

House Engrossed Senate Bill

**FILED**

**MICHELE REAGAN**  
**SECRETARY OF STATE**

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

CHAPTER 168

# **SENATE BILL 1439**

AN ACT

AMENDING SECTION 32-2081, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF PSYCHOLOGIST EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2081, Arizona Revised Statutes, is amended to  
3 read:

4 32-2081. Grounds for disciplinary action; duty to report;  
5 immunity; proceedings; board action; notice  
6 requirements; civil penalty

7 A. The board, on its own motion, may investigate evidence that appears  
8 to show that a psychologist is psychologically incompetent, guilty of  
9 unprofessional conduct or mentally or physically unable to safely engage in  
10 the practice of psychology. A health care institution shall, and any other  
11 person may, report to the board information that appears to show that a  
12 psychologist is psychologically incompetent, guilty of unprofessional conduct  
13 or mentally or physically unable to safely engage in the practice of  
14 psychology.

15 B. The board shall not consider a complaint against a psychologist  
16 arising out of a judicially ordered evaluation, treatment or psychoeducation  
17 of a person charged with violating any provision of title 13, chapter 14 to  
18 present a charge of unprofessional conduct unless the court ordering the  
19 evaluation has found a substantial basis to refer the complaint for  
20 consideration by the board. ~~The board shall not consider a complaint against~~  
21 ~~a judicially appointed psychologist arising out of a court ordered~~  
22 ~~evaluation, treatment or psychoeducation of a person to present a charge of~~  
23 ~~unprofessional conduct unless the court ordering the evaluation, treatment or~~  
24 ~~psychoeducation has found a substantial basis to refer the complaint for~~  
25 ~~consideration by the board.~~

26 C. A CLAIM OF UNPROFESSIONAL CONDUCT BROUGHT ON OR AFTER THE EFFECTIVE  
27 DATE OF THIS AMENDMENT TO THIS SECTION AGAINST A PSYCHOLOGIST ARISING OUT OF  
28 COURT-ORDERED SERVICES SHALL BE INDEPENDENTLY REVIEWED BY THREE MEMBERS OF  
29 THE BOARD, INCLUDING A PUBLIC MEMBER. EACH OF THE THREE BOARD MEMBERS WHO  
30 ARE REVIEWING THE CLAIM SHALL INDEPENDENTLY PROVIDE THE BOARD'S EXECUTIVE  
31 DIRECTOR A RECOMMENDATION INDICATING WHETHER THE MEMBER BELIEVES THERE IS  
32 MERIT TO OPEN AN INVESTIGATION. IF ONE OR MORE OF THE BOARD MEMBERS WHO ARE  
33 REVIEWING THE CLAIM DETERMINE THAT THERE IS MERIT TO OPEN AN INVESTIGATION AS  
34 A COMPLAINT, AN INVESTIGATION SHALL BE OPENED AND SHALL FOLLOW THE COMPLAINT  
35 PROCESS PURSUANT TO THIS ARTICLE.

36 D. THE BOARD MAY NOT CONSIDER A COMPLAINT FOR ADMINISTRATIVE ACTION IF  
37 THE COMPLAINT IS FILED AGAINST A PERSON WHO IS A LICENSED PSYCHOLOGIST AND  
38 WHO IS A MEMBER OF THE BOARD OR A STAFF MEMBER OF THE BOARD OR WHO IS ACTING  
39 AS AN AGENT OF OR CONSULTANT TO THE BOARD IF THE COMPLAINT RELATES TO THE  
40 PERSON'S PERFORMANCE OF BOARD DUTIES.

41 ~~C.~~ E. The board shall notify the psychologist about whom information  
42 has been received as to the content of the information within one hundred  
43 twenty days of receiving the information. A person who reports or provides  
44 information to the board in good faith is not subject to an action for civil  
45 damages. The board, if requested, shall not disclose the name of the person

1 providing information unless this information is essential to proceedings  
2 conducted pursuant to this section. The board shall report a health care  
3 institution that fails to report as required by this section to the  
4 institution's licensing agency.

5 ~~D.~~ F. A health care institution shall inform the board if the  
6 privileges of a psychologist to practice in that institution are denied,  
7 revoked, suspended or limited because of actions by the psychologist that  
8 appear to show that that person is psychologically incompetent, guilty of  
9 unprofessional conduct or mentally or physically unable to safely engage in  
10 the practice of psychology, along with a general statement of the reasons  
11 that led the health care institution to take this action. A health care  
12 institution shall inform the board if a psychologist under investigation  
13 resigns the psychologist's privileges or if a psychologist resigns in lieu of  
14 disciplinary action by the health care institution. Notification shall  
15 include a general statement of the reasons for the resignation.

16 ~~E.~~ G. The board may require the licensee to undergo any combination  
17 of mental, physical or psychological competence examinations at the  
18 licensee's expense and shall conduct investigations necessary to determine  
19 the competence and conduct of the licensee.

20 ~~F.~~ H. The chairperson of the board shall appoint a complaint  
21 screening committee of not less than three members of the board, including a  
22 public member. The complaint screening committee is subject to open meeting  
23 requirements pursuant to title 38, chapter 3, article 3.1. The complaint  
24 screening committee shall review all complaints, and based on the information  
25 provided pursuant to subsection A or ~~D~~ F of this section may take either of  
26 the following actions:

27 1. Dismiss the complaint if the committee determines that there is no  
28 evidence of a violation of law or community standards of practice.  
29 Complaints dismissed by the complaint screening committee shall not be  
30 disclosed in response to a telephone inquiry or placed on the board's  
31 website.

