House Engrossed Senate Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
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2015

CHAPTER 135

SENATE BILL 1012

AN ACT

AMENDING SECTIONS 32-1800, 32-1803, 32-1804, 32-1822, 32-1823, 32-1825, 32-1826, 32-1828, 32-1829, 32-1830, 32-1831 AND 32-1832, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 17, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1833; AMENDING SECTIONS 32-1851, 32-1854, 32-1855, 32-1855.01 AND 32-1855.03, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-1800, Arizona Revised Statutes, is amended to read:

32-1800. Definitions

In this chapter, unless the context otherwise requires:

1. "Active license" means a valid license to practice medicine and includes the license of a licensee who has been placed on probation or on whose license the board has placed restrictions.

2. "Address of record" means either:

(a) The address where a person who is regulated pursuant to this chapter practices medicine or is otherwise employed.

(b) The residential address of a person who is regulated pursuant to this chapter if that person has made a written request to the board that the board use that address as the address of record.

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

4. "Administrative warning" means a disciplinary action by the board in the form of a written warning to a physician of a violation of this chapter involving patient care that the board determines falls below the community standard.

5. "Approved ~~fellowship~~ POSTGRADUATE TRAINING program" means that an applicant for licensure SUCCESSFULLY completed training when the hospital or other facility in which the training occurred was approved for A POSTGRADUATE INTERNSHIP, RESIDENCY OR fellowship by the American osteopathic association or by the accreditation council ~~on~~ FOR graduate medical education.

6. "Approved school of osteopathic medicine" means a school or college offering a course of study that, on successful completion, results in the awarding of the degree of doctor of osteopathy and whose course of study has been approved or accredited by the American osteopathic association.

7. "Board" means the Arizona board of osteopathic examiners in medicine and surgery.

8. "Decree of censure" means a formal written reprimand by the board of a physician for a violation of this chapter that constitutes a disciplinary action against a physician's license.

9. "Direct supervision" means that a physician is within the same room or office suite as the unlicensed person in order to be available for consultation regarding those tasks the unlicensed person performs pursuant to section 32-1859.

10. "Dispense" means the delivery by a physician of a prescription 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.

11. "Doctor of osteopathy" means a person who holds a license, registration or permit to practice medicine pursuant to this chapter.

12. "Immediate family" means the spouse, natural or adopted children, father, mother, brothers and sisters of the physician and the natural and adopted children, father, mother, brothers and sisters of the physician's spouse.

13. "Inappropriate fee" means a fee that is not supported by documentation of time, complexity or extreme skill required to perform the service.

14. "Investigative hearing" means a meeting between the board and a physician to discuss issues set forth in the investigative hearing notice and during which the board may hear statements from board staff, the complainant, ~~and~~ the physician AND WITNESSES, IF ANY.

15. "Letter of concern" means an advisory letter to notify a physician that while there is insufficient evidence to support disciplinary action against the physician's license there is sufficient evidence for the board to notify the physician of its concern.

16. "Limited license" means a license that restricts the scope and setting of a licensee's practice.

17. "Medical assistant" means an unlicensed person who has completed an educational program approved by the board, who assists in a medical practice under the supervision of a doctor of osteopathic medicine 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.

18. "Medicine" means osteopathic medicine as practiced by a person who receives a degree of doctor of osteopathy.

19. "Physician" means a doctor of ~~osteopathic medicine~~ OSTEOPATHY who holds a license, a permit or a locum tenens registration to practice osteopathic medicine pursuant to this chapter.

20. "Practice of medicine" or "practice of osteopathic medicine" means all of the following:

(a) To examine, diagnose, treat, prescribe for, palliate, prevent or correct human diseases, injuries, ailments, infirmities and deformities, physical or mental conditions, real or imaginary, by the use of drugs, surgery, manipulation, electricity or any physical, mechanical or other means as provided by this chapter.

(b) Suggesting, recommending, prescribing or administering any form of treatment, operation or healing for the intended palliation, relief or cure of any physical or mental disease, ailment, injury, condition or defect.

(c) The practice of osteopathic medicine alone or the practice of osteopathic surgery or osteopathic manipulative therapy, or any combination of either practice.

21. "Specialist" means a physician who has successfully completed postdoctoral training in an approved ~~fellowship~~ POSTGRADUATE TRAINING program, an approved preceptorship or an approved residency or who is board certified by a specialty board approved by the board.

22. "Subscription provider of health care" means an entity that, through contractual agreement, is responsible for the payment, in whole or in part, of debts incurred by a person for medical or other health care services.

Sec. 2. Section 32-1803, Arizona Revised Statutes, is amended to read:

32-1803. Powers and duties

A. The board shall:

1. Protect the public from unlawful, incompetent, unqualified, impaired and unprofessional practitioners of osteopathic medicine.

2. Issue licenses, conduct hearings, place physicians on probation, revoke or suspend licenses, enter into stipulated orders, issue letters of concern or decrees of censure and administer and enforce this chapter.

3. Maintain a record of its acts and proceedings, including the issuance, denial, renewal, suspension or revocation of licenses to practice according to this chapter. The board shall delete records of complaints only as follows:

(a) If the board dismisses a complaint, the board shall delete the public record of the complaint five years after it dismissed the complaint.

(b) If the board has issued a letter of concern but has taken no further action on the complaint, the board shall delete the public record of the complaint five years after it issued the letter of concern.

(c) If the board has required additional continuing medical education pursuant to section 32-1855 but has not taken further action, the board shall delete the public record of the complaint five years after the person satisfies this requirement.

4. Maintain a public directory of all osteopathic physicians and surgeons who are or were licensed pursuant to this chapter that includes:

(a) The name of the physician.

(b) The physician's current or last known address of record.

(c) The date and number of the license issued to the physician pursuant to this chapter.

(d) The date the license is scheduled to expire if not renewed or the date the license expired or was revoked, suspended or canceled.

(e) Any disciplinary actions taken against the physician by the board.

(f) Letters of concern, remedial continuing medical education ordered and dismissals of complaints against the physician until deleted from the public record pursuant to paragraph 3 of this subsection.

