Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

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First Regular Session
2015

CHAPTER 252

SENATE BILL 1290

AN ACT

AMENDING SECTIONS 23-1026, 32-852.01, 32-1451 AND 32-1855, ARIZONA REVISED STATUTES; RELATING TO INDEPENDENT MEDICAL EXAMINATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 23-1026, Arizona Revised Statutes, is amended to read:

23-1026. Periodical medical examination of employee; effect of refusal or obstruction of examination or treatment

A. An employee who may be entitled to compensation under this chapter shall submit himself for medical examination from time to time at a place reasonably convenient for the employee, if and when requested by the commission, his employer or the insurance carrier. A place is reasonably convenient even if it is not where the employee resides if it is the place where the employee was injured and the employer or the insurance carrier pays in advance the employee's reasonable travel expenses, including the cost of transportation, food, lodging and loss of pay, if applicable.

B. The request for the medical examination shall fix a time and place having regard to the convenience of the employee, his physical condition and his ability to attend. The employee may have a physician present at the examination if procured and paid for by ~~himself~~ THE EMPLOYEE.

C. If the employee refuses to submit to the medical examination or obstructs the examination, his right to compensation shall be suspended until the examination has been made, and no compensation shall be payable during or for such period.

D. A physician who makes or is present at the medical examination provided by this section may be required to testify as to the result ~~thereof~~ OF THE EXAMINATION. THE PHYSICIAN IS NOT SUBJECT TO A COMPLAINT FOR UNPROFESSIONAL CONDUCT TO THE PHYSICIAN'S LICENSING BOARD IF THE COMPLAINT IS BASED ON A DISAGREEMENT WITH THE FINDINGS AND OPINIONS EXPRESSED BY THE PHYSICIAN AS A RESULT OF THE EXAMINATION.

E. ~~Upon~~ ON appropriate application and hearing, the commission may reduce or suspend the compensation of an employee who persists in unsanitary or injurious practices tending to imperil or retard his recovery, or who refuses to submit to medical or surgical treatment reasonably necessary to promote his recovery.

F. An employee shall be excused from attending a scheduled medical examination if the employee requests a protective order and the administrative law judge finds that the scheduled examination is unnecessary, would be cumulative or could reasonably be timely scheduled with an appropriate physician where the employee resides. If a protective order is requested the burden is on the employer or insurance carrier to establish that a medical examination should be scheduled at a place other than where the employee resides. If an employee has left this state and the employer or insurance carrier pays in advance the employee's reasonable travel expenses, including the cost of transportation, food, lodging and loss of pay, if applicable, the employer or insurance carrier is entitled to have the employee return to this state one time a year for examination or one time following the filing of a petition to reopen.

G. If a physician performs an examination under this section and is provided data from the Arizona state board of pharmacy pursuant to title 36, chapter 28, the physician may disclose that data to the employee, employer, insurance carrier and ~~the~~ commission.

Sec. 2. Section 32-852.01, Arizona Revised Statutes, is amended to read:

32-852.01. Investigations; duty to report; unprofessional conduct hearing; decision of board; appeal

A. The board on its own motion may investigate any evidence that appears to show that a podiatrist is or may be guilty of a violation of section 32-852. Any podiatrist or the Arizona podiatry association shall, or any other person may, report to the board any information the podiatrist, association or person may have that appears to show that a podiatrist is or may be guilty of unprofessional conduct or is or may be guilty of practice without regard for the safety and welfare of the public. A PODIATRIST CONDUCTING A MEDICAL EXAMINATION PURSUANT TO SECTION 23-1026 IS NOT SUBJECT TO A COMPLAINT OF UNPROFESSIONAL CONDUCT BASED ON A DISAGREEMENT WITH THE FINDINGS AND OPINIONS EXPRESSED BY THE PODIATRIST AS A RESULT OF THE EXAMINATION. Any podiatrist, association, health care institution or other person that reports or provides information to the board in good faith is not subject to civil liability and the name of the reporter shall not be disclosed unless the information is essential to the investigative proceedings conducted pursuant to this section. It is an act of unprofessional conduct for any podiatrist to fail to report as required by this subsection. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if the privileges of a podiatrist to practice in that health care institution are denied, revoked, suspended or limited because of actions by the podiatrist that appear to show that the podiatrist is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of podiatry, along with a general statement of the reasons, including patient chart numbers, that led the health care institution to take the action. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if a podiatrist under investigation resigns or if a podiatrist resigns in lieu of disciplinary action by the health care institution. Notification shall include a general statement of the reasons for the resignation, including patient chart numbers. The board shall inform all appropriate health care institutions in this state as defined in section 36-401 and the Arizona health care cost containment system administration of a resignation, denial, revocation, suspension or limitation, and the general reason for that action, without divulging the name of the reporting health care institution. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

B. Based on information received pursuant to subsection A of this section, the board may order a summary suspension of a license pending formal proceedings for license revocation or other disciplinary action if the board finds that the protection of the public health or safety requires emergency action. The board shall serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days.

