House Engrossed Senate Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

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

CHAPTER 251

SENATE BILL 1258

AN ACT

AMENDING SECTIONS 32-1405 AND 32-1422, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA MEDICAL BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-1405, Arizona Revised Statutes, is amended to read:

32-1405. Executive director; compensation; duties; appeal to the board

A. Subject to title 41, chapter 4, article 4, the committee on executive director selection and retention established by section 32-1403 shall appoint an executive director of the board who shall serve at the pleasure of the committee. The executive director shall not be a board member, except that the board may authorize the executive director to represent the board and to vote on behalf of the board at meetings of the federation of state medical boards of the United States.

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

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

1. 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 on the work of the board. An investigator shall complete a nationally recognized investigator training program within one year of date of hire. Until an investigator completes a training program, the investigator shall work under the supervision of an investigator who has completed a training program.

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

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

4. Subject to title 41, chapter 4, article 4, employ medical consultants and agents necessary to conduct investigations, gather information and perform those duties the executive director determines are necessary and appropriate to enforce this chapter.

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

6. Manage the board's offices.

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

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

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

10. Prepare an annual budget.

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

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

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

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

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

16. Execute board directives.

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

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

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

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

21. Review all complaints filed pursuant to section 32-1451. The executive director shall submit all medical complaints alleging harm as a result of patient care to a medical consultant for review. THE EXECUTIVE DIRECTOR SHALL SUBMIT TO THE MEDICAL CONSULTANT ONLY THOSE MEDICAL COMPLAINTS THAT INVOLVE A STANDARD OF CARE ISSUE AND THAT REQUIRE MEDICAL TRAINING AND EXPERTISE TO DETERMINE WHETHER A VIOLATION HAS OCCURRED. 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 a report of the cases dismissed with the complaint number, the name of the physician and the investigation timeline to the board for review at its regular board meetings.

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

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

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

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

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

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

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

29. Disseminate any information received from the office of ~~the~~ ombudsman-citizens aide to the board at its regular board meetings.

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

E. A person who is aggrieved by an action taken by the executive director pursuant to subsection C, paragraphs 21 through 27 of this section or section 32-1422, subsection E may request the board to review that action by filing with the board a written request within thirty days after that person is notified of the executive director's action by personal delivery or, if the notification is mailed to that person's last known residence or place of business, within thirty-five days after the date on the notification. At the next regular board meeting, the board shall review the executive director's action. On review, the board shall approve, modify or reject the executive director's action.

Sec. 2. Section 32-1422, Arizona Revised Statutes, is amended to read:

32-1422. <u>Basic requirements for granting a license to practice medicine; credentials verification</u>

A. An applicant for a license to practice medicine in this state pursuant to this article shall meet each of the following basic requirements:

1. Graduate from an approved school of medicine or receive a medical education that the board deems to be of equivalent quality.

2. Successfully complete an approved twelve-month hospital internship, residency or clinical fellowship program.

3. Have the physical and mental capability to safely engage in the practice of medicine.

4. Have 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.

5. Not have had a license to practice medicine revoked by a medical regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter.

6. Not be currently under investigation, suspension or restriction by a medical regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter. If the applicant is under investigation by a medical regulatory board in another jurisdiction, the board shall suspend the application process and may not issue or deny a license to the applicant until the investigation is resolved.

7. Not have surrendered a license to practice medicine in lieu of disciplinary action by a medical regulatory board in another jurisdiction in

the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

8. Pay all fees required by the board.

9. Complete the application as required by the board.

10. Complete a training unit as prescribed by the board relating to the requirements of this chapter and board rules. The applicant shall submit proof with the application form of having completed the training unit.

11. Have submitted directly to the board, electronically or by hard copy, verification of the following:

(a) Licensure from every state in which the applicant has ever held a medical license.

(b) All hospital affiliations and MEDICAL employment for the five years preceding application. Each hospital must verify affiliations or employment on the hospital's official letterhead or the electronic equivalent. IF THE APPLICANT IS EMPLOYED BY A HOSPITAL OR MEDICAL GROUP OR ORGANIZATION, THE BOARD SHALL ACCEPT THE VERIFICATIONS REQUIRED UNDER THIS SUBDIVISION FROM THE APPLICANT'S EMPLOYER.

12. Beginning September 2, 2014, have submitted a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

B. The board may require the submission of credentials or other evidence, written and oral, and make any investigation it deems necessary to adequately inform itself with respect to an applicant's ability to meet the requirements prescribed by this section, including a requirement that the applicant for licensure undergo a physical examination, a mental evaluation and an oral competence examination and interview, or any combination thereof, as the board deems proper.

C. In determining if the requirements of subsection A, paragraph 4 of this section have been met, if the board finds that the applicant 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, the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

D. In determining if the requirements of subsection A, paragraph 6 of this section have been met, if another jurisdiction has taken disciplinary action against an applicant, the board shall determine to its satisfaction that the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that jurisdiction, the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

E. The board may delegate authority to the executive director to deny licenses if applicants do not meet the requirements of this section.

F. Any credential information required to be submitted to the board pursuant to this article must be submitted, electronically or by hard copy, from the primary source where the document or information originated, except that the board may accept primary-source verified credentials from a credentials verification service approved by the board. The board is not required to verify any documentation or information received by the board from a credentials verification service that has been approved by the board. If an applicant is unable to provide a document or information from the primary source due to no fault of the applicant, the executive director shall forward the issue to the full board for review and determination. The board shall adopt rules establishing the criteria that must be met in order to waive a documentation requirement of this article.

Sec. 3. Rulemaking

The Arizona medical board is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act to adopt rules relating to the implementation of this act and licensure and credentialing. The board shall provide public notice and an opportunity for public comment on proposed rules at least thirty days before a rule is adopted or amended.

Sec. 4. Request for information; credentialing and verifications

A. The Arizona medical board shall issue a request for information to vendors for the sole purpose of seeking information about the availability in the commercial marketplace of materials or services to outsource any or all of the credentialing or verification process relating to licensure.

B. This section does not require the Arizona medical board to outsource any or all of the credentialing or verification process relating to licensure.

APPROVED BY THE GOVERNOR APRIL 10, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2015.

Passed the House April 1, 2015,

by the following vote: 59 Ayes,

0 Nays, 1 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

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. 1258

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 2, **20** 15

by the following vote: 30 **Ayes,**

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

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

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

at 12:03 **o'clock** P. **M.**

Secretary to the Governor

Approved this 10th **day of**

April

at 4:28 **o'clock** P **M.**

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13 **day of** April, **20** 15

at 8:30 **o'clock** A **M.**

Secretary of State

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