~~(g) The number of malpractice claims paid by award or by settlement on behalf of the physician in the last ten years of practice in this state or in another state.~~

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

6. Discipline and rehabilitate osteopathic physicians.

B. The public records of the board are open to inspection at all times during office hours.

C. The board may:

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

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

3. Accept and spend federal monies and private grants, gifts, contributions and devises. These monies do not revert to the state general fund at the end of a fiscal year.

4. Develop and publish advisory opinions and standards governing the profession.

D. The board shall adopt and use a seal, the imprint of which, together with the signature of either the president, vice-president or executive director, is evidence of its official acts.

E. In conducting investigations pursuant to this chapter the board may receive and review confidential internal staff reports relating to complaints and malpractice claims.

F. The board may make available to academic and research organizations public records regarding statistical information on doctors of osteopathic medicine and applicants for licensure.

Sec. 3. Section 32-1804, Arizona Revised Statutes, is amended to read:

32-1804. Executive director; compensation; duties

A. Subject to title 41, chapter 4, article 4, the board shall appoint an executive director who is not a member of the board. The executive director shall serve at the pleasure of the board and shall receive compensation as determined pursuant to section 38-611 to be paid from the board fund.

B. The executive director or that person's designee shall:

1. Serve as administrative assistant to the board and manage the board's offices.

2. Collect all monies due and payable to the board.

3. Deposit, pursuant to sections 35-146 and 35-147, all monies received by the board in the appropriate fund.

4. Pay all bills for authorized board expenditures.

5. Administer oaths.

6. Act as custodian of the board's seal and books.

7. Employ special consultants or other agents subject to title 41, chapter 4, article 4 to make investigations, gather information, review complaints, review malpractice claims, suits and settlements, prepare reports and perform other duties the executive director determines are necessary to enforce this chapter.

8. Subject to title 41, chapter 4, article 4 and, as applicable, articles 5 and 6, employ, evaluate, dismiss, discipline and direct professional, clerical, technical, investigative and administrative personnel necessary to carry out the purposes of this chapter. The personnel are eligible to receive compensation pursuant to section 38-611.

9. Issue licenses, limited licenses, registrations, permits, license renewal extensions and waivers to applicants who meet the requirements of this chapter.

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

11. Prepare minutes, reports and records of all board transactions and orders.

12. Prepare a biannual budget.

13. As directed by the board, prepare and submit recommendations for changes to this chapter for consideration by the legislature.

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

15. Issue subpoenas to compel the attendance and testimony of a witness and the production of evidence.

16. As directed by the board, provide assistance to the attorney general in preparing and executing disciplinary orders, rehabilitation orders and notices of hearings.

17. Represent the board with the federal government, other states and jurisdictions of the United States, this state, political subdivisions of this state, the news media and the public.

18. If delegated by the board, dismiss complaints that, after an investigation, demonstrate insufficient evidence that the physician's conduct violated this chapter.

19. If delegated by the board, enter into a stipulated agreement with a licensee for the treatment, rehabilitation and monitoring of the licensee's abuse or misuse of a chemical substance.

20. Review all complaints filed pursuant to section 32-1855. If delegated by the board, the executive director may also dismiss a complaint if the complaint is without merit. The executive director shall not dismiss a complaint if a court has entered a medical malpractice judgment against a physician. The executive director shall submit to the board a report of each complaint the executive director dismisses for its review at its next regular board meeting. The report shall include the complaint number, the name of the physician and the investigation timeline for each dismissed complaint.

21. If delegated by the board, ~~directly~~ refer complaints for an investigative ~~interview~~ HEARING.

22. If delegated by the board, close complaints resolved through mediation.

23. If delegated by the board, issue letters of concern or orders for nondisciplinary education, or both.

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

25. If delegated by the board, grant uncontested requests for cancellation of a license pursuant to section 32-1827.

~~26. If delegated by the board, refer cases to the board for an investigative interview.~~

~~27.~~ 26. Perform any other duty required by the board.

Sec. 4. Section 32-1822, Arizona Revised Statutes, is amended to read:

32-1822. Qualifications of applicant; application; fees

A. On a form and in a manner prescribed by the board, an applicant for licensure shall submit proof that the applicant:

1. Is the person named on the application and on all supporting documents submitted.

2. Is a citizen of the United States or a resident alien.

3. Is a graduate of a ~~board approved~~ school of osteopathic medicine APPROVED BY THE AMERICAN OSTEOPATHIC ASSOCIATION.

4. Has SUCCESSFULLY completed an approved internship, the first year of an approved multiple-year residency or board-approved equivalency.

5. Has passed the approved examinations for licensure within seven years of application or has the board-approved equivalency of practice experience.

6. Has not engaged in any conduct that, if it occurred in this state, would be considered unprofessional conduct or, if the applicant has engaged in unprofessional conduct, is rehabilitated from the underlying conduct.

7. Is physically, mentally and emotionally able to practice medicine, or, if limited, restricted or impaired in the ability to practice medicine, consents to contingent licensure pursuant to subsection E of this section or to entry into a program prescribed in section 32-1861.

8. Is of good moral character.

B. An applicant must submit with the application the NONREFUNDABLE application fee prescribed in section 32-1826 and pay the prescribed license issuance fee to the board at the time the license is issued.

C. The board or the executive director may require an applicant to submit to a personal interview, a physical examination or a mental evaluation or any combination of these, AT THE APPLICANT'S EXPENSE, at a reasonable time and place as prescribed by the board if the board determines that this is necessary to provide the board adequate information regarding the applicant's ability to meet the licensure requirements of this chapter. An interview may include medical knowledge questions and other matters that are relevant to licensure.

D. The board may deny a license for any unprofessional conduct that would constitute grounds for disciplinary action pursuant to this chapter or as determined by a competent domestic or foreign jurisdiction.

E. The board may issue a license that is contingent on the applicant entering into a stipulated order that may include a period of probation or a restriction on the licensee's practice.

F. The executive director may issue licenses to applicants who meet the requirements of this section.

G. A person whose license has been revoked, denied or surrendered in this or any other state may apply for licensure not sooner than ~~two~~ FIVE years after the revocation, denial or surrender.

H. A license issued pursuant to this section is valid for the remainder of the calendar year in which it was issued, at which time it is eligible for renewal.

