STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

March 23, 2018

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2nd Regular Session, which I signed on March 23, 2018:

SB 1022 DHS; homemade food products (Farnsworth, D.)
SB 1045 home inspectors (Kavanagh)
SB 1052 county flood control districts; easements (Griffin)
SB 1063 produce safety rule; state administration (Griffin)
SB 1077 fund solicitations; charities; unlawful acts (Barto)
SB 1097 unclaimed property; notice; publication; claims (Petersen)
SB 1142 private land acquisition; committee; continuation (Griffin)
SB 1144 conservation easements; notice; valuation (Griffin)
SB 1182 conservation districts; additional directors (Griffin)
SB 1198 blind persons' rights; adoption; custody (Barto)
SB 1246 behavioral health board (Barto)
SB 1249 campaign finance violations; appeals (Burges)
SB 1255 teachers; alternative performance evaluations (Allen, S.)
SB 1256 school bus definition; vans (Allen, S.)
SB 1412 unclaimed property; electric cooperatives; credits (Griffin)
HB 2005 public service corporations; penalties (Leach)
HB 2007 evasion; crime; personal disguises (Lawrence)
HB 2017 state land department; continuation (Mitchell)
HB 2045 acupuncture board; continuation (Carter)
HB 2124 life and disability insurance; insolvencies (Livingston)
HB 2151 joint powers; fire protection services (John)
HB 2167 Arizona commerce authority; continuation; requirements (Weninger)

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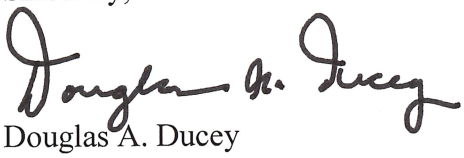
HB 2180 fire district budget hearings (Coleman)
HB 2185 school districts; tax levy; calculation (Norgaard)
HB 2189 prisoners; dedicated discharge account; use (Boyer)
HB 2215 veterinary medical examining board; continuation (Barton)
HB 2256 podiatrists; examination; repeal (Carter)
HB 2331 state lottery; multijurisdictional games (Weninger)
HB 2385 property tax appeals; court findings (Clodfelter)

Sincerely,



Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

Senate Engrossed

FILED

MICHELE REAGAN

SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 55

SENATE BILL 1246

AN ACT

AMENDING SECTIONS 32-3251, 32-3253, 32-3256, 32-3261, 32-3271, 32-3272, 32-3273, 32-3274, 32-3275, 32-3276, 32-3280, 32-3281 AND 32-3321, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF BEHAVIORAL HEALTH EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-3251, Arizona Revised Statutes, is amended to read:

32-3251. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the board of behavioral health examiners.

2. "Client" means a patient who receives behavioral health services from a person licensed pursuant to this chapter.

3. "Direct client contact" means~~, beginning November 1, 2015,~~ the performance of therapeutic or clinical functions related to the applicant's professional practice level of psychotherapy that includes diagnosis, assessment and treatment and that may include psychoeducation for mental, emotional and behavioral disorders based primarily on verbal or nonverbal communications and intervention with, and in the presence of, one or more clients.

4. "Equivalent" means comparable in content and quality but not identical.

5. "Indirect client service" means~~, beginning November 1, 2015,~~ training for, and the performance of, functions of an applicant's professional practice level in preparation for or on behalf of a client for whom direct client contact functions are also performed, including case consultation and receipt of clinical supervision. Indirect client service does not include the provision of psychoeducation.

6. "Letter of concern" means a nondisciplinary written document sent by the board to notify a licensee that, while there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

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

8. "Practice of behavioral health" means the practice of marriage and family therapy, professional counseling, social work and substance abuse counseling pursuant to this chapter.

9. "Practice of marriage and family therapy" means the professional application of family systems theories, principles and techniques to treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral. The practice of marriage and family therapy includes:

(a) Assessment, appraisal and diagnosis.

(b) The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.

10. "Practice of professional counseling" means the professional application of mental health, psychological and human development theories, principles and techniques to:

(a) Facilitate human development and adjustment throughout the human life span.

(b) Assess and facilitate career development.

(c) Treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral.

(d) Manage symptoms of mental illness.

(e) Assess, appraise, evaluate, diagnose and treat individuals, couples, families and groups through the use of psychotherapy.

11. "Practice of social work" means the professional application of social work theories, principles, methods and techniques to:

(a) Treat mental, behavioral and emotional disorders.

(b) Assist individuals, families, groups and communities to enhance or restore the ability to function physically, socially, emotionally, mentally and economically.

(c) Assess, appraise, diagnose, evaluate and treat individuals, couples, families and groups through the use of psychotherapy.

12. "Practice of substance abuse counseling" means the professional application of general counseling theories, principles and techniques as specifically adapted, based on research and clinical experience, to the specialized needs and characteristics of persons who are experiencing substance abuse, chemical dependency and related problems and to the families of those persons. The practice of substance abuse counseling includes the following as they relate to substance abuse and chemical dependency issues:

(a) Assessment, appraisal and diagnosis.

(b) The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.

13. "Psychoeducation" means the education of a client as part of a treatment process that provides the client with information regarding mental health, emotional disorders or behavioral health.

14. "Psychotherapy" means a variety of treatment methods developing out of generally accepted theories about human behavior and development.

15. "Telepractice" means providing behavioral health services through interactive audio, video or electronic communication that occurs between the behavioral health professional and the client, including any electronic communication for evaluation, diagnosis and treatment, including distance counseling, in a secure platform, and that meets the requirements of telemedicine pursuant to section 36-3602.

16. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

(a) ~~Conviction~~ BEING CONVICTED of a felony. Conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the conviction.

