Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

CHAPTER 155

SENATE BILL 1214

AN ACT

AMENDING SECTIONS 32-2901, 32-2902, 32-2912, 32-2915 AND 32-2934, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 29, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-2942 AND 32-2943; RELATING TO THE BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

32-2901. Definitions

In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

4. "Approved school of medicine":

(a) As it relates to a person who is seeking licensure pursuant to section 32-2912, subsection A, means a school or college that offers a course of study that on successful conclusion results in a degree of doctor of medicine or doctor of osteopathy and that offers a course of study that is approved or accredited by the association of American medical colleges, the association of Canadian medical colleges, the American medical association, the American osteopathic association or any board-approved similar body in the United States or Canada that accredits this course of study.

(b) As it relates to a person who is seeking licensure pursuant to section 32-2912, subsection B, means a school or college that on successful completion results in a degree of doctor of homeopathy and that is approved or accredited by the ~~council on homeopathic education~~ ACCREDITATION

COMMISSION FOR HOMEOPATHIC EDUCATION IN NORTH AMERICA or any board-approved similar body ~~in the United States or Canada~~ that accredits this course of study.

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

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

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

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

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

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

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

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

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

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

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

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

14. "Licensee" means a person who is licensed pursuant to this chapter.

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

16. "Medical incompetence" means the lack of sufficient medical knowledge or skill by a licensee to a degree that is likely to endanger a

patient's health. Medical incompetence includes the range of knowledge expected for basic licensure pursuant to this chapter or as a medical or osteopathic physician in any professional regulatory jurisdiction of the United States and additional knowledge of homeopathic treatments and modalities expected of persons who are licensed pursuant to this chapter.

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

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

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

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

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

22. "Practice of homeopathic medicine":

(a) For the purposes of a person who is licensed pursuant to section 32-2912, subsection A, means the practice of medicine in which a person purports to diagnose, treat or correct real or imagined human diseases, injuries, ailments, infirmities and deformities of a physical or mental origin and includes acupuncture, chelation therapy, homeopathy, minor

1 surgery, neuromuscular integration, nutrition, orthomolecular therapy and
2 pharmaceutical medicine.
3 (b) For the purposes of a person who is licensed pursuant to section
4 32-2912, subsection B, means the practice of medicine in which a person
5 purports to diagnose, treat or correct real or imagined human diseases,
6 injuries, ailments, infirmities and deformities of a physical or mental
7 origin by means of homeopathy or nutrition.
8 23. "Preceptorship" means an extended period of individual study with
9 one or more experienced homeopathic physicians or institutions.
10 24. "Prescription-only drug" does not include a controlled substance
11 but does include:
12 (a) A drug that is generally regarded by medical experts to be unsafe
13 if its use and dosage are not supervised by a medical practitioner.
14 (b) A drug that is approved for use under the supervision of a medical
15 practitioner pursuant to the federal new drug application law or section
16 32-1962.
17 (c) A potentially harmful drug if its labeling does not contain full
18 directions for its use by the patient.
19 (d) A drug that is required by federal law to bear on its label the
20 following words: "Caution: Federal law prohibits dispensing without
21 prescription."
22 25. "Professional negligence" means any of the following:
23 (a) That a licensee administers treatment to a patient in a manner
24 that is contrary to accepted practices and that harms the patient if it can
25 be shown to the board's satisfaction that accepted practices are inherently
26 less hazardous.
27 (b) That a licensee commits an act of unprofessional conduct or
28 displays an unreasonable lack of professional skill or fidelity.
29 (c) That a licensee's negligence, carelessness or disregard of
30 established principles or practice results in a patient's injury, unnecessary
31 suffering or death.
32 26. "Special purpose licensing examination" means an examination
33 developed by the national board of medical examiners on behalf of the
34 federation of state medical boards for use by state licensing boards to test
35 the basic medical competence of physicians who are applying for licensure and
36 who have been in practice in another jurisdiction of the United States and to
37 determine the competence of a physician under investigation by a state
38 licensing board.
39 Sec. 2. Section 32-2902, Arizona Revised Statutes, is amended to read:
40 32-2902. <u>Board of homeopathic and integrated medicine</u>
41 <u>examiners; membership; terms; removal; immunity</u>
42 A. The board of homeopathic and integrated medicine examiners is
43 established consisting of the following members appointed by the governor:
44 1. Two public members.

2. Until January 1, ~~2015~~ 2017, four members who are licensed pursuant to section 32-2912, subsection A.

3. Beginning January 1, ~~2015~~ 2017, five members who are licensed pursuant to this chapter, one of whom is licensed pursuant to SECTION 32-2912, subsection B.