Sec. 5. Section 32-1823, Arizona Revised Statutes, is amended to read:

32-1823. Locum tenens registration; application; term; interview; denial of application; discipline

A. A doctor of osteopathy WHO IS licensed to practice osteopathic medicine and surgery by another state may be registered to provide locum tenens medical services to substitute for or temporarily assist a doctor of osteopathy who holds an active license pursuant to this chapter or a doctor of medicine who holds an active license pursuant to chapter 13 of this title under the following conditions:

1. The applicant provides on forms and in a manner prescribed by the board proof that ~~he~~ THE APPLICANT meets the applicable requirements of section 32-1822.

2. The doctor of medicine or doctor of osteopathy for whom the applicant is substituting or assisting provides to the board a written request for locum tenens registration of the applicant.

B. On completion of the registration form prescribed by the board and payment of the required fees, the executive director may register a qualifying doctor of osteopathy by locum tenens registration and authorize the doctor to provide locum tenens services.

C. Locum tenens registration granted pursuant to this section is valid for ninety days and may be extended once for an additional ninety days on written request by the doctor of medicine or doctor of osteopathy who originally initiated the request for this registration, stating the reason extension is necessary, and by submitting the appropriate fees and other documents requested by the executive director.

D. THE BOARD OR THE EXECUTIVE DIRECTOR MAY REQUIRE AN APPLICANT TO SUBMIT TO A PERSONAL INTERVIEW TO PROVIDE THE BOARD WITH ADEQUATE INFORMATION REGARDING THE APPLICANT'S ABILITY TO PRACTICE UNDER LOCUM TENENS REGISTRATION. THE APPLICANT IS RESPONSIBLE FOR ALL COSTS TO ATTEND THE INTERVIEW.

E. THE BOARD MAY DENY THE APPLICATION FOR A LOCUM TENENS REGISTRATION FOR ANY UNPROFESSIONAL CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THIS CHAPTER OR AS DETERMINED BY A COMPETENT DOMESTIC OR FOREIGN JURISDICTION.

F. A LOCUM TENENS REGISTRANT IS SUBJECT TO THE DISCIPLINARY PROVISIONS PURSUANT TO THIS CHAPTER.

Sec. 6. Section 32-1825, Arizona Revised Statutes, is amended to read:

32-1825. Renewal of licenses; continuing medical education; failure to renew; penalty; reinstatement; waiver of continuing medical education

A. Except as provided in section 32-4301, each licensee shall renew the license every other year on or before January 1 on an application form approved by the board. At least sixty days before that renewal date, the executive director shall notify each licensee of this requirement. The executive director shall send this notification by ~~first class~~ mail to the licensee at the licensee's address.

B. With the application prescribed pursuant to subsection A of this section, the licensee shall furnish to the executive director a statement of having attended before the license renewal date educational programs, approved by the board, totaling at least ~~twenty~~ FORTY clock hours during ~~each of~~ the two preceding years, and a statement that the licensee reported any conduct that may constitute unprofessional conduct in this state or elsewhere. The application must also include the prescribed renewal fee. The executive director shall then issue a renewal receipt to the licensee. The board may require a licensee to submit documentation of continuing medical education.

C. The board shall not renew the license of a licensee who does not fully document the licensee's compliance with the continuing education requirements of subsection B of this section unless that person receives a waiver of those requirements. The board may waive the continuing education requirements of subsection B of this section for a particular period if it is satisfied that the licensee's noncompliance was due to the licensee's disability, military service or absence from the United States or to other circumstances beyond the control of the licensee. If a licensee fails to attend the required number of clock hours for reasons other than those specified in this subsection, the board may grant an extension until May 1 of that year for the licensee to comply.

D. Unless the board grants an extension pursuant to subsection C of this section, a licensee who fails to renew the license within thirty days after the renewal date shall pay a penalty fee and a reimbursement fee in addition to the prescribed renewal fee. Except as provided in sections 32-3202 and 32-4301, a license expires if a person does not renew the license within four months after the renewal date. A person who practices osteopathic medicine after that time is in violation of this chapter. A person whose license expires may reapply for a license pursuant to this chapter.

Sec. 7. Section 32-1826, Arizona Revised Statutes, is amended to read:

32-1826. Fees; penalty

A. The board ~~by a formal vote at its annual January meeting~~ shall establish fees of not to exceed the following:

1. For an application to practice osteopathic medicine, four hundred dollars.

2. For issuance of a license, two hundred dollars, prorated by each month remaining in the calendar year of issuance.

3. For biennial renewal of a license, eight hundred dollars.

4. For locum tenens registration or extension, three hundred dollars.

5. For issuance of a duplicate license, one hundred dollars.

6. For ~~annual registration of~~ AN ANNUAL TRAINING PERMIT FOR an approved ~~internship, residency, clinical fellowship~~ POSTGRADUATE TRAINING program or short-term residency program, one hundred dollars.

7. For an annual teaching license issued pursuant to section 32-1831, four hundred dollars.

8. For a five-day educational teaching permit at an approved school of medicine or at an approved teaching hospital's accredited graduate medical education program, two hundred dollars.

~~9. For the sale of those copies of the annual osteopathic medical directory that are not distributed free of charge, seventy-five dollars.~~

~~10.~~ 9. For the sale of A computerized ~~tapes or diskettes~~ FORMAT OF THE BOARD'S LICENSEE DIRECTORY that ~~do~~ DOES not require programming, one hundred dollars.

~~11.~~ 10. For initial and annual registration to dispense drugs and devices, two hundred fifty dollars, prorated by each month remaining in the calendar year of issuance.

B. The board shall charge a one hundred fifty dollar penalty fee for late renewal of a license and a twenty-five dollar reimbursement fee to cover the board's expenses in collecting late renewal fees. The board shall deposit this fee in the board fund.

C. The board may charge additional fees for services the board determines are necessary and appropriate to carry out this chapter. These fees shall not exceed the actual cost of providing the services.

Sec. 8. Section 32-1828, Arizona Revised Statutes, is amended to read:

32-1828. Education teaching permits

A. The dean of a ~~board approved~~ school of osteopathic medicine APPROVED BY THE AMERICAN OSTEOPATHIC ASSOCIATION or the chairman of a teaching hospital's accredited graduate medical education program may invite a doctor of osteopathy who is not licensed in this state to demonstrate and perform medical procedures and surgical techniques for the sole purpose of promoting professional education for students, interns, residents, fellows and doctors of osteopathy in this state.

