  
Secretary of State