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

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

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

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

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

Sec. 3. Section 32-2912, Arizona Revised Statutes, is amended to read:

32-2912. <u>Qualifications of applicant; applications; scope of practice</u>

A. The board shall grant a license to practice pursuant to this chapter to an applicant who meets all of the following requirements:

1. Is a person of good moral character.

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

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

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

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

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

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

8. Completes the application required by the board.

B. Notwithstanding subsection A, paragraphs 2 and 3 of this section, the board shall issue a license pursuant to this chapter to an applicant who meets the requirements of subsection A, paragraphs 1, 4, 5, 6, 7 and 8 of this section and who holds a degree from an approved school of medicine.

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

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

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

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

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

1. The application fee.

2. Affidavits from three persons who are actively licensed to practice allopathic, osteopathic or homeopathic medicine in any state or district of the United States and who are able to attest to the applicant's good moral character and fitness to practice pursuant to this chapter.

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

4. If the person is applying for licensure pursuant to subsection A of this section, proof that the applicant has served a board-approved internship.

5. The applicant's oath that:

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

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

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

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

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

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

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

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

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

J. A person who is issued a license pursuant to subsection B of this section shall practice only within the scope of practice as prescribed by this chapter. A licensee who acts outside that scope of practice commits an act of unprofessional conduct. In addition to all other available remedies, the board may seek injunctive relieve pursuant to section 32-2940.

Sec. 4. Section 32-2915, Arizona Revised Statutes, is amended to read:

32-2915. <u>Licensure; issuance; duplicate licenses; renewal; continuing education; expiration; cancellation</u>

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

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

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

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

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

~~F.~~ D. ~~Beginning January 1, 2010,~~ Each licensee shall include with the renewal form a statement that the licensee has completed at least twenty

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

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

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

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

~~J.~~ H. On request of a licensee, the board shall cancel that person's license to practice homeopathic medicine if the licensee is not the subject of a board investigation or disciplinary proceeding. The board may cancel the license of a person under investigation for violating this chapter or board rules if the licensee admits to the violations in writing and on the board record.

Sec. 5. Section 32-2934, Arizona Revised Statutes, is amended to read:

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

A. The board on its own motion may investigate any evidence that appears to show that a licensee is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of homeopathic medicine. Any licensee, the Arizona homeopathic and integrative medical association or any health care institution as defined

in section 36-401 shall, and any other person may, report to the board any information the person may have that appears to show that a licensee is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of homeopathic medicine. The board shall notify the licensee about whom information is received as to the content of the information within one hundred twenty days after receipt of the information. Any person who reports or provides information to the board in good faith is not subject to an action for civil damages as a result of reporting or providing the information. ~~, and~~ THE BOARD MAY NOT OPEN AN INVESTIGATION IF IDENTIFYING INFORMATION REGARDING THE COMPLAINANT IS NOT PROVIDED TO THE BOARD. ~~The person's name shall not be disclosed unless the person's testimony is essential to the disciplinary proceedings conducted pursuant to this section.~~ It is an act of unprofessional conduct for any licensee to fail to report as required by this section. Any health care institution that fails to report as required by this section shall be reported by the board to the institution's licensing agency.

B. IF A COMPLAINANT WISHES TO HAVE THE COMPLAINANT'S IDENTIFYING INFORMATION WITHHELD FROM THE LICENSEE AGAINST WHOM THE ALLEGATION OF UNPROFESSIONAL CONDUCT IS BEING MADE, THE BOARD SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE COMPLAINANT STATING THAT THE COMPLAINANT'S IDENTIFYING INFORMATION WILL NOT BE PROVIDED TO THE LICENSEE AGAINST WHOM THE ALLEGATION OF UNPROFESSIONAL CONDUCT IS BEING MADE TO THE EXTENT CONSISTENT WITH THE ADMINISTRATIVE APPEALS PROCESS. THE BOARD SHALL POST THIS POLICY ON THE BOARD'S WEBSITE WHERE A PERSON WOULD SUBMIT A COMPLAINT ONLINE.

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

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

~~D.~~ E. If the information gathered under subsections A and ~~B~~ C of this section indicates that the protection of public health requires that the board take emergency action, it may order the summary suspension of a license pending the outcome of a formal disciplinary hearing pursuant to title 41, chapter 6, article 10. The board shall serve the suspended licensee with a written notice of the specific charges and the time and place of the formal hearing. The board shall hold this hearing within sixty days after the

suspension unless the board for good reason shown by the licensee grants an extension on the hearing date.

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

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

2. File a letter of concern.

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

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

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

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

2. File a letter of concern.

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

4. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee. The probation, if deemed necessary, may include temporary suspension of the license for not to exceed twelve months, restriction of the license to practice homeopathic medicine or a requirement for restitution of fees to a patient resulting from violations of this chapter or board rules. If a licensee fails to comply with the terms of probation, the board may file a summons, complaint and notice of hearing pursuant to title 41, chapter 6,

article 10 based on the information considered by the board at the informal interview and any other acts or conduct alleged to be in violation of this chapter or board rules.