(b) ~~Use of~~ USING fraud or deceit in connection with rendering services as a licensee or in establishing qualifications pursuant to this chapter.

(c) MAKING any oral or written misrepresentation of a fact ~~by an applicant or licensee~~:

(i) To secure or attempt to secure the issuance or renewal of a license.

(ii) In any statements provided during an investigation or disciplinary proceeding by the board.

(iii) Regarding the licensee's skills or the value of any treatment provided or to be provided.

(d) MAKING any false, fraudulent or deceptive statement connected with the practice of behavioral health, including false or misleading advertising by the licensee or the licensee's staff or a representative compensated by the licensee.

(e) Securing or attempting to secure the issuance or renewal of a license by knowingly taking advantage of the mistake of another person or the board.

(f) ENGAGING IN active habitual intemperance in the use of alcohol or active habitual substance abuse.

(g) Using a controlled substance that is not prescribed for use during a prescribed course of treatment.

(h) Obtaining a fee by fraud, deceit or misrepresentation.

(i) Aiding or abetting a person who is not licensed pursuant to this chapter to purport to be a licensed behavioral health professional in this state.

(j) ENGAGING IN conduct that the board determines is gross negligence or repeated negligence in the licensee's profession.

(k) ENGAGING IN any conduct or practice that is contrary to recognized standards of ethics in the behavioral health profession or that constitutes a danger to the health, welfare or safety of a client.

(l) ENGAGING IN any conduct, practice or condition that impairs the ability of the licensee to safely and competently practice the licensee's profession.

(m) Engaging or offering to engage as a licensee in activities that are not congruent with the licensee's professional education, training or experience.

(n) Failing to comply with or violating, attempting to violate or assisting in or abetting the violation of any provision of this chapter, any rule adopted pursuant to this chapter, any lawful order of the board, or any formal order, consent agreement, term of probation or stipulated agreement issued under this chapter.

(o) Failing to furnish information within a specified time to the board or its investigators or representatives if legally requested by the board.

(p) Failing to conform to minimum practice standards as developed by the board.

(q) Failing or refusing to maintain adequate records of behavioral health services provided to a client.

(r) Providing behavioral health services that are clinically unjustified or unsafe or otherwise engaging in activities as a licensee that are unprofessional by current standards of practice.

(s) Terminating behavioral health services to a client without making an appropriate referral for continuation of care for the client if continuing behavioral health services are indicated.

(t) Disclosing a professional confidence or privileged communication except as may otherwise be required by law or permitted by a LEGALLY valid written release.

(u) Failing to allow the board or its investigators on demand to examine and have access to documents, reports and records in any format maintained by the licensee that relate to the licensee's practice of behavioral health.

(v) ENGAGING IN any sexual conduct between a licensee and a client or former client.

(w) Providing behavioral health services to any person with whom the licensee has had sexual contact.

(x) Exploiting a client, former client or supervisee. For the purposes of this subdivision, "exploiting" means taking advantage of a professional relationship with a client, former client or supervisee for the benefit or profit of the licensee.

(y) Engaging in a dual relationship with a client that could impair the licensee's objectivity or professional judgment or create a risk of harm to the client. For the purposes of this subdivision, "dual relationship" means a licensee simultaneously engages in both a professional and nonprofessional relationship with a client that is avoidable and not incidental.

(z) Engaging in physical contact between a licensee and a client if there is a reasonable possibility of physical or psychological harm to the client as a result of that contact.

(aa) Sexually harassing a client, former client, research subject, supervisee or coworker. For the purposes of this subdivision, "sexually harassing" includes sexual advances, sexual solicitation, requests for sexual favors, unwelcome comments or gestures or any other verbal or physical conduct of a sexual nature.

(bb) Harassing, exploiting or retaliating against a client, former client, research subject, supervisee, coworker or witness or a complainant in a disciplinary investigation or proceeding involving a licensee.

(cc) Failing to take reasonable steps to inform potential victims and appropriate authorities if the licensee becomes aware during the course of providing or supervising behavioral health services that a

client's condition indicates a clear and imminent danger to the client or others.

(dd) Failing to comply with the laws of the appropriate licensing or credentialing authority to provide behavioral health services by electronic means in all governmental jurisdictions where the client receiving these services resides.

(ee) Giving or receiving a payment, kickback, rebate, bonus or other remuneration for a referral.

(ff) Failing to report in writing to the board information that would cause a reasonable licensee to believe that another licensee is guilty of unprofessional conduct or is physically or mentally unable to provide behavioral health services competently or safely. This duty does not extend to information provided by a licensee that is protected by the behavioral health professional-client privilege unless the information indicates a clear and imminent danger to the client or others or is otherwise subject to mandatory reporting requirements pursuant to state or federal law.

(gg) Failing to follow federal and state laws regarding the storage, use and release of confidential information regarding a client's personal identifiable information or care.

(hh) Failing to retain records pursuant to section 12-2297.

(ii) Violating any federal or state law, rule or regulation applicable to the practice of behavioral health.

(jj) Failing to make client records in the licensee's possession available in a timely manner to another health professional or licensee on receipt of proper authorization to do so from the client, a minor client's parent, the client's legal guardian or the client's authorized representative.

(kk) Failing to make client records in the licensee's possession promptly available to the client, a minor client's parent, the client's legal guardian or the client's authorized representative on receipt of proper authorization to do so from the client, a minor client's parent, the client's legal guardian or the client's authorized representative.

(ll) Being the subject of the revocation, suspension, surrender or any other disciplinary sanction of a professional license, certificate or registration or other adverse action related to a professional license, certificate or registration in another jurisdiction or country, including the failure to report the adverse action to the board. The action taken may include refusing, denying, revoking or suspending a license or certificate, the surrendering of a license or certificate, otherwise limiting, restricting or monitoring a licensee or certificate holder or placing a licensee or certificate holder on probation.