C. If the board finds after completing its investigation that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit direct action against the license of the podiatrist, 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.

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

1. File a letter of concern.

2. Issue a decree of censure.

3. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate the licensee. If a licensee fails to comply with the terms of probation the board may file a complaint and hold a formal hearing pursuant to this section.

4. Impose a civil penalty of not more than two thousand dollars for each violation. The board shall deposit, pursuant to sections 35-146 and 35-147, all monies collected pursuant to this paragraph in the state general fund.

5. 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 the board believes that the charge is or may be true, the board shall serve on the licensee a summons and complaint that fully states the conduct or inability concerned and the time and place of the hearing. The

board shall schedule the hearing not less than thirty days after the date of the summons and complaint.

F. The board may require that the licensee under investigation undergo any mental and physical examination and may conduct any investigation, including the taking of depositions, necessary to fully inform itself with respect to the complaint.

G. If the licensee wishes to be present at the hearing in person or by representation, or both, the licensee shall file with the board a written and verified answer to the charges within twenty days after service of the summons and complaint. A licensee who complies with this subsection may be present at the hearing with any witnesses of the licensee's choice.

H. The board may issue subpoenas for any witnesses, documents and other evidence it may need and for any witnesses, documents and other evidence the licensee may request. The superior court may hold a person who refuses to obey a subpoena in contempt of court.

I. Service of the summons and complaint shall be as provided for service of the summons and complaint in civil cases.

J. Service of subpoenas for witnesses shall be as provided by law for the service of subpoenas generally.

K. The board may administer the oath to all witnesses, shall keep a written transcript of all oral testimony submitted at the hearing and shall keep the original or a copy of all other evidence submitted. The board shall make copies of the transcript available to the licensee at that person's expense and without charge to the court in which the appeal may be taken. At all hearings the board may waive the technical rules of evidence.

L. A licensee who, after a hearing held pursuant to this section, is found to be guilty of a violation of section 32-852 or this section is subject to censure, probation as provided in this section, suspension of a license or revocation of a license, or any combination of these, for a period of time or permanently and under any conditions the board deems appropriate for the protection of the public health and safety and just in the circumstances. The board may file a letter of concern if it finds that the violation is not of sufficient seriousness to merit censure, probation or suspension or revocation of a license. The board may also 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.

M. Patient records, including clinical records, medical reports, laboratory statements and reports, any file, film, other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or the patient's family might be identified or information received and records kept by the board as a result of the investigation procedure outlined in this chapter are not available to the public.

N. Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

O. This section and any other law relating to a privileged communication do not apply to investigations or proceedings conducted pursuant to this chapter. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

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

Q. A letter of concern is a public document and may be used in future disciplinary actions against a podiatrist.

Sec. 3. Section 32-1451, Arizona Revised Statutes, is amended to read:

32-1451. <u>Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements</u>

A. The board on its own motion may investigate any evidence that appears to show that a doctor of medicine is or may be medically incompetent, 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. On written request of a complainant, the board shall review a complaint that has been administratively closed by the executive director and take any action it deems appropriate. Any person may, and a doctor of medicine, the Arizona medical association, a component county society of that association and any health care institution shall, report to the board any information that appears to show that a doctor of medicine is or may be medically incompetent, 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 or the executive director shall notify the doctor as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. If requested, the board shall not disclose the name of a person who supplies information regarding a licensee's drug or alcohol impairment. It is an act of unprofessional conduct for any doctor of medicine 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.

B. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if the privileges of a doctor to practice in that health care institution are denied, revoked, suspended or limited because of actions by the doctor that appear to show that the doctor is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically

unable to safely engage in the practice of medicine, along with a general statement of the reasons, including patient chart numbers, that led the health care institution to take the action. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if a doctor under investigation resigns or if a doctor resigns in lieu of disciplinary action by the health care institution. Notification shall include a general statement of the reasons for the resignation, including patient chart numbers. The board shall inform all appropriate health care institutions in this state as defined in section 36-401 and the Arizona health care cost containment system administration of a resignation, denial, revocation, suspension or limitation, and the general reason for that action, without divulging the name of the reporting health care institution. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

C. The board or, if delegated by the board, the executive director shall require, at the doctor's expense, any combination of mental, physical or oral or written medical competency examinations and conduct necessary investigations, including investigational interviews between representatives of the board and the doctor to fully inform itself with respect to any information filed with the board under subsection A of this section. These examinations may include biological fluid testing and other examinations known to detect the presence of alcohol or other drugs. The board or, if delegated by the board, the executive director may require the doctor, at the doctor's expense, to undergo assessment by a board approved rehabilitative, retraining or assessment program. This subsection does not establish a cause of action against any person, facility or program that conducts an assessment, examination or investigation in good faith pursuant to this subsection.

