

House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 107

SENATE BILL 1136

AN ACT

AMENDING SECTIONS 32-3901, 32-3902, 32-3903, 32-3923 AND 32-3924, ARIZONA REVISED STATUTES; RELATING TO THE ACUPUNCTURE BOARD OF EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-3901, Arizona Revised Statutes, is amended to
3 read:

4 32-3901. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Acupuncture" means puncturing the skin by thin, solid needles to
7 reach subcutaneous structures, stimulating the needles to ~~affect~~ PRODUCE a
8 positive therapeutic response at a distant site and the use of adjunctive
9 therapies.

10 2. "Adjunctive therapies" means the manual, mechanical, magnetic,
11 thermal, electrical or electromagnetic stimulation of acupuncture points and
12 energy pathways, auricular and detoxification therapy, ion cord devices,
13 electroacupuncture, herbal poultices, therapeutic exercise and acupressure.

14 3. "Board" means the acupuncture board of examiners.

15 4. "Unprofessional conduct" includes the following, whether occurring
16 in this state or elsewhere:

17 (a) Wilfully disclosing a professional secret or wilfully violating a
18 privileged communication except as either of these may otherwise be required
19 by law.

20 (b) Committing a felony as evidenced by conviction by a court of
21 competent jurisdiction.

22 (c) Habitual intemperance in the use of alcohol or any substance abuse
23 that interferes with the ability to safely practice acupuncture.

24 (d) Conduct that the board determines is gross malpractice, repeated
25 malpractice or any malpractice resulting in the death of a patient.

26 (e) Impersonating another acupuncturist or any other practitioner of
27 the healing arts.

28 (f) Falsely acting or assuming to act as a member, an employee or an
29 authorized agent of the board.

30 (g) Procuring or attempting to procure a license pursuant to this
31 chapter by fraud or misrepresentation.

32 (h) Refusing to divulge to the board on demand the acupuncture method
33 used in the treatment of a patient.

34 (i) Giving or receiving or aiding or abetting the giving or receiving
35 of rebates, either directly or indirectly.

36 (j) Knowingly making any false or fraudulent statement, written or
37 oral, in connection with the practice of acupuncture.

38 (k) The refusal, revocation or suspension of a license by any other
39 state, district or territory of the United States or any other country,
40 unless the action was not taken for reasons relating to the person's ability
41 to safely and skillfully practice acupuncture or relating to an act of
42 unprofessional conduct.

43 (l) Conduct that is contrary to the recognized standards or ethics of
44 the acupuncture profession or that may constitute a danger to the health,
45 welfare or safety of the patient or the public.

1 (m) Any conduct or condition that may impair the ability to safely and
2 skillfully practice acupuncture.

3 (n) Violating or attempting to violate, directly or indirectly,
4 assisting in or abetting the violation of or conspiring to violate this
5 chapter or board rules.

6 (o) Advertising in a false, deceptive or misleading manner.

7 (p) Failing or refusing to maintain adequate patient health records or
8 failing or refusing to make health records promptly available to the patient
9 or to another health practitioner or provider on request and receipt of
10 proper authorization.

11 (q) Deriving direct or indirect compensation from the referral of a
12 patient without disclosing to the patient in writing the extent of the
13 compensation.

14 (r) Deriving a financial interest in products the acupuncturist
15 endorses or recommends to the patient without disclosing to the patient in
16 writing the extent of the financial interest.

17 (s) Sexual intimacies with a patient in the practice of acupuncture.

18 (t) Failing to appropriately exercise control over or supervise an
19 acupuncture student employed by or assigned to the practitioner in the
20 practice of acupuncture.

21 (u) Failing to furnish information in a timely manner to the board or
22 its investigators or representatives if the information is legally requested
23 by the board.

24 (v) Supervising or engaging in a ~~preceptorship or~~ clinical training
25 program in acupuncture without being approved and registered by the board for
26 that ~~preceptorship or clinical training~~ program.

27 (w) Knowingly making a false, fraudulent or misleading statement,
28 written or oral, to the board.

29 (x) Failing to exercise proper care for a patient by abandoning or
30 neglecting a patient in need of immediate care without making reasonable
31 arrangements for the continuation of care or by failing to refer the patient
32 to another appropriate health care provider when necessary.

33 (y) Failing to use needles that have been sterilized according to
34 clean needle technique principles approved by the board.

35 Sec. 2. Section 32-3902, Arizona Revised Statutes, is amended to read:

36 32-3902. Acupuncture board of examiners; members;
37 qualifications; terms; removal; compensation

38 A. The acupuncture board of examiners is established consisting of the
39 following members appointed by the governor:

40 1. Four members who are licensed to practice acupuncture pursuant to
41 this chapter and who have practiced acupuncture in this state for at least
42 three years. Not more than two of these members shall be graduates of the
43 same school or college of acupuncture. The governor may make these
44 appointments from a list of names submitted by a statewide acupuncture
45 society. The ~~five~~ initial appointees need not be licensed pursuant to this

1 chapter at the time of selection but shall meet all of the qualifications for
2 licensure as prescribed by this chapter.

3 2. Three consumers who:

4 (a) Are not employed in a health profession.

5 (b) Do not have any pecuniary interest in a school of medicine or
6 health care institution.

7 (c) Demonstrate an interest in health issues in this state.

8 3. Two members who are licensed pursuant to ~~chapters~~ CHAPTER 8, 13,
9 14, 17 or 29 of this title. These members shall not be licensed pursuant to
10 the same chapter.

11 B. Board members shall be residents of this state for at least three
12 years immediately preceding their appointment.

13 C. Board members serve three-year terms to begin and end on the third
14 Monday in January. A member shall not serve more than two consecutive terms.