(mm) ENGAGING IN any conduct that results in a sanction imposed by an agency of the federal government that involves restricting, suspending,

limiting or removing the licensee's ability to obtain financial remuneration for behavioral health services.

(nn) Violating the security of any licensure examination materials.

(oo) ~~The use of~~ USING fraud or deceit in connection with taking or assisting another person in taking a licensure examination.

17. FOR THE PURPOSES OF THIS CHAPTER, NOTIFICATIONS OR COMMUNICATIONS REQUIRED TO BE WRITTEN OR IN WRITING MAY BE TRANSMITTED OR RECEIVED BY MAIL, ELECTRONIC TRANSMISSION, FACSIMILE TRANSMISSION OR HAND DELIVERY AND SHALL NOT BE TRANSMITTED OR RECEIVED ORALLY.

Sec. 2. Section 32-3253, Arizona Revised Statutes, is amended to read:

32-3253. Powers and duties

A. The board shall:

1. Adopt rules consistent with and necessary or proper to carry out the purposes of this chapter.

2. Administer and enforce this chapter, rules adopted pursuant to this chapter and orders of the board.

3. Issue a license by examination, endorsement or temporary recognition to, and renew the license of, each person who is qualified to be licensed pursuant to this chapter. The board must issue or deny a license within one hundred eighty days after the applicant submits a completed application.

4. Establish ~~a licensure fee schedule annually, by a formal vote at a regular board meeting~~ FEES BY RULE.

5. Collect fees and spend monies.

6. Keep a record of all persons WHO ARE licensed pursuant to this chapter, actions taken on all applications for licensure, actions involving renewal, suspension, revocation or denial of a license or probation of licensees and the receipt and disbursal of monies.

7. Adopt an official seal for attestation of licensure and other official papers and documents.

8. Conduct investigations and determine on its own motion ~~if~~ WHETHER a licensee or an applicant has engaged in unprofessional conduct, is incompetent or is mentally or physically unable to engage in the practice of behavioral health.

9. Conduct disciplinary actions pursuant to this chapter and board rules.

10. Establish and enforce standards or criteria of programs or other mechanisms to ensure the continuing competence of licensees.

11. Establish and enforce compliance with professional standards and rules of conduct for licensees.

12. Engage in a full exchange of information with the licensing and disciplinary boards and professional associations for behavioral health professionals in this state and other jurisdictions.

13. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions, money or property from any public or private source, including the federal government. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

14. Adopt rules regarding the application for and approval of educational curricula of regionally accredited colleges or universities with a program not otherwise accredited by an organization or entity recognized by the board that are consistent with the requirements of this chapter and maintain a list of those programs. Approvals ~~shall be~~ ARE valid for a period of five years if no changes of curricula are made that are inconsistent with the requirements of this chapter or board rule.

15. Maintain a registry of licensees who have met the educational requirements to provide supervision as required pursuant to this chapter to applicants in the same profession.

16. Adopt rules to allow approval of persons who wish to provide supervision pursuant to this chapter and who are not licensed by the board and who are licensed in a profession other than the profession in which the applicant is seeking licensure.

17. Recognize not more than four hundred hours of psychoeducation for work experience required pursuant to sections 32-3293, 32-3301, 32-3311 and 32-3321.

18. Adopt rules regarding the use of telepractice ~~beginning on November 1, 2015~~.

B. The board may join professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of behavioral health, protect the health and welfare of the public or assist and facilitate the work of the board.

C. The board may enter into stipulated agreements with a licensee for the confidential treatment, rehabilitation and monitoring of chemical dependency or psychiatric, psychological or behavioral health disorders in a program provided pursuant to subsection D of this section. A licensee who materially fails to comply with a program shall be terminated from the confidential program. Any records of the licensee who is terminated from a confidential program are no longer confidential or exempt from the public records law, notwithstanding any law to the contrary. Stipulated agreements are not public records if the following conditions are met:

1. The licensee voluntarily agrees to participate in the confidential program.

2. The licensee complies with all treatment requirements or recommendations, including participation in approved programs.

3. The licensee refrains from professional practice until the return to practice has been approved by the treatment program and the board.

4. The licensee complies with all monitoring requirements of the stipulated agreement, including random bodily fluid testing.

5. The licensee's professional employer is notified of the licensee's chemical dependency or medical, psychiatric, psychological or behavioral health disorders and participation in the confidential program and is provided a copy of the stipulated agreement.

D. The board shall establish a confidential program for the monitoring of licensees who are chemically dependent or who have psychiatric, psychological or behavioral health disorders that may impact their ability to safely practice and who enroll in a rehabilitation program that meets the criteria prescribed by the board. The licensee ~~shall be~~ IS responsible for the costs associated with rehabilitative services and monitoring. The board may take further action if a licensee refuses to enter into a stipulated agreement or fails to comply with the terms of a stipulated agreement. In order to protect the public health and safety, the confidentiality requirements of this subsection do not apply if a licensee does not comply with the stipulated agreement.

E. The board shall audio record all meetings and maintain all audio and video recordings or stenographic records of interviews and meetings for a period of three years from when the record was created.

Sec. 3. Section 32-3256, Arizona Revised Statutes, is amended to read:

32-3256. Executive director; complaints; dismissal; review

A. If delegated by the board, the executive director may dismiss a complaint if the investigative staff's review indicates that the complaint is without merit and that dismissal is appropriate.

B. At each regularly scheduled board meeting, the executive director shall provide to the board a list of each complaint the executive director dismissed pursuant to subsection A of this section since the last board meeting.