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

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

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

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

~~J.~~ K. A licensee who wishes to be present at the hearing in person or by representation, or both, shall file a verified answer with the board within twenty days after receiving service of the summons and complaint. The licensee may present witnesses at this hearing. A LICENSEE WHO HAS BEEN NOTIFIED OF A COMPLAINT PURSUANT TO THIS SECTION SHALL FILE WITH THE BOARD A WRITTEN RESPONSE NOT MORE THAN TWENTY DAYS AFTER SERVICE OF THE COMPLAINT AND THE NOTICE OF HEARING. IF THE LICENSEE FAILS TO FILE AN ANSWER IN WRITING, IT IS DEEMED AN ADMISSION OF THE ACT OR ACTS CHARGED IN THE COMPLAINT AND NOTICE OF HEARING AND THE BOARD MAY TAKE DISCIPLINARY ACTION PURSUANT TO THIS CHAPTER WITHOUT A HEARING.

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

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

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

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

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

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

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

Sec. 6. Title 32, chapter 29, article 3, Arizona Revised Statutes, is amended by adding sections 32-2942 and 32-2943, to read:

32-2942. <u>Mental, behavioral and physical health evaluation and treatment program; confidential consent agreement; private contract; immunity; program termination</u>

A. THE BOARD MAY ESTABLISH A CONFIDENTIAL PROGRAM FOR THE EVALUATION, TREATMENT AND MONITORING OF PERSONS WHO ARE LICENSED PURSUANT TO THIS CHAPTER AND WHO HAVE A MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL OR BEHAVIORAL HEALTH DISORDER THAT MAY IMPACT THE ABILITY TO SAFELY PRACTICE MEDICINE OR PERFORM HEALTH CARE TASKS. THE PROGRAM SHALL INCLUDE EDUCATION, INTERVENTION, THERAPEUTIC TREATMENT AND POSTTREATMENT MONITORING AND SUPPORT.

B. A LICENSEE WHO HAS A MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL OR BEHAVIORAL HEALTH DISORDER DESCRIBED IN SUBSECTION A OF THIS SECTION AND WHO HAS NOT COMMITTED A VIOLATION OF THIS CHAPTER MAY AGREE TO ENTER INTO A CONFIDENTIAL CONSENT AGREEMENT WITH THE BOARD FOR PARTICIPATION IN A PROGRAM ESTABLISHED PURSUANT TO THIS SECTION IF THE LICENSEE EITHER:

1. VOLUNTARILY REPORTS THAT DISORDER TO THE BOARD.

2. IS REPORTED TO THE BOARD BY A PEER REVIEW COMMITTEE, HOSPITAL MEDICAL STAFF MEMBER, HEALTH PLAN OR OTHER HEALTH CARE PRACTITIONER OR HEALTH CARE ENTITY.

C. THE BOARD MAY CONTRACT WITH A PRIVATE ORGANIZATION TO OPERATE A PROGRAM ESTABLISHED PURSUANT TO THIS SECTION. THE CONTRACT SHALL REQUIRE THAT THE PRIVATE ORGANIZATION DO ALL OF THE FOLLOWING:

1. PERIODICALLY REPORT TO THE BOARD REGARDING TREATMENT PROGRAM ACTIVITY.

2. RELEASE ALL TREATMENT RECORDS TO THE BOARD ON DEMAND.

3. IMMEDIATELY REPORT TO THE BOARD THE NAME OF A LICENSEE WHO THE TREATING ORGANIZATION BELIEVES IS INCAPABLE OF SAFELY PRACTICING MEDICINE OR PERFORMING HEALTH CARE TASKS.

D. AN EVALUATOR, TEACHER, SUPERVISOR OR VOLUNTEER IN A PROGRAM ESTABLISHED PURSUANT TO THIS SECTION WHO ACTS IN GOOD FAITH WITHIN THE SCOPE OF THAT PROGRAM IS NOT SUBJECT TO CIVIL LIABILITY, INCLUDING MALPRACTICE LIABILITY, FOR THE ACTIONS OF A LICENSEE WHO IS PARTICIPATING IN THE PROGRAM PURSUANT TO THIS SECTION.

E. THE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION ENDS ON JULY 1, 2025 PURSUANT TO SECTION 41-3102.

32-2943. Complaints; statute of limitations

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

APPROVED BY THE GOVERNOR APRIL 1, 2015.

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

Passed the House March 24, 2015,

by the following vote: 50 Ayes,

8 Nays, 2 Not Voting

Speaker of the House

Jim Drake

Chief Clerk of the House

Passed the Senate February 23, 2015,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Charmain Bellington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

26th day of March, 2015,

at 3:28 o'clock P. M.

Secretary to the Governor

Approved this 1st day of

April, 2015,

at 3:19 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of April, 2015,

at 9:00 o'clock A M.

Michele Reagan

Secretary of State

S.B. 1214