D. If the board finds, based on the information it receives under subsections A and 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 restrict a license or order a summary suspension of a license pending proceedings for revocation or other action. If the board takes action pursuant to this subsection, it shall also serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days.

E. 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 disciplinary action against the license of the doctor, the board or a board committee may take any of the following actions:

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

2. Require the licensee to complete designated continuing medical education courses.

3. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.

F. If the board finds that it can take rehabilitative or disciplinary action without the presence of the doctor at a formal interview, it may enter into a consent agreement with the doctor to limit or restrict the doctor's practice or to rehabilitate the doctor in order to protect the public and ensure the doctor's ability to safely engage in the practice of medicine. The board may also require the doctor to successfully complete a board approved rehabilitative, retraining or assessment program at the doctor's own expense.

G. The board shall not disclose the name of the person who provided information regarding a licensee's drug or alcohol impairment or the name of the person who files a complaint if that person requests anonymity.

H. If after completing its investigation the board believes that the information is or may be true, it may request a formal interview with the doctor. If the doctor refuses the invitation for a formal interview or accepts and the results indicate that grounds may exist for revocation or suspension of the doctor's license for more than twelve months, the board shall issue a formal complaint and order that a hearing be held pursuant to title 41, chapter 6, article 10. If after completing a formal interview the board finds that the protection of the public requires emergency action, it may order a summary suspension of the license pending formal revocation proceedings or other action authorized by this section.

I. If after completing the formal interview the board finds the information provided under subsection A of this section is not of sufficient seriousness to merit suspension for more than twelve months or revocation of the license, it may take the following actions:

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

2. Require the licensee to complete designated continuing medical education courses.

3. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

4. Enter into an agreement with the doctor to restrict or limit the doctor's practice or professional activities or to rehabilitate, retrain or assess the doctor in order to protect the public and ensure the doctor's ability to safely engage in the practice of medicine. The board may also require the doctor to successfully complete a board approved rehabilitative, retraining or assessment program at the doctor's own expense pursuant to subsection F of this section.

5. File a letter of reprimand.

6. Issue a decree of censure. A decree of censure is an official action against the doctor's license and may include a requirement for restitution of fees to a patient resulting from violations of this chapter or rules adopted under this chapter.

7. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the doctor concerned. Probation may include temporary suspension for not to exceed twelve months, restriction of the doctor's license to practice medicine, a requirement for restitution of fees to a patient or education or rehabilitation at the licensee's own expense. If a licensee fails to comply with the terms of probation, the board shall serve the licensee with a written notice that states that the licensee is subject to a formal hearing based on the information considered by the board at the formal interview and any other acts or conduct alleged to be in violation of this chapter or rules adopted by the board pursuant to this chapter, including noncompliance with the term of probation, a consent agreement or a stipulated agreement. A licensee shall pay the costs associated with probation monitoring each year during which the licensee is on probation. The board may adjust this amount on an annual basis. The board may allow a licensee to make payments on an installment plan if a financial hardship occurs. A licensee who does not pay these costs within thirty days after the due date prescribed by the board violates the terms of probation.

J. If the board finds that the information provided in subsection A of this section warrants suspension or revocation of a license issued under this chapter, it shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.

K. In a formal interview pursuant to subsection H of this section or in a hearing pursuant to subsection J of this section, the board in addition to any other action may impose a civil penalty in the amount of not less than one thousand dollars nor more than ten thousand dollars for each violation of this chapter or a rule adopted under this chapter.

L. An advisory letter is a public document.

M. Any doctor of medicine who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable safely to engage in the practice of medicine or to be medically incompetent is subject to censure, probation as provided in this section, suspension of license or revocation of license or any combination of these, including a stay of action, and for a period of time or permanently and under conditions as the board deems appropriate for the protection of the public health and safety and just in the circumstance. The board may charge the costs of formal hearings to the licensee who it finds to be in violation of this chapter.

N. If the board acts to modify any doctor of medicine's prescription writing privileges, the board shall immediately notify the state board of pharmacy of the modification.

O. If the board, during the course of any investigation, determines that a criminal violation may have occurred involving the delivery of health care, it shall make the evidence of violations available to the appropriate criminal justice agency for its consideration.

P. The board may divide into review committees of not less than three members, including a public member. The committees shall review complaints not dismissed by the executive director and may take the following actions:

1. Dismiss the complaint if a committee determines that the complaint is without merit.

2. Issue an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

3. Conduct a formal interview pursuant to subsection H of this section. This includes initiating formal proceedings pursuant to subsection J of this section and imposing civil penalties pursuant to subsection K of this section.