B. The chairman or dean of the inviting institution shall provide to the board evidence that an applicant for an educational permit has

malpractice insurance in an amount that meets the requirements of that institution and that the applicant accepts all responsibility and liability for the procedures the applicant performs within the scope of the applicant's permit.

C. In a letter to the board, the chairman or dean of the inviting institution shall outline the procedures and techniques that the doctor of medicine will perform or demonstrate and the dates that this activity will occur. The letter shall also include a summary of the doctor of osteopathy's education and professional background and shall be accompanied by the fee required pursuant to this chapter.

D. The inviting institutions shall submit the fees and documents required pursuant to this section no later than two weeks before the scheduled activity.

E. The board through its staff shall issue an educational teaching permit for not more than five days for each approved activity.

Sec. 9. Section 32-1829, Arizona Revised Statutes, is amended to read:

32-1829. Training permits; issuance of permits

A. The board may grant a one-year renewable training permit to a person WHO IS participating in a teaching hospital's accredited internship, residency or clinical fellowship training program to allow that person to practice medicine only in the supervised setting of that program. Before the board issues the permit, the person shall:

1. Submit an application ~~demonstrating that, except for the training program applied for, the person meets the requirements for licensure prescribed in section 32-1822.~~ ON A FORM AND IN A MANNER PRESCRIBED BY THE BOARD AND PROOF THAT THE APPLICANT:

(a) IS THE PERSON NAMED ON THE APPLICATION AND ON ALL SUPPORTING DOCUMENTATION.

(b) IS A CITIZEN OF THE UNITED STATES OR A RESIDENT ALIEN.

(c) IS A GRADUATE OF A SCHOOL APPROVED BY THE AMERICAN OSTEOPATHIC ASSOCIATION.

(d) PARTICIPATED IN POSTGRADUATE TRAINING, IF ANY.

(e) HAS PASSED APPROVED EXAMINATIONS APPROPRIATE TO THE APPLICANT'S LEVEL OF EDUCATION AND TRAINING.

(f) HAS NOT ENGAGED IN ANY CONDUCT THAT, IF IT OCCURRED IN THIS STATE, WOULD BE CONSIDERED UNPROFESSIONAL CONDUCT OR, IF THE APPLICANT HAS ENGAGED IN UNPROFESSIONAL CONDUCT, IS REHABILITATED FROM THE UNDERLYING CONDUCT.

(g) IS OF GOOD MORAL CHARACTER.

(h) IS PHYSICALLY, MENTALLY AND EMOTIONALLY ABLE TO PRACTICE MEDICINE, OR, IF LIMITED, RESTRICTED OR IMPAIRED IN THE ABILITY TO PRACTICE MEDICINE, CONSENTS TO A CONTINGENT PERMIT OR TO ENTRY INTO A PROGRAM DESCRIBED IN SECTION 32-1861.

2. Pay the NONREFUNDABLE APPLICATION fee prescribed ~~in this chapter~~ BY THE BOARD.

B. If a permittee who is participating in a teaching hospital's accredited internship, residency or clinical fellowship training program must repeat or make up time in the program due to resident progression or for other reasons, the board may grant that person an extension of the training permit if requested to do so by the program's director of medical education or a person who holds an equivalent position. The extended permit limits the permittee to practicing only in the supervised setting of that program for a period of time sufficient to repeat or make up the training.

C. The board may grant a training permit to a person who is not licensed in this state and who is participating in a short-term training program of four months or less for continuing medical education conducted in an approved school of osteopathic medicine or a hospital that has an accredited hospital internship, residency or clinical fellowship training program in this state. Before the board issues the permit, the person shall:

1. Submit an application ~~demonstrating that the person meets the requirements for licensure prescribed in section 32-1822.~~ ON A FORM AND IN A MANNER PRESCRIBED BY THE BOARD AND PROOF THAT THE APPLICANT MEETS THE REQUIREMENTS PRESCRIBED IN SUBSECTION A, PARAGRAPH 1 OF THIS SECTION.

2. Pay the NONREFUNDABLE APPLICATION fee prescribed ~~in this chapter~~ BY THE BOARD.

D. A permittee is subject to the disciplinary provisions of this chapter.

E. The executive director may issue a permit to an applicant who meets the requirements of this chapter.

F. If a permit is not issued pursuant to subsection E of this section, the board may issue a permit or may:

1. Issue a permit that is contingent on the applicant entering into a stipulated agreement that may include a period of probation or a restriction on the permittee's practice.

2. Deny a permit to an applicant who does not meet the requirements of this chapter.

Sec. 10. Section 32-1830, Arizona Revised Statutes, is amended to read:

32-1830. Training permits; approved schools

The executive director may grant a one-year training permit to a person who:

1. Participates in a program at an approved school of medicine or a hospital that has an approved hospital internship, residency or clinical fellowship training program if the purpose of the program is to exchange technical and educational information.

2. Pays the fee as prescribed ~~in this article~~ BY THE BOARD.

3. Submits a written statement from the dean of the approved school of osteopathic medicine or from the chairman of a teaching hospital's accredited graduate medical education program that:

(a) Includes a request for the permit and describes the purpose of the exchange program.

(b) Specifies that the host institution shall provide liability coverage.

(c) Provides proof that a doctor of medicine will serve as the preceptor of the host institution and provide appropriate supervision of the participant.

(d) States that the host institution has advised the participant that the participant may serve as a member of an organized medical team but shall not practice medicine independently and that this training does not accrue toward postgraduate training requirements for licensure.

Sec. 11. Section 32-1831, Arizona Revised Statutes, is amended to read:

32-1831. Teaching licenses; definitions

A. A doctor of osteopathic medicine who is not licensed in this state may be employed as a full-time faculty member by a ~~board-approved~~ school of osteopathic medicine in this state APPROVED BY THE AMERICAN OSTEOPATHIC ASSOCIATION or a teaching hospital's accredited graduate medical education program in this state to provide professional education through lectures, clinics or demonstrations if the doctor holds a teaching license issued pursuant to this section.