32 2. Refer the complaint to the full board for further review and  
33 action.

34 ~~G.~~ I. If the board finds, based on the information it receives under  
35 subsection A or ~~D~~ F of this section, that the public health, safety or  
36 welfare requires emergency action, the board may order a summary suspension  
37 of a license pending proceedings for revocation or other action. If the  
38 board issues this order, it shall serve the licensee with a written notice of  
39 complaint and formal hearing pursuant to title 41, chapter 6, article 10,  
40 setting forth the charges made against the licensee and the licensee's right  
41 to a formal hearing before the board or an administrative law judge within  
42 sixty days.

43 ~~H.~~ J. If the board finds that the information provided pursuant to  
44 subsection A or ~~D~~ F of this section is not of sufficient seriousness to

1 merit direct action against the licensee, it may take any of the following  
2 actions:

3 1. Dismiss if the board believes there is no evidence of a violation  
4 of law or community standards of practice.

5 2. File a letter of concern.

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

10 ~~I~~ K. If the board believes the information provided pursuant to  
11 subsection A or ~~D~~ F of this section is or may be true, it may request an  
12 informal interview with the psychologist. If the licensee refuses to be  
13 interviewed or if pursuant to an interview the board determines that cause  
14 may exist to revoke or suspend the license, it shall issue a formal complaint  
15 and hold a hearing pursuant to title 41, chapter 6, article 10. If as a  
16 result of an informal interview or a hearing the board determines that the  
17 facts do not warrant revocation or suspension of the license, it may take any  
18 of the following actions:

19 1. Dismiss if the board believes there is no evidence of a violation  
20 of law or community standards of practice.

21 2. File a letter of concern.

22 3. Issue a decree of censure.

23 4. Fix a period and terms of probation best adapted to protect the  
24 public health and safety and to rehabilitate or educate the psychologist.  
25 Probation may include temporary suspension for a period not to exceed twelve  
26 months, restriction of the license or restitution of fees to a client or  
27 patient resulting from violations of this chapter. If a licensee fails to  
28 comply with a term of probation, the board may file a complaint and notice of  
29 hearing pursuant to title 41, chapter 6, article 10 and take further  
30 disciplinary action.

31 5. Enter into an agreement with the licensee to restrict or limit the  
32 licensee's practice or activities in order to rehabilitate the psychologist,  
33 protect the public and ensure the psychologist's ability to safely engage in  
34 the practice of psychology.

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

39 ~~J~~ L. If the board finds that the information provided pursuant to  
40 subsection A or ~~D~~ F of this section warrants suspension or revocation of a  
41 license, it shall hold a hearing pursuant to title 41, chapter 6, article 10.  
42 Notice of a complaint and hearing is fully effective by mailing a true copy  
43 to the licensee's last known address of record in the board's files. Notice  
44 is complete at the time of its deposit in the mail.

1           ~~K~~. M. The board may impose a civil penalty of at least three hundred  
2 dollars but not more than three thousand dollars for each violation of this  
3 chapter or a rule adopted under this chapter. The board shall deposit,  
4 pursuant to sections 35-146 and 35-147, all monies it collects from civil  
5 penalties pursuant to this subsection in the state general fund.

6           ~~L~~. N. If the board determines after a hearing that a licensee has  
7 committed an act of unprofessional conduct, is mentally or physically unable  
8 to safely engage in the practice of psychology or is psychologically  
9 incompetent, it may do any of the following in any combination and for any  
10 period of time it determines necessary:

- 11           1. Suspend or revoke the license.
- 12           2. Censure the licensee.
- 13           3. Place the licensee on probation.

14           ~~M~~. O. A licensee may submit a written response to the board within  
15 thirty days after receiving a letter of concern. The response is a public  
16 document and shall be placed in the licensee's file.

17           ~~N~~. P. A letter of concern is a public document and may be used in  
18 future disciplinary actions against a psychologist. A decree of censure is  
19 an official action against the psychologist's license and may include a  
20 requirement that the licensee return fees to a client or patient.

21           ~~O~~. Q. Except as provided in section 41-1092.08, subsection H OR A  
22 DECISION MADE PURSUANT TO SUBSECTION C OF THIS SECTION, a person may appeal a  
23 final decision made pursuant to this section to the superior court pursuant  
24 to title 12, chapter 7, article 6.

25           ~~P~~. R. If during the course of an investigation the board determines  
26 that a criminal violation may have occurred involving the delivery of  
27 psychological services, it shall inform the appropriate criminal justice  
28 agency.

29           ~~Q~~. S. If the board finds that it can take rehabilitative or  
30 disciplinary action at any time during the investigative or disciplinary  
31 process, it may enter into a consent agreement with the psychologist to limit  
32 or restrict the psychologist's practice or to rehabilitate the psychologist  
33 in order to protect the public and ensure the psychologist's ability to  
34 safely engage in the practice of psychology. The board may also require the  
35 psychologist to successfully complete a board approved rehabilitative,  
36 retraining or assessment program at the psychologist's expense.

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: 56 Ayes,

0 Nays, 4 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate March 4, 2015,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Assistant Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Governor of Arizona~~

S.B. 1439

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary of State~~

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate March 14, 20 15

by the following vote: 38 Ayes,

1 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

21<sup>st</sup> day of March, 20 15

at 4:28 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 1<sup>st</sup> day of

April

at 2:02 o'clock P. M.

[Signature]  
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.

[Signature]  
Secretary of State