C. A person who is aggrieved by an action taken by the executive director pursuant to subsection A of this section may file a written request that the board review that action. The request must be filed within ~~thirty~~ THIRTY-FIVE days after that person is ~~notified~~ PROVIDED WRITTEN NOTIFICATION 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 and, on review, shall approve, modify or reject the executive director's action.

Sec. 4. Section 32-3261, Arizona Revised Statutes, is amended to read:

32-3261. Academic review committees; members; appointment; qualifications; terms; compensation; immunity; training

A. The board shall establish an academic review committee for each professional area licensed pursuant to this chapter to do the following:

1. Review applications referred to the committee by the board or the executive director to determine whether an applicant, whose curriculum has not been approved pursuant to section 32-3253, subsection A, paragraph 14 or whose program is not accredited by an organization or entity approved by the board, has met the educational requirements of this chapter or board rules.

2. On referral by the executive director, make recommendations to the board regarding whether an applicant has met the requirements of supervised work experience required for licensure pursuant to this chapter or board rules.

3. Make specific findings concerning an application's deficiencies.

4. Review applications and make recommendations to the board for curriculum approval applications made pursuant to section 32-3253, subsection A, paragraph 14.

5. At the request of the board, make recommendations regarding examinations required pursuant to this chapter.

6. Review applications for and make determinations regarding exemptions related to clinical supervision requirements.

B. An academic review committee shall be composed of three members who have been residents of this state for at least one year before appointment, at least one ~~but not more than two~~ of whom ~~are~~ IS licensed in the professional area pursuant to this chapter and have five years of experience in the applicable profession. At least one ~~but not more than two members~~ MEMBER must have served within the previous ten years as core or full-time faculty at a regionally accredited college or university in a program related to the applicable profession and have experience in the design and development of the curriculum of a related program. If qualified, a faculty member may serve on more than one academic review committee. A board member may not be appointed to serve on an academic review committee.

C. Committee members shall initially be appointed by the board. From and after January 1, 2016, the governor shall appoint the committee members. A committee member who is initially appointed by the board may be reappointed by the governor. A committee member who is initially appointed by the board shall continue to serve until appointed or replaced by the governor.

D. Committee members serve at the pleasure of the governor for terms of three years. A member shall not serve more than two full consecutive terms.

E. Committee members are eligible to receive compensation of not more than eighty-five dollars for each day actually and necessarily spent in the performance of their duties.

F. An academic review committee shall annually elect a chairman and secretary from its membership.

G. Committee members are personally immune from suit with respect to all acts done and actions taken in good faith and in furtherance of the purposes of this chapter.

H. Committee members shall receive at least five hours of training as prescribed by the board within one year after the member is initially appointed and that includes instruction in ethics and open meeting requirements.

Sec. 5. Section 32-3271, Arizona Revised Statutes, is amended to read:

32-3271. Exceptions to licensure; jurisdiction

A. This chapter does not apply to:

1. A person who is currently licensed, certified or regulated pursuant to another chapter of this title and who provides services within the person's scope of practice if the person does not claim to be licensed pursuant to this chapter.

2. A person who is not a resident of this state if the person:

(a) Performs behavioral health services in this state for not more than ninety days in any one calendar year as prescribed by board rule.

(b) Is authorized to perform these services pursuant to the laws of the state or country in which the person resides or pursuant to the laws of a federally recognized tribe.

(c) Informs the client of the limited nature of these services and that the person is not licensed in this state.

3. A rabbi, priest, minister or member of the clergy of any religious denomination or sect if the activities and services that person performs are within the scope of the performance of the regular or specialized ministerial duties of an established and legally recognizable church, denomination or sect and the person performing the services remains accountable to the established authority of the church, denomination or sect.

4. A member run self-help or self-growth group if no member of the group receives direct or indirect financial compensation.

5. A behavioral health technician or behavioral health paraprofessional who is employed by an agency licensed by the department of health services.

6. A person contracting with the supreme court or a person employed by or contracting with an agency under contract with the supreme court who

is otherwise ineligible to be licensed or who is in the process of applying to be licensed under this chapter as long as that person is in compliance with the supreme court contract conditions regarding professional counseling services and practices only under supervision.

7. A person who is employed by the department of economic security or the department of child safety and who practices social work, marriage and family therapy, substance abuse counseling, counseling and case management within the scope of the person's job duties and under direct supervision by the employer department.

8. A student, intern or trainee who is pursuing a course of study in social work, counseling, marriage and family therapy, substance abuse counseling or case management in a regionally accredited institution of higher education or training institution if the person's activities are performed under qualified supervision and are part of the person's supervised course of study.

9. A person who is practicing social work, counseling and case management and who is employed by an agency licensed by the department of economic security OR THE DEPARTMENT OF CHILD SAFETY.

10. A paraprofessional employed by the department of economic security or by an agency licensed by the department of economic security.

11. A Christian Science practitioner if all of the following are true:

(a) The person is not providing psychotherapy.

(b) The activities and services the person performs are within the scope of the performance of the regular or specialized duties of a Christian Science practitioner.

(c) The person remains accountable to the established authority of the practitioner's church.

12. A person who is not providing psychotherapy.

B. A person who provides services pursuant to subsection A, paragraph 2 is deemed to have agreed to the jurisdiction of the board and to be bound by the laws of this state.

Sec. 6. Section 32-3272, Arizona Revised Statutes, is amended to read:

32-3272. <u>Fees</u>

A. For issuance of a license pursuant to this chapter, including application fees, the board shall establish and charge reasonable fees not to exceed five hundred dollars.

B. For renewal of a license pursuant to this chapter, the board shall establish and charge reasonable fees not to exceed five hundred dollars. The board shall not increase fees pursuant to this subsection more than twenty-five dollars each year.