B. An applicant for a teaching license shall:

1. Submit a completed application as prescribed by the board.

2. Pay all fees prescribed by the board. APPLICATION FEES ARE NONREFUNDABLE.

3. Meet the ~~basic~~ requirements of section 32-1822.

C. A person WHO IS licensed pursuant to this section shall not open an office or designate a place to meet patients or receive calls relating to the practice of osteopathic medicine in this state outside of the facilities and programs of the approved school or teaching hospital.

D. A person WHO IS licensed pursuant to this section shall comply with the requirements of this chapter, with the exception of those that relate to ~~training and~~ LICENSING examinations.

E. THE BOARD OR THE EXECUTIVE DIRECTOR MAY REQUIRE AN APPLICANT TO SUBMIT TO A PERSONAL INTERVIEW, A PHYSICAL EXAMINATION OR A MENTAL HEALTH EVALUATION, OR ANY COMBINATION OF THESE, AT THE APPLICANT'S EXPENSE. THE BOARD SHALL PRESCRIBE A REASONABLE TIME AND PLACE IF THE BOARD DETERMINES THAT THIS IS NECESSARY TO PROVIDE THE BOARD WITH ADEQUATE INFORMATION REGARDING THE APPLICANT'S ABILITY TO MEET THE LICENSURE REQUIREMENTS OF THIS CHAPTER. THE INTERVIEW MAY INCLUDE QUESTIONS REGARDING MEDICAL KNOWLEDGE AND OTHER MATTERS RELEVANT TO LICENSURE.

F. THE BOARD MAY DENY A LICENSE FOR ANY UNPROFESSIONAL CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THIS CHAPTER OR AS DETERMINED BY A COMPETENT DOMESTIC OR FOREIGN JURISDICTION.

G. A PERSON WHO IS LICENSED PURSUANT TO THIS SECTION IS SUBJECT TO THE DISCIPLINARY PROVISIONS PURSUANT TO THIS CHAPTER.

~~E.~~ H. A license issued pursuant to this section is valid for two years. A doctor of osteopathic medicine may apply for licensure once every two years, SUBJECT TO THE CONTINUING MEDICAL EDUCATION REQUIREMENTS PRESCRIBED IN SECTION 32-1825.

~~F.~~ I. For the purposes of this section:

1. "Accredited" means that the school or teaching hospital has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American osteopathic association or a similar body that is approved by the board.

2. "Full-time faculty member" means a full-time faculty member as prescribed by the school of osteopathic medicine or the teaching hospital.

Sec. 12. Section 32-1832, Arizona Revised Statutes, is amended to read:

32-1832. Retired license; waiver of fees; reinstatement; limited license; volunteer work

A. The board ~~may~~ SHALL waive a physician's biennial renewal fee if the physician has paid all past fees, ~~and~~ presents an affidavit to the board stating that the physician has permanently retired from the practice of osteopathic medicine AND DOES NOT HAVE ANY PENDING COMPLAINTS OR OPEN DISCIPLINARY MATTERS BEFORE THE BOARD.

B. A retired physician whose biennial fee has been waived by the board pursuant to this section is not required to comply with any continuing medical education requirements of this chapter.

C. AFTER RETIRED STATUS IS GRANTED BY THE BOARD, A RETIRED PHYSICIAN SHALL SUBMIT A RENEWAL OF RETIRED STATUS EVERY TWO YEARS ON A FORM AND IN A MANNER PRESCRIBED BY THE BOARD.

~~C.~~ D. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, a retired physician who has had the biennial renewal fee waived by the board pursuant to this section and who engages in the practice of osteopathic medicine is subject to the same penalties that are imposed pursuant to this chapter on a person who practices medicine without a license or without being exempt from licensure.

~~D.~~ E. The board may reinstate a retired physician to active status on payment of the biennial renewal fee and presentation of evidence satisfactory to the board that the physician meets the qualifications prescribed pursuant to section 32-1822. THE BOARD MAY DENY THE REQUEST FOR REINSTATEMENT, PLACE THE LICENSEE ON PROBATION OR ISSUE A LIMITED LICENSE THAT REQUIRES GENERAL OR DIRECT SUPERVISION BY ANOTHER LICENSED DOCTOR OF OSTEOPATHY FOR NOT MORE THAN ONE YEAR.

~~E. If an applicant for reinstatement to active status has not been licensed and actively practicing in another jurisdiction of the United States or Canada in the three years immediately preceding the application, the board~~

~~may issue a limited license that requires general or direct supervision by another licensed osteopathic physician for not more than one year.~~

F. A retired physician who has had the biennial renewal fee waived by the board pursuant to this section may perform volunteer work of not more than ten hours each week and may teach or provide instruction at an approved school of osteopathic medicine.

Sec. 13. Title 32, chapter 17, article 2, Arizona Revised Statutes, is amended by adding section 32-1833, to read:

32-1833. Pro bono registration

A. THE BOARD MAY ISSUE A PRO BONO REGISTRATION TO ALLOW A DOCTOR OF OSTEOPATHY WHO IS NOT A LICENSEE TO PRACTICE IN THIS STATE FOR A TOTAL OF SIXTY DAYS EACH CALENDAR YEAR IF THE DOCTOR MEETS ALL OF THE FOLLOWING REQUIREMENTS:

1. HOLDS AN ACTIVE AND UNRESTRICTED LICENSE TO PRACTICE MEDICINE IN A STATE, TERRITORY OR POSSESSION OF THE UNITED STATES.

2. HAS NEVER HAD A LICENSE REVOKED OR SUSPENDED BY A HEALTH PROFESSION REGULATORY BOARD OF ANOTHER JURISDICTION.

3. IS NOT THE SUBJECT OF AN UNRESOLVED COMPLAINT.

4. APPLIES FOR REGISTRATION ON AN ANNUAL BASIS AS PRESCRIBED BY THE BOARD.

5. AGREES TO RENDER ALL MEDICAL SERVICES WITHOUT ACCEPTING A FEE OR SALARY OR PERFORMS ONLY INITIAL OR FOLLOW-UP EXAMINATIONS AT NO COST TO THE PATIENT AND THE PATIENT'S FAMILY THROUGH A CHARITABLE ORGANIZATION.