15 D. The board shall meet in January of each year to elect a chairperson
16 and secretary.

17 E. The board shall meet quarterly and at the call of the chairperson
18 or a majority of board members.

19 F. ~~Consumer~~ Board members are eligible to receive compensation in ~~the~~
20 AN amount not to exceed fifty dollars per day for each day of actual service
21 in the business of the board and are eligible for reimbursement of expenses
22 necessarily and properly incurred in attending board meetings.

23 G. The governor may remove a board member from office for malfeasance,
24 dishonorable conduct or unprofessional management of board duties.

25 H. The term of any member automatically ends on resignation or absence
26 from this state for a period of at least six months. The governor shall fill
27 vacancies for an unexpired portion of a term in the same manner as regular
28 appointments.

29 I. Board members and board employees are not subject to civil
30 liability for any act done or proceeding undertaken or performed in good
31 faith and in furtherance of the purposes of this chapter.

32 Sec. 3. Section 32-3903, Arizona Revised Statutes, is amended to read:

33 32-3903. Powers and duties of the board

34 A. The board shall:

35 1. Adopt rules necessary to enforce this chapter.

36 2. Initiate investigations and take disciplinary actions to enforce
37 this chapter.

38 3. Evaluate the qualifications of applicants and issue licenses to
39 qualified applicants.

40 4. Adopt and use a seal to authenticate official board documents.

41 5. Establish fees pursuant to section 32-3927.

42 6. Adopt rules for ~~establishing and approving preceptorships and~~
43 clinical training.

1 B. The board may:

2 1. Subject to title 41, chapter 4, article 4, employ personnel needed
3 to carry out board functions.

4 2. Purchase, lease, rent, sell or otherwise dispose of personal and
5 real property for the operations of the board.

6 3. Approve examinations for licensure.

7 Sec. 4. Section 32-3923, Arizona Revised Statutes, is amended to read:

8 32-3923. Use of title or abbreviation by licensee; prohibited
9 acts; posting of license

10 A. A person who is licensed pursuant to this chapter may use the title
11 "licensed acupuncturist" and the abbreviation "L.AC.".

12 B. A person who is not licensed pursuant to this chapter shall not use
13 any title, abbreviation, words, letters, signs or figures to indicate that
14 the person is licensed pursuant to this chapter.

15 C. Possession of a license pursuant to this chapter does not by itself
16 entitle a person to use the title "doctor" or "physician".

17 D. A person WHO IS licensed pursuant to this chapter shall post the
18 license OR AN OFFICIAL DUPLICATE OF THE LICENSE in a conspicuous location in
19 ~~that person's~~ THE RECEPTION AREA OF EACH office FACILITY OF THAT LICENSEE.

20 E. A person WHO IS licensed pursuant to this chapter shall not
21 represent to any member of the public that, by virtue of that license, the
22 person is licensed to practice any modality other than acupuncture.

23 Sec. 5. Section 32-3924, Arizona Revised Statutes, is amended to read:

24 32-3924. Qualifications for licensure

25 To receive a license to practice acupuncture pursuant to this chapter,
26 a person shall submit an application as prescribed by the board. THE
27 APPLICANT SHALL DISCLOSE IN AN APPLICATION FOR INITIAL LICENSURE OR
28 RELICENSURE ALL OTHER ACTIVE AND PAST PROFESSIONAL HEALTH CARE LICENSES AND
29 CERTIFICATES ISSUED TO THE APPLICANT IN THIS STATE OR BY ANOTHER STATE,
30 DISTRICT OR TERRITORY OF THE UNITED STATES. The application shall document
31 to the board's satisfaction that the applicant has successfully completed a
32 clean needle technique course approved by the board and ~~both~~ MEETS ALL of the
33 following:

34 1. Has EITHER:

35 (a) Been certified in acupuncture by the national CERTIFICATION
36 commission for ~~the certification of~~ acupuncture and oriental medicine, or its
37 successor organization, OR another certifying body or examination that is
38 recognized by the board. ~~or~~

39 (b) PASSED THE POINT LOCATION MODULE, FOUNDATIONS OF ORIENTAL MEDICINE
40 MODULE, BIOMEDICINE MODULE AND ACUPUNCTURE MODULE OFFERED BY THE NATIONAL
41 CERTIFICATION COMMISSION FOR ACUPUNCTURE AND ORIENTAL MEDICINE.

42 (c) ~~Has~~ Been licensed by another state with substantially similar
43 standards, and has not had certification or licensure revoked.

44 2. Has graduated from or completed training in a board-approved
45 program of acupuncture with a minimum of one thousand eight hundred fifty

1 hours of training that includes at least eight hundred hours of
2 board-approved clinical training.

3 3. BEGINNING JULY 1, 2016, HAS SUBMITTED A FULL SET OF FINGERPRINTS TO
4 THE BOARD FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS
5 CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF
6 PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
7 INVESTIGATION.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.

Passed the House April 15, 2014,

Passed the Senate February 27, 2014,

by the following vote: 41 Ayes,

by the following vote: 27 Ayes,

19 Nays, 0 Not Voting

2 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Assistant 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. 1136

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 16, 2014

by the following vote: 26 Ayes,

3 Nays, 1 Not Voting

AS Biggs
President of the Senate

Charmain B. Dayton
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

17 day of April, 20 14

at 8:20 o'clock A M.

Mikhaela Howard
Secretary to the Governor

Approved this 22nd day of

April

at 4:05 o'clock P M.

Janice J. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 23rd day of April, 20 14

S.B. 1136

at 9:40 o'clock 9 M.

Kate Blumelt
Secretary of State