C. The board by rule may adopt a fee for applications for approval of educational curricula pursuant to section 32-3253, subsection A, paragraph ~~15~~ 14.

D. The board shall establish fees to produce monies that approximate the cost of maintaining the board.

Sec. 7. Section 32-3273, Arizona Revised Statutes, is amended to read:

32-3273. License renewal; continuing education

A. Except as provided in section 32-4301, a license issued pursuant to this chapter is renewable every two years by paying the renewal fee prescribed by the board and submitting documentation prescribed by the board by rule of completion of relevant continuing education experience as determined by the board during the previous ~~twenty-four month~~ TWENTY-FOUR-MONTH period.

B. The board shall send notice in writing of required relevant continuing education experience to each licensee at least ninety days before the renewal date.

C. A licensee must satisfy the continuing education requirements that are prescribed by the board by rule and that are designed to provide the necessary understanding of ethics, cultural competency, current developments, skills, procedures and treatments related to behavioral health and to ensure the continuing competence of licensees. The board shall adopt rules to prescribe the manner of documenting compliance with this subsection.

D. At the request of a licensee who has been issued two or more licenses, the board shall establish the same renewal dates for those licenses. The board may prorate any fees due as necessary to synchronize the dates.

Sec. 8. Section 32-3274, Arizona Revised Statutes, is amended to read:

32-3274. Licensure by endorsement

A. The board may issue a license by endorsement to a person in that person's ~~particular~~ behavioral health ~~profession~~ DISCIPLINE if the person is licensed or certified by the regulatory agency of one or more other states OR FEDERAL JURISDICTIONS at ~~an~~ A SUBSTANTIALLY equivalent or higher practice level as determined by the board, pays the fee prescribed by the board and meets all of the following requirements:

1. The person is currently licensed or certified in behavioral health by the regulatory agency of one or more other states OR FEDERAL JURISDICTIONS and each license or certification is current and in good standing.

2. The person has been licensed or certified FOR AT LEAST THREE YEARS IN ONE OR MORE JURISDICTIONS in the discipline ~~applied for and at the same~~ AND practice level FOR WHICH AN APPLICATION IS SUBMITTED. THE PRACTICE LEVEL OF THE JURISDICTIONS MUST BE SUBSTANTIALLY EQUIVALENT, as determined by the board, ~~for a minimum of three years~~ TO THE PRACTICE LEVEL FOR WHICH THE APPLICATION IS SUBMITTED.

~~3. The person was engaged in the practice of behavioral health in one or more states issuing the license or certification used by the person to qualify for a license by endorsement pursuant to this section for a minimum of three thousand six hundred hours in a period of not more than five years prior to applying for licensure by endorsement. The three thousand six hundred hours must be in the discipline and at least in the practice level for which the person is applying. A person who was engaged in the practice of behavioral health while appointed under 38 United States Code section 7402(b)(9), (10) or (11) or a person who meets the licensure requirements of 10 United States Code section 1094 and performs authorized duties for the United States department of defense may submit behavioral health practice outside the state or states issuing the license or certification.~~

~~4. The person passed an examination required for the license sought pursuant to article 5, 6, 7 or 8 of this chapter.~~

~~5.~~ 3. The person meets the basic requirements for licensure prescribed by section 32-3275.

~~6.~~ 4. The person submits to the board ALL OF THE FOLLOWING:

(a) A ~~notarized affidavit~~ listing OF every jurisdiction in the United States in which the person has been licensed or certified in the practice of behavioral health and any disciplinary action taken by any regulatory agency or any instance in which a license has been surrendered in lieu of discipline. ~~and~~

(b) Verification of licensure or certification from every ~~state~~ JURISDICTION in which the person is licensed or certified for the ~~particular health profession~~ DISCIPLINE AND PRACTICE LEVEL for which the person applies.

(c) ANY OTHER PROCEDURAL APPLICATION REQUIREMENTS ADOPTED BY THE BOARD IN RULE.

B. In addition to the requirements of subsection A of this section, a person seeking license by endorsement for the following practice levels must have earned a master's or higher degree in the applicable field of practice granted by a regionally accredited college or university:

1. Licensed clinical social worker.
2. Licensed professional counselor.
3. Licensed marriage and family therapist.
4. Licensed independent substance abuse counselor.

C. Except for licenses by endorsement issued in the practice levels prescribed in subsection B of this section, a person issued a license pursuant to this section shall practice behavioral health only under the direct supervision of a licensee.

D. The board by rule may prescribe a procedure to issue licenses pursuant to this section.

Sec. 9. Section 32-3275, Arizona Revised Statutes, is amended to read:

32-3275. Requirements for licensure; withdrawal of application

A. An applicant for licensure must meet all of the following requirements:

1. Submit an application as prescribed by the board.

2. Be at least twenty-one years of age.

3. Be of good moral character. The board's standard to determine good moral character shall not violate federal discrimination laws.

4. Pay all applicable fees prescribed by the board.

5. Have the physical and mental capability to safely and competently engage in the practice of behavioral health.

6. Not have committed any act or engaged in any conduct that would constitute grounds for disciplinary action against a licensee pursuant to this chapter.

7. Not have had a professional license or certificate refused, revoked, suspended or restricted by this state or any other regulatory jurisdiction in the United States or any other country for reasons that relate to unprofessional conduct.

8. Not have voluntarily surrendered a professional license or certificate in this state or another regulatory jurisdiction in the United States or any other country while under investigation for conduct that relates to unprofessional conduct.

9. Not have a complaint, allegation or investigation pending before the board or another regulatory jurisdiction in the United States or another country that relates to unprofessional conduct. If an applicant has any such complaint, allegation or investigation pending, the board shall suspend the application process and may not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved.