B. THE SIXTY DAYS OF PRACTICE PRESCRIBED PURSUANT TO SUBSECTION A OF THIS SECTION MAY BE PERFORMED CONSECUTIVELY OR CUMULATIVELY DURING EACH CALENDAR YEAR.

C. FOR THE PURPOSE OF MEETING THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION, AN APPLICANT UNDER THIS SECTION SHALL PROVIDE THE BOARD THE NAME OF EACH STATE IN WHICH THE PERSON IS LICENSED OR HAS HELD A LICENSE. THE BOARD SHALL VERIFY WITH THE APPLICABLE REGULATORY BOARD OF EACH STATE THAT THE APPLICANT IS LICENSED OR HAS HELD A LICENSE, HAS NEVER HAD A LICENSE REVOKED OR SUSPENDED AND IS NOT THE SUBJECT OF AN UNRESOLVED COMPLAINT. THE BOARD MAY ACCEPT THE VERIFICATION OF THE INFORMATION REQUIRED BY SUBSECTION A, PARAGRAPHS 1, 2 AND 3 OF THIS SECTION FROM EACH OF THE OTHER STATE'S REGULATORY BOARDS EITHER ELECTRONICALLY OR BY HARD COPY.

Sec. 14. Section 32-1851, Arizona Revised Statutes, is amended to read:

32-1851. Prohibited acts

The following acts are prohibited:

1. Practicing medicine and surgery as an osteopathic physician and surgeon without holding a license issued by the board under the provisions of this chapter.

2. Misusing the designation "D.O." in a way that leads the public to believe that a person is licensed to practice medicine in this state.

3. Using the designation "doctor of osteopathy", "DOCTOR OF OSTEOPATHIC MEDICINE", "osteopathic physician", "osteopathic surgeon", "osteopathic physician and surgeon" or any combination of these terms unless the designation additionally contains the description of another branch of the healing arts.

~~4. Using the designation "doctor of osteopathy" by a member of another branch of the healing arts unless there is set forth with each designation the other branch of the healing arts concerned.~~

~~5.~~ 4. Using any other words, initials or symbols or a combination of these ~~which~~ THAT leads the public to believe a person is licensed to practice medicine in this state.

Sec. 15. Section 32-1854, Arizona Revised Statutes, is amended to read:

32-1854. Definition of unprofessional conduct

For the purposes of this chapter, "unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

1. ~~Wilfully~~ KNOWINGLY betraying a professional secret or wilfully violating a privileged communication except as either of these may otherwise be required by law. This paragraph does not prevent members of the board from exchanging information with the licensing and disciplinary boards of other states, territories or districts of the United States or with foreign countries or with osteopathic medical organizations located in this state or in any state, district or territory of this country or in any foreign country.

2. Committing a felony~~, whether or not involving moral turpitude,~~ or a misdemeanor involving moral turpitude. In either case conviction by any court of competent jurisdiction is conclusive evidence of the commission OF THE OFFENSE.

3. Practicing medicine while under the influence of alcohol, A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401, narcotic or hypnotic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.

4. Being diagnosed by a physician licensed under this chapter or chapter 13 of this title or a psychologist licensed under chapter 19.1 of this title as excessively or illegally using alcohol or a controlled substance.

5. Prescribing, dispensing or administering controlled substances or prescription-only drugs for other than accepted therapeutic purposes.

6. Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.

7. Impersonating another physician.

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

9. Procuring, renewing or attempting to procure or renew a license to practice osteopathic medicine by fraud or misrepresentation.

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

11. 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.

12. Failing to reasonably disclose and inform the patient or the patient's representative of the method, device or instrumentality the licensee uses to treat the patient's disease, injury, ailment or infirmity.

13. 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.

14. Charging a fee for services not rendered or dividing a professional fee for patient referrals. This paragraph does not apply to payments from a medical researcher to a physician in connection with identifying and monitoring patients for clinical trial regulated by the United States food and drug administration.

15. Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or when applying for or renewing privileges at a health care institution or a health care program.

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

17. Representing or claiming to be an osteopathic medical specialist if the physician has not satisfied the applicable requirements of this chapter or board rules.

18. The denial of or disciplinary action against a license by any other state, territory, district or country, unless it can be shown that this occurred for reasons that did not relate to the person's ability to safely and skillfully practice osteopathic medicine or to any act of unprofessional conduct as provided in this section.

19. Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.

20. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of the provisions of this chapter.

21. Failing or refusing to establish and maintain adequate records on a patient as follows:

(a) If the patient is an adult, for at least ~~seven~~ SIX years after the last date the licensee provided the patient with medical or health care services.

(b) If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least ~~seven~~ SIX years after the last date the licensee provided that patient with medical or health care services, whichever date occurs ~~first~~ LATER.

~~(c) If the patient dies before the expiration of the dates prescribed in subdivision (a) or (b) of this paragraph, for at least three years after the patient's death.~~

22. Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.

23. Prescribing controlled substances to members of one's immediate family unless there is no other physician available within fifty miles to treat a member of the family and an emergency exists.

24. Nontherapeutic use of injectable amphetamines.

25. Violating a formal order, probation or a stipulation issued by the board under this chapter.

26. Charging or collecting an inappropriate fee. This paragraph does not apply to a fee that is fixed in a written contract between the physician and the patient and entered into before treatment begins.

27. Using experimental forms of therapy without adequate informed patient consent or without conforming to generally accepted criteria and complying with federal and state statutes and regulations governing experimental therapies.

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

29. Failing to allow properly authorized board personnel to have, on presentation of a subpoena, access to any documents, reports or records that are maintained by the physician and that relate to the physician's medical practice or medically related activities pursuant to section 32-1855.01.

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

31. Obtaining a fee by fraud, deceit or misrepresentation.

32. Failing to report to the board an osteopathic physician and surgeon who is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine.

33. Referring a patient to a diagnostic or treatment facility or prescribing goods and services without disclosing that the physician has a direct pecuniary interest in the facility, goods or services to which the patient has been referred or prescribed. This paragraph does not apply to a referral by one physician to another physician within a group of physicians practicing together.

34. Lack of or inappropriate direction, collaboration or supervision of a licensed, certified or registered health care provider or office personnel employed by or assigned to the physician in the medical care of patients.