4. Refer the matter for further review by the full board.

Q. Pursuant to sections 35-146 and 35-147, the board shall deposit all monies collected from civil penalties paid pursuant to this chapter in the state general fund.

R. Notice of a complaint and hearing is effective by a true copy of it being sent by certified mail to the doctor's last known address of record in the board's files. Notice of the complaint and hearing is complete on the date of its deposit in the mail. The board shall begin a formal hearing within one hundred twenty days of that date.

S. A physician who submits an independent medical examination pursuant to an order by a court OR PURSUANT TO SECTION 23-1026 is not subject to a complaint for unprofessional conduct unless, ~~a~~ IN THE CASE OF A COURT-ORDERED EXAMINATION, THE complaint is made or referred by a court to the board, OR IN THE CASE OF AN EXAMINATION CONDUCTED PURSUANT TO SECTION 23-1026, THE COMPLAINT ALLEGES UNPROFESSIONAL CONDUCT BASED ON SOME ACT OTHER THAN A DISAGREEMENT WITH THE FINDINGS AND OPINIONS EXPRESSED BY THE PHYSICIAN AS A RESULT OF THE EXAMINATION. For the purposes of this subsection, "independent medical examination" means a professional analysis of medical status THAT IS based on a person's past and present physical, MEDICAL and psychiatric history and conducted by a licensee or group of licensees on a contract basis for a court OR FOR A WORKERS' COMPENSATION CARRIER, SELF-INSURED EMPLOYER OR CLAIMS PROCESSING REPRESENTATIVE IF THE EXAMINATION WAS CONDUCTED PURSUANT TO SECTION 23-1026.

T. The board may accept the surrender of an active license from a person who admits in writing to any of the following:

1. Being unable to safely engage in the practice of medicine.

2. Having committed an act of unprofessional conduct.

3. Having violated this chapter or a board rule.

U. In determining the appropriate disciplinary action under this section, the board shall consider all previous nondisciplinary and disciplinary actions against a licensee.

V. In determining the appropriate action under this section, the board may consider a direct or indirect competitive relationship between the complainant and the respondent as a mitigating factor.

Sec. 4. 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. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, 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. A PHYSICIAN WHO CONDUCTS AN INDEPENDENT MEDICAL EXAMINATION PURSUANT TO AN ORDER BY A COURT OR PURSUANT TO SECTION 23-1026 IS NOT SUBJECT TO A COMPLAINT FOR UNPROFESSIONAL CONDUCT UNLESS, IN THE CASE OF A COURT-ORDERED EXAMINATION, THE COMPLAINT IS MADE OR REFERRED BY A COURT TO THE BOARD, OR IN THE CASE OF AN EXAMINATION CONDUCTED PURSUANT TO SECTION 23-1026, THE COMPLAINT ALLEGES UNPROFESSIONAL CONDUCT BASED ON SOME ACT OTHER THAN A DISAGREEMENT WITH THE FINDINGS AND OPINIONS EXPRESSED BY THE PHYSICIAN AS A RESULT OF THE EXAMINATION. 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. FOR THE PURPOSES OF THIS SUBSECTION, "INDEPENDENT MEDICAL EXAMINATION" MEANS A PROFESSIONAL ANALYSIS OF MEDICAL STATUS THAT IS BASED ON A PERSON'S PAST AND PRESENT PHYSICAL, MEDICAL AND PSYCHIATRIC HISTORY AND CONDUCTED BY A LICENSEE OR GROUP OF LICENSEES ON A CONTRACT BASIS FOR A COURT OR FOR A WORKERS' COMPENSATION CARRIER,

SELF-INSURED EMPLOYER OR CLAIMS PROCESSING REPRESENTATIVE IF THE EXAMINATION WAS CONDUCTED PURSUANT TO SECTION 23-1026.

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 A and 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 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 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. 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. 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. The board shall report allegations of evidence of criminal wrongdoing to the appropriate criminal justice agency.

L. 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. 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.

APPROVED BY THE GOVERNOR APRIL 10, 2015.

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

Passed the House April 2, 2015,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[signature]
Speaker of the House

Jim Drake
Chief Clerk of the House

Passed the Senate February 19, 2015,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[signature]
President of the Senate

Susan Reeves
Assistant
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

2nd day of April, 2015,

at 8:30 o'clock P. M.

Trista Guzman
Secretary to the Governor

Approved this 10th day of

April, 2015,

at 4:29 o'clock P M.

Douglas A. Ducey
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 13th day of April, 2015,

at 8:30 o'clock A M.

Michele Reagan
Secretary of State

S.B. 1290