B. BEFORE THE BOARD CONSIDERS DENIAL OF A LICENSE BASED ON A DEFICIENCY PURSUANT TO SUBSECTION A, PARAGRAPH 5, 6, 7 OR 8 OF THIS SECTION, THE APPLICANT SHALL BE GIVEN THIRTY-FIVE DAYS' NOTICE OF THE TIME AND PLACE OF THE MEETING. AT THE TIME OF THE MEETING, THE APPLICANT MAY PROVIDE IN PERSON, BY COUNSEL OR IN WRITTEN FORM INFORMATION AND EVIDENCE RELATED TO ANY DEFICIENCY RELATING TO SUBSECTION A, PARAGRAPH 5, 6, 7 OR 8 OF THIS SECTION, INCLUDING ANY EVIDENCE THAT THE DEFICIENCY HAS BEEN CORRECTED OR MONITORED OR THAT A MITIGATING CIRCUMSTANCE EXISTS. IN ANY NOTICE OF DENIAL, THE BOARD SHALL PROVIDE NOTICE OF THE APPLICANT'S RIGHT TO A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

~~B.~~ C. If the board finds that an applicant is subject to subsection A, paragraphs 5, ~~through~~ 6, 7 AND 8 of this section, the board may determine to its satisfaction that the conduct or condition has been corrected, monitored and resolved and may issue a license. If the conduct

or condition has not been resolved, the board may determine to its satisfaction that mitigating circumstances exist that prevent its resolution and may issue a license.

~~C. If an applicant has a deficiency pursuant to subsection A, paragraphs 5 through 8 of this section, the board shall notify the applicant of the deficiency and the time when the board will review the application at a public meeting. This meeting must take place within thirty-five days after the notification. At the time of the meeting, the applicant may provide in person, by counsel or in written form information and evidence related to any deficiency, including information related to whether the conduct that was the basis for an action pursuant to subsection A, paragraph 6, 7 or 8 of this section has been corrected, monitored and resolved or if mitigating circumstances exist that prevent its resolution. In a notice of denial the board shall provide notification of the right to a hearing pursuant to title 41, chapter 6, article 10. If the applicant does not present information at the public board meeting, the applicant may still seek all available administrative remedies.~~

D. An applicant for licensure may withdraw the application unless the board has sent to the applicant notification that the board has initiated an investigation concerning professional misconduct. Following that notification, the applicant may request that the board review the applicant's request to withdraw the application. In considering the request the board shall determine whether it is probable that the investigation would result in an adverse action against the applicant.

E. After a final board order of denial has been issued, the board shall report the denial if required by the health care quality improvement act of 1986 (42 United States Code ~~section 11101~~ CHAPTER 117). For the purposes of this subsection and except as required by federal law, "final board order" means:

1. For an applicant who seeks a hearing pursuant to title 41, chapter 6, article 10, when a final administrative decision has been made.

2. For an applicant who does not timely file a notice of appeal, after the time for the filing expires pursuant to section 41-1092.03.

Sec. 10. Section 32-3276, Arizona Revised Statutes, is amended to read:

32-3276. <u>Notice of address and telephone number changes; penalties</u>

A. A licensee must provide the board with the licensee's current ~~residence~~ HOME address and telephone number~~,~~ AND office address and telephone number and promptly and in writing inform the board of ~~each~~ ANY change in ~~residence address and telephone number and office address and telephone number~~ THIS INFORMATION.

B. The board may assess the costs ~~incurred by the board~~ IT INCURS in locating a licensee and impose a penalty of not to exceed one hundred

dollars against a licensee who does not notify the board pursuant to subsection A OF THIS SECTION within thirty days after the change of address or telephone number.

Sec. 11. Section 32-3280, Arizona Revised Statutes, is amended to read:

32-3280. Fingerprinting

A. An applicant for licensure under this article other than for a temporary license~~,~~ must submit a full set of fingerprints to the board, at the applicant's own expense, for the purpose of obtaining a state and federal criminal ~~history~~ records check pursuant to section 41-1750 and ~~P.L.~~ PUBLIC LAW 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

~~B. As a condition of renewing a license, a person licensed pursuant to this chapter who has not previously done so must submit a full set of fingerprints to the board, at the licensee's own expense, for the purpose of obtaining a state and federal criminal history records check pursuant to section 41-1750 and P.L. 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The board shall provide written notice of this requirement to all licensees at least six months before each licensee's expiration date.~~

~~C.~~ B. The board shall waive the records check required in ~~subsections~~ SUBSECTION A ~~and B~~ of this section for an applicant ~~or licensee providing~~ WHO PROVIDES evidence acceptable to the board that the applicant ~~or licensee~~ holds a ~~current class one or class two~~ VALID fingerprint clearance card issued by the department of public safety.

Sec. 12. Section 32-3281, Arizona Revised Statutes, is amended to read:

32-3281. Disciplinary action; investigations; hearings; civil penalty; timely complaints; burden of proof

A. The board, on its own motion or on a complaint, may investigate any evidence that appears to show that a licensee is or may be 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 behavioral health. A MOTION BY THE BOARD TO INITIATE AN INVESTIGATION SHALL BE MADE AT AN OPEN AND PROPERLY NOTICED BOARD MEETING AND SHALL INCLUDE THE BASIS ON WHICH THE INVESTIGATION IS BEING INITIATED AND THE NAME OF THE BOARD MEMBER MAKING THE MOTION. THE BOARD'S VOTE ON THE MOTION TO INITIATE AN INVESTIGATION SHALL BE RECORDED. As part of its investigation, the board may hold an investigational meeting pursuant to this chapter. Any person may, and a licensee and any entity licensed by the ~~office of behavioral health licensure~~ DEPARTMENT OF HEALTH SERVICES shall, report to the board any information that would cause a reasonable licensee to believe that another licensee is guilty of unprofessional conduct or is physically or mentally unable to provide behavioral health services competently or safely. Any person or entity that reports or

provides information to the board in good faith is not subject to an action for civil damages. It is an act of unprofessional conduct for any licensee to fail to report as required by this section. The board shall report to the ~~office of behavioral health licensure in the~~ department of health services any entity licensed by the ~~office of behavioral health licensure~~ DEPARTMENT OF HEALTH SERVICES that fails to report as required by this section. For complaints related to conduct that is inconsistent with professional standards or ethics, scope of practice or standard of care, the board may consult with one or more licensed or retired behavioral health professionals of the same profession as the licensee to review complaints and make recommendations to the board.