35. Violating a federal law, a state law or a rule applicable to the practice of medicine.

36. Prescribing or dispensing controlled substances or prescription-only medications without establishing and maintaining adequate patient records.

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

38. Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

39. Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.

40. With the exception of heavy metal poisoning, using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy without adequate informed patient consent and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.

41. Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.

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

(a) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.

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

43. Fetal experiments conducted in violation of section 36-2302.

44. Conduct that the board determines constitutes gross negligence, repeated negligence or negligence that results in harm or death of a patient.

45. Conduct in the practice of medicine that evidences moral unfitness to practice medicine.

46. Engaging in disruptive or abusive behavior in a professional setting.

47. Failing to disclose to a patient that the licensee has a direct financial interest in a prescribed treatment, good or service if the treatment, good or service is available on a competitive basis. This paragraph does not apply to a referral by one licensee to another licensee within a group of licensees who practice together. A licensee meets the disclosure requirements of this paragraph if all of the following are true:

(a) The licensee makes the disclosure on a form prescribed by the board.

(b) The patient or the patient's guardian or parent acknowledges by signing the form that the licensee has disclosed the licensee's direct financial interest.

48. Prescribing, dispensing or furnishing a prescription medication or a prescription-only device to a person if the licensee has not conducted a physical or mental health status examination of that person or has not previously established a physician-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability if the telemedicine audio and video capability meets the elements required by the centers for medicare and medicaid services, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This paragraph does not apply to:

(a) Emergencies.

(b) A licensee who provides patient care on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

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

(d) Prescriptions for epinephrine auto-injectors written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157.

(e) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

49. If a licensee provides medical care by computer, failing to disclose the licensee's license number and the board's address and telephone number.

Sec. 16. Section 32-1855, Arizona Revised Statutes, is amended to read:

32-1855. Disciplinary action; duty to report; hearing; notice; independent medical examinations; surrender of license

A. The board on its own motion may investigate any information that appears to show that an osteopathic physician and surgeon is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. Any osteopathic physician or surgeon or the Arizona osteopathic 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 physician or surgeon, association, health care institution or other person may have that appears to show that an

osteopathic physician and surgeon is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. The board shall notify the doctor about whom information has been received as to the content of the information as soon as reasonable after receiving the information. Any person who reports or provides information to the board in good faith is not subject to civil damages as a result of that action. If requested the board shall not disclose the informant's name unless it is essential to the disciplinary proceedings conducted pursuant to this section. It is an act of unprofessional conduct for any osteopathic physician or surgeon to fail to report as required by this section. The board shall report any health care institution that fails to report as required by this section to that institution's licensing agency. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

B. The board may require a physician under investigation pursuant to subsection A of this section to be interviewed by the board or its representatives. The board or the executive director may require a licensee who is under investigation pursuant to subsection A of this section to undergo at the licensee's expense any combination of medical, physical or mental examinations the board finds necessary to determine the physician's competence.

C. If the board finds, based on the information it received under ~~subsections~~ SUBSECTION A ~~and~~ OR B of this section, that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, the board may order a summary suspension of a license pending proceedings for revocation or other action. If an order of summary suspension is issued, the licensee shall also be served with a written notice of complaint and formal hearing setting forth the charges made against the licensee and is entitled to a formal hearing on the charges pursuant to title 41, chapter 6, article 10. Formal proceedings shall be promptly instituted and determined.

D. If, after completing its investigation, the board finds that the information provided pursuant to this section is not of sufficient seriousness to merit direct action against the physician's license, it may take any combination of the following actions:

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

2. ~~File~~ ISSUE a letter of concern.

3. In addition to the requirements of section 32-1825, require continuing medical education on subjects and within a time period determined by the board.

4. 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.

E. If, in the opinion of the board, it appears that information provided pursuant to this section is or may be true, the board may request an investigative hearing with the physician concerned. At an investigative hearing the board may receive and consider sworn statements of persons who may be called as witnesses ~~in a formal hearing~~ and other pertinent documents. Legal counsel may be present and participate in the meeting. If the physician refuses the request or if the physician accepts the request and the results of the investigative hearing indicate suspension of more than twelve months or revocation of the license may be in order, a complaint shall be issued and an administrative hearing shall be held pursuant to title 41, chapter 6, article 10. ~~If,~~ After the investigative hearing and a mental, physical or medical competence examination as the board deems necessary, the board ~~finds the information provided pursuant to this section to be true but not of sufficient seriousness to merit suspension or revocation of the license, it~~ may take any of the following actions:

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

2. ~~File~~ ISSUE a letter of concern.

3. In addition to the requirements of section 32-1825, require continuing medical education on subjects and within a time period determined by the board.

4. Issue a decree of censure, which constitutes an official action against a physician's license.

5. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the physician concerned. Any costs incidental to the terms of probation are at the physician's own expense.

6. Restrict or limit the physician's practice in a manner and for a time determined by the board.

7. Suspend the physician's license for not more than twelve months.

8. Impose a civil penalty of not to exceed five hundred dollars for each violation of this chapter.

9. 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.

10. Issue an administrative warning.

F. If, in the opinion of the board, it appears the charge is of such magnitude as to warrant suspension for more than twelve months or revocation of the license, the board shall immediately initiate formal revocation or suspension proceedings pursuant to title 41, chapter 6, article 10. The board shall notify a licensee of a complaint and hearing by certified mail addressed to the licensee's last known address on record in the board's files.

~~G. If the physician wishes to be present at the investigative or administrative hearing in person or by representation, or both, the physician shall file with the board an answer to the charges in the complaint. The answer shall be in writing, verified under oath and filed within twenty days after service of the summons and complaint.~~

~~H. A physician who complies with subsection G of this section may be present at the hearing in person with counsel and witnesses.~~

~~I.~~ G. A physician who, after an investigative or administrative hearing, is found to be guilty of unprofessional conduct or is found to be mentally or physically unable safely to engage in the practice of osteopathic medicine is subject to any combination of censure, probation, suspension of license, revocation of license, an order to return patient fees, imposition of hearing costs, imposition of a civil penalty of not to exceed five hundred dollars for each violation for a period of time, or permanently, and under conditions the board deems appropriate for the protection of the public health and safety and just in the circumstances. The board may charge the costs of an investigative or administrative hearing to the licensee if pursuant to that hearing the board determines that the licensee violated this chapter or board rules.