B. On determination of reasonable cause, the board shall require, at the licensee's own expense, any combination of mental, physical or psychological examinations, assessments or skills evaluations necessary to determine the licensee's competence or ability to safely engage in the practice of behavioral health and conduct necessary investigations, including investigational interviews between representatives of the board and the licensee, to fully inform the board with respect to any information filed with the board under subsection A of this section. These examinations may include biological fluid testing. The board may require the licensee, at the licensee's expense, to undergo assessment by a rehabilitative, retraining or assessment program approved by the board.

C. If the board finds, based on the information received pursuant to subsection A or B of this section, that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the board may restrict, limit 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 must 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.

D. If after completing an investigation the board finds that the information provided is not of sufficient seriousness to merit disciplinary action against the licensee, the board shall either:

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

2. File a letter of concern and dismiss the complaint. The licensee may file a written response with the board within thirty days after the licensee receives the 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.

E. A complaint dismissed by the board pursuant to subsection D, paragraph 1 of this section is not a complaint of unprofessional conduct

and shall not be disclosed by the board as a complaint on the licensee's complaint history.

F. If after completing its investigation the board believes that the information is or may be true, the board may enter into a consent agreement with the licensee 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 behavioral health. A consent agreement may also require the licensee to successfully complete a board approved rehabilitative, retraining or assessment program.

G. If the board finds that the information provided pursuant to subsection A of this section is or may be true, the board may request a formal interview with the licensee. If the licensee refuses the invitation for a formal interview or accepts and the results indicate that grounds may exist for revocation or suspension of the licensee'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, the board may order a summary suspension of the licensee's license pending formal revocation proceedings or other action authorized by this section.

H. If after completing the formal interview the board finds the information provided is not of sufficient seriousness to merit suspension for more than twelve months or revocation of the license, the board 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 and dismiss the complaint. The licensee may file a written response with the board within thirty days after the licensee receives the letter of concern.

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

4. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee concerned. Probation may include temporary suspension not to exceed twelve months, restriction of the licensee's license to practice behavioral health, a requirement for restitution of fees to a client 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,

1 including noncompliance with the terms of probation or a consent
2 agreement.
3 5. Issue a nondisciplinary order requiring the licensee to complete
4 a prescribed number of hours of continuing education in an area or areas
5 prescribed by the board to provide the licensee with the necessary
6 understanding of current developments, skills, procedures or treatment.
7 I. If the board finds that the information provided in subsection A
8 or G of this section warrants suspension or revocation of a license issued
9 under this chapter, the board shall initiate formal proceedings pursuant
10 to title 41, chapter 6, article 10.
11 J. In a formal interview pursuant to subsection G of this section
12 or in a hearing pursuant to subsection I of this section, the board in
13 addition to any other action may impose a civil penalty not to exceed one
14 thousand dollars for each violation of this chapter or a rule adopted
15 under this chapter.
16 K. A letter of concern is a public document.
17 L. A licensee who after a formal hearing is found by the board to
18 be guilty of unprofessional conduct, to be mentally or physically unable
19 to safely engage in the practice of behavioral health or to be
20 professionally incompetent is subject to censure, probation as provided in
21 this section, suspension of license or revocation of license or any
22 combination of these, including a stay of action, and for a period of time
23 or permanently and under conditions as the board deems appropriate for the
24 protection of the public health and safety and just in the circumstance.
25 The board may charge all costs incurred in the course of the investigation
26 and formal hearing to the licensee it finds is in violation of this
27 chapter. The board shall deposit, pursuant to sections 35-146 and 35-147,
28 monies collected pursuant to this subsection in the board of behavioral
29 health examiners fund established by section 32-3254.
30 M. If the board during the course of any investigation determines
31 that a criminal violation may have occurred involving the delivery of
32 behavioral health services, the board shall make the evidence of
33 violations available to the appropriate criminal justice agency for its
34 consideration.
35 N. The board shall deposit, pursuant to sections 35-146 and 35-147,
36 all monies collected from civil penalties paid pursuant to this chapter in
37 the state general fund.
38 O. Notice of a complaint and hearing is effective by a true copy of
39 the notice being sent by certified mail to the licensee's last known
40 address of record in the board's files. Notice of the complaint and
41 hearing is complete on the date of its deposit in the mail.
42 P. In determining the appropriate disciplinary action under this
43 section, the board shall consider all previous nondisciplinary and
44 disciplinary actions against a licensee.

Q. The board may defer action with regard to an impaired licensee who voluntarily signs an agreement, in a form satisfactory to the board, agreeing to practice restrictions and treatment and monitoring programs deemed necessary by the board to protect the public health and safety. A licensee who is impaired and who does not agree to enter into an agreement with the board is subject to other action as provided pursuant to this chapter.

R. Subject to an order duly entered by the board, a person whose license to practice behavioral health has been suspended or restricted pursuant to this chapter, whether voluntarily or by action of the board, may at reasonable intervals apply to the board for reinstatement of the license. The person shall submit the application in writing and in the form prescribed by the board. After conducting an investigation and hearing, the board may grant or deny the application or modify the original finding to reflect any circumstances that have changed sufficiently to warrant modification. The board may require the applicant to pass an examination or complete board imposed continuing education requirements or may impose any other sanctions the board deems appropriate for reentry into the practice of behavioral health.

S. A person whose license is revoked, suspended or not renewed must return the license to the offices of the board within ten days after notice of that action.

T. The board may enforce a civil penalty imposed pursuant to this section in the superior court in Maricopa county.

U. For complaints being brought before the full board, the information released to the public regarding an ongoing investigation must clearly indicate that the investigation is a pending complaint and must include the following statement:

> Pending complaints represent unproven allegations. On investigation, many complaints are found to be without merit or not of sufficient seriousness to merit disciplinary action against the licensee and are dismissed.

V. The board shall not act on its own motion or on any complaint received by the board in which an allegation of unprofessional conduct or any other violation of this chapter against a professional who holds an Arizona license occurred more than four years before the complaint is received by the board. The time limitation does not apply to:

1. Malpractice settlements or judgments, ~~or~~ allegations of sexual misconduct or ~~if~~ an incident or occurrence THAT involved a felony, diversion of a controlled substance or impairment while practicing by the licensee.

2. ~~A~~ THE board's consideration of the specific unprofessional conduct related to ~~a~~ THE licensee's failure to disclose conduct or a violation as required by law.

W. The board shall not open an investigation if identifying information regarding the complainant is not provided.

X. Except for disciplinary matters prescribed by section 32-3251, paragraph 16, subdivision (v), the board has the burden of proof by clear and convincing evidence for disciplinary matters brought pursuant to this chapter.

Sec. 13. Section 32-3321, Arizona Revised Statutes, is amended to read:

32-3321. Licensed substance abuse technician; licensed associate substance abuse counselor; licensed independent substance abuse counselor; qualifications; supervision

A. A person who wishes to be licensed by the board to engage in the practice of substance abuse counseling as a licensed substance abuse technician shall present documentation as prescribed by the board by rule that the person has:

1. Received one of the following:

(a) An associate degree in chemical dependency or substance abuse with an emphasis on counseling~~,~~ that meets the requirements as prescribed by the board by rule~~,~~ from a regionally accredited college or university.

(b) Beginning January 1, 2009, a bachelor's degree in a behavioral science with an emphasis on counseling~~,~~ that meets the requirements as prescribed by the board by rule~~,~~ from a regionally accredited college or university.

2. Passed an examination approved by the board.

B. A licensed substance abuse technician shall only practice under direct supervision as prescribed by the board.

C. The board may waive the education requirement for an applicant requesting licensure as a substance abuse technician if the applicant provides services pursuant to contracts or grants with the federal government under the authority of Public Law 93-638 (25 United States Code sections 450 through 450(n)) or Public Law 94-437 (25 United States Code sections 1601 through 1683). A person who becomes licensed as a substance abuse technician pursuant to this subsection shall only provide substance abuse services to those persons who are eligible for services pursuant to Public Law 93-638 (25 United States Code sections 450 through 450(n)) or Public Law 94-437 (25 United States Code section 1601 through 1683).

D. A person who wishes to be licensed by the board to engage in the practice of substance abuse counseling as a licensed associate substance abuse counselor shall present evidence as prescribed by the board by rule that the person has:

1. Received one of the following:

(a) A bachelor's degree in a behavioral science with an emphasis on counseling~~,~~ that meets the requirements as prescribed by the board by rule~~,~~ from a regionally accredited college or university and present

documentation as prescribed by the board by rule that the applicant has received at least three thousand two hundred hours of work experience in not less than twenty-four months in substance abuse counseling under supervision that meets the requirements prescribed by the board by rule. The three thousand two hundred hours must include a minimum of one thousand six hundred hours of direct client contact and not more than one thousand six hundred hours of indirect client service. For the direct client contact hours, not more than four hundred hours may be in psychoeducation. The board by rule may prescribe the number of hours required for functions related to direct client contact and indirect client service.

(b) A master's ~~degree~~ or ~~a~~ higher degree in a behavioral science with an emphasis on counseling~~,~~ as prescribed by the board by rule~~,~~ from a regionally accredited college or university.

2. Passed an examination approved by the board.

E. A licensed associate substance abuse counselor shall only practice under direct supervision as prescribed by the board.

F. A person who wishes to be licensed by the board to engage in the practice of substance abuse counseling as a licensed independent substance abuse counselor shall:

1. Have received a master's ~~degree~~ or higher degree in a behavioral science with an emphasis on counseling, in a program that is approved by the board pursuant to section 32-3253 or that meets the requirements as prescribed by the board by rule, from a regionally accredited college or university.

2. Present documentation as prescribed by the board by rule that the applicant has received at least three thousand two hundred hours of work experience in not less than twenty-four months in substance abuse counseling under supervision that meets the requirements as prescribed by the board by rule. The three thousand two hundred hours must include at least one thousand six hundred hours of direct client contact and not more than one thousand six hundred hours of indirect client service. For the direct client contact hours, not more than four hundred hours may be in psychoeducation. The board by rule may prescribe the number of hours required for functions related to direct client contact and indirect client service.

3. Pass an examination approved by the board.

APPROVED BY THE GOVERNOR MARCH 23, 2018

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 23, 2018

Passed the House March 20, 2018,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Jim Drake

Chief Clerk of the House

Passed the Senate February 20, 2018,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Susan Craves

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28th day of March, 2018,

at 2:04 o'clock P. M.

Secretary to the Governor

Approved this 23rd day of

March, 2018,

at 11:57 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of March, 2018,

at 4:43 o'clock P. M.

Michele Reagan

Secretary of State

S.B. 1246