~~J.~~ H. If the board acts to modify a physician's prescription writing privileges, it shall immediately notify the state board of pharmacy and the federal drug enforcement administration in the United States department of justice of the modification.

~~K.~~ I. The board shall report allegations of evidence of criminal wrongdoing to the appropriate criminal justice agency.

~~L.~~ J. Notice of a complaint and administrative hearing is effective when a true copy of the notice is sent by certified mail to the licensee's last known address of record in the board's files and is complete on the date of its deposit in the mail. The board shall hold an administrative hearing within one hundred twenty days after that date.

~~M.~~ K. The board may accept the surrender of an active license from a licensee who admits in writing to having committed an act of unprofessional conduct, ~~or~~ to having violated this chapter or board rules OR TO BEING UNABLE TO SAFELY PRACTICE MEDICINE.

L. A LICENSEE SHALL RESPOND IN WRITING TO THE BOARD WITHIN THIRTY DAYS AFTER THE NOTICE OF FORMAL OR ADMINISTRATIVE HEARING IS SERVED. A LICENSEE WHO FAILS TO ANSWER THE CHARGES IN A COMPLAINT AND NOTICE OF FORMAL OR ADMINISTRATIVE HEARING ISSUED PURSUANT TO THIS ARTICLE AND TITLE 41, CHAPTER 6, ARTICLE 10 IS DEEMED TO ADMIT THE ACTS CHARGED IN THE COMPLAINT, AND THE BOARD MAY REVOKE OR SUSPEND THE LICENSE WITHOUT A HEARING.

Sec. 17. Section 32-1855.01, Arizona Revised Statutes, is amended to read:

32-1855.01. Right to examine and copy evidence; summoning witnesses and documents; taking testimony; right to counsel; court aid; process

A. Pursuant to an investigation conducted under this chapter, the board and its authorized agents and employees may examine any documents, reports, records or other physical evidence of any person being investigated, as well as the reports, records and other documents maintained by and in possession of any hospital, clinic, physician's office, laboratory, pharmacy or other public or private agency and health care institution as defined in section 36-401, that relate to medical competence, unprofessional conduct or the licensee's mental or physical ability to safely practice medicine. The investigators may copy evidence on site and at the licensee's expense. Failing to permit access on request is unprofessional conduct.

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

1. The board, the executive director and the administrative law judges on their own initiative, or ~~upon~~ ON application of any person involved in the investigation, may issue subpoenas to compel the attendance and testimony of witnesses or to demand the production for examination or copying of documents or any other physical evidence that relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee to safely practice medicine. Within five days after the service of a subpoena requiring the production of evidence, the recipient of the subpoena may petition the board to revoke, limit or modify the subpoena. The board shall take the requested action 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 evidence. The superior court may enforce a subpoena issued by the board.

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

3. The superior court ~~upon~~ ON application by the board has jurisdiction to issue an order to require the subject of the subpoena to appear before the board or its agent and produce evidence relating to the matter under investigation. On application by the subject of the subpoena, the court may revoke, limit or modify 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.

4. The superior court, on application by the board, has jurisdiction to issue an order enforcing a board-ordered examination for mental, physical or medical competence as provided in section 32-1855, subsection ~~E~~ B.

Sec. 18. Section 32-1855.03, Arizona Revised Statutes, is amended to read:

32-1855.03. Health care institution duty to report; immunity; patient records; confidentiality

A. A health care institution as defined in section 36-401 or a subscription provider of health care shall report to the board any information it may have ~~which~~ THAT appears to show that a physician may be guilty of unprofessional conduct or may be mentally or physically unable safely to engage in the practice of medicine. A health care institution or subscription provider of health care that provides information to the board in good faith is not subject to an action for civil damages as a result and, if requested, the board shall not disclose its name unless the testimony is essential to the disciplinary proceedings conducted pursuant to section 32-1855. The board shall report a health care institution or subscription provider of health care that fails to report as required by this section to the institution's licensing agency.

B. The chief executive officer, the medical director or the medical chief of staff of a health care institution or subscription provider of health care shall inform the board when the privileges of a physician to practice in the health care institution or subscription provider of health care are denied, revoked, suspended or limited because of actions by the physician ~~which~~ THAT jeopardized patient health and welfare or when the physician resigned during pending proceedings for denial, revocation, suspension or limitation of ~~his~~ privileges. A report to the board pursuant to this subsection shall contain a general statement of the reasons the health care institution or subscription provider of health care took an action to deny, revoke, suspend or limit a physician's privileges. ~~The board shall inform all hospitals in this state of all disciplinary actions taken against a licensee except for letters of concern.~~

C. Hospital records, medical staff records, medical staff review committee records and testimony concerning these records and proceedings related to the creation of these records are confidential and are subject to the same discovery and use in legal actions only as are the original records in the possession and control of hospitals, their medical staff and their medical staff review committees. The board shall use these records and testimony only during the course of investigations and proceedings pursuant to this chapter.

D. Patient records, including clinical records, medical reports, laboratory statements and reports, any file or 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 the investigation made pursuant to this chapter are confidential.

E. Nothing in this chapter or any other provision of law relating to privileged communications between a physician and ~~his~~ patient applies to investigations or proceedings conducted pursuant to this chapter. The board and its employees, agents and representatives shall keep confidential the name of a patient whose records are reviewed during the course of an investigation and proceedings.

APPROVED BY THE GOVERNOR APRIL 1, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 2015.

Passed the House March 23, 2015,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 9, 2015,

by the following vote: 25 Ayes,

4 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. 1012

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate March 25, **20** 15

by the following vote: 29 **Ayes,**

0 **Nays,** 1 **Not Voting**

President of the Senate

Shawnna Bolick

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

26th **day of** March **,20** 15

at 8:47 **o'clock** P. **M.**

Krista Ingram

Secretary to the Governor

Approved this 1st **day of**

April

at 3:12 **o'clock** P. **M.**

Doug A. Ducey

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 2 **day of** April **,20** 15

at 9:00 **o'clock** A **M.**

Michele Reagan

Secretary of State

S.B. 1012