

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 141
SENATE BILL 1188

AN ACT

AMENDING SECTIONS 32-1401, 32-1404 AND 32-1405, ARIZONA REVISED STATUTES;
AMENDING TITLE 32, CHAPTER 13, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING
SECTIONS 32-1451.03 AND 32-1451.04; RELATING TO THE ARIZONA MEDICAL BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1401, Arizona Revised Statutes, is amended to
3 read:

4 32-1401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Active license" means a valid and existing license to practice
7 medicine.

8 2. "Adequate records" means legible medical records, **PRODUCED BY HAND**
9 **OR ELECTRONICALLY**, containing, at a minimum, sufficient information to
10 identify the patient, support the diagnosis, justify the treatment,
11 accurately document the results, indicate advice and cautionary warnings
12 provided to the patient and provide sufficient information for another
13 practitioner to assume continuity of the patient's care at any point in the
14 course of treatment.

15 3. "Advisory letter" means a nondisciplinary letter to notify a
16 licensee that either:

17 (a) While there is insufficient evidence to support disciplinary
18 action, the board believes that continuation of the activities that led to
19 the investigation may result in further board action against the licensee.

20 (b) The violation is a minor or technical violation that is not of
21 sufficient merit to warrant disciplinary action.

22 (c) While the licensee has demonstrated substantial compliance through
23 rehabilitation or remediation that has mitigated the need for disciplinary
24 action, the board believes that repetition of the activities that led to the
25 investigation may result in further board action against the licensee.

26 4. "Approved hospital internship, residency or clinical fellowship
27 program" means a program at a hospital that at the time the training occurred
28 was legally incorporated and that had a program that was approved for
29 internship, fellowship or residency training by the accreditation council for
30 graduate medical education, the association of American medical colleges, the
31 royal college of physicians and surgeons of Canada or any similar body in the
32 United States or Canada approved by the board whose function is that of
33 approving hospitals for internship, fellowship or residency training.

34 5. "Approved school of medicine" means any school or college offering
35 a course of study that, on successful completion, results in the degree of
36 doctor of medicine and whose course of study has been approved or accredited
37 by an educational or professional association, recognized by the board,
38 including the association of American medical colleges, the association of
39 Canadian medical colleges or the American medical association.

40 6. "Board" means the Arizona medical board.

41 7. "Completed application" means that the applicant has supplied all
42 required fees, information and correspondence requested by the board on forms
43 and in a manner acceptable to the board.

1 8. "Direct supervision" means that a physician, physician assistant
2 licensed pursuant to chapter 25 of this title or nurse practitioner certified
3 pursuant to chapter 15 of this title is within the same room or office suite
4 as the medical assistant in order to be available for consultation regarding
5 those tasks the medical assistant performs pursuant to section 32-1456.

6 9. "Dispense" means the delivery by a doctor of medicine of a
7 prescription drug or device to a patient, except for samples packaged for
8 individual use by licensed manufacturers or repackagers of drugs, and
9 includes the prescribing, administering, packaging, labeling and security
10 necessary to prepare and safeguard the drug or device for delivery.

11 10. "Doctor of medicine" means a natural person holding a license,
12 registration or permit to practice medicine pursuant to this chapter.

13 11. "Full-time faculty member" means a physician employed full time as
14 a faculty member while holding the academic position of assistant professor
15 or a higher position at an approved school of medicine.

16 12. "Health care institution" means any facility as defined in section
17 36-401, any person authorized to transact disability insurance, as defined in
18 title 20, chapter 6, article 4 or 5, any person who is issued a certificate
19 of authority pursuant to title 20, chapter 4, article 9 or any other
20 partnership, association or corporation that provides health care to
21 consumers.

22 13. "Immediate family" means the spouse, natural or adopted children,
23 father, mother, brothers and sisters of the doctor and the natural or adopted
24 children, father, mother, brothers and sisters of the doctor's spouse.

25 14. "Letter of reprimand" means a disciplinary letter that is issued by
26 the board and that informs the physician that the physician's conduct
27 violates state or federal law and may require the board to monitor the
28 physician.

29 15. "Limit" means taking a nondisciplinary action that alters the
30 physician's practice or professional activities if the board determines that
31 there is evidence that the physician is or may be mentally or physically
32 unable to safely engage in the practice of medicine.

33 16. "Medical assistant" means an unlicensed person who meets the
34 requirements of section 32-1456, has completed an education program approved
35 by the board, assists in a medical practice under the supervision of a doctor
36 of medicine, physician assistant or nurse practitioner and performs delegated
37 procedures commensurate with the assistant's education and training but does
38 not diagnose, interpret, design or modify established treatment programs or
39 perform any functions that would violate any statute applicable to the
40 practice of medicine.

41 17. "Medical peer review" means:

42 (a) The participation by a doctor of medicine in the review and
43 evaluation of the medical management of a patient and the use of resources
44 for patient care.

45 (b) Activities relating to a health care institution's decision to
46 grant or continue privileges to practice at that institution.

1 18. "Medically incompetent" means a person who the board determines is
2 incompetent based on a variety of factors, including:

3 (a) A lack of sufficient medical knowledge or skills, or both, to a
4 degree likely to endanger the health of patients.

5 (b) When considered with other indications of medical incompetence,
6 failing to obtain a scaled score of at least seventy-five per cent on the
7 written special purpose licensing examination.

8 19. "Medicine" means allopathic medicine as practiced by the recipient
9 of a degree of doctor of medicine.

10 20. "Office based surgery" means a medical procedure conducted in a
11 physician's office or other outpatient setting that is not part of a licensed
12 hospital or licensed ambulatory surgical center.

13 21. "Physician" means a doctor of medicine licensed pursuant to this
14 chapter.

15 22. "Practice of medicine" means the diagnosis, the treatment or the
16 correction of or the attempt or the claim to be able to diagnose, treat or
17 correct any and all human diseases, injuries, ailments, infirmities,
18 deformities, physical or mental, real or imaginary, by any means, methods,
19 devices or instrumentalities, except as the same may be among the acts or
20 persons not affected by this chapter. The practice of medicine includes the
21 practice of medicine alone or the practice of surgery alone, or both.

22 23. "Restrict" means taking a disciplinary action that alters the
23 physician's practice or professional activities if the board determines that
24 there is evidence that the physician is or may be medically incompetent or
25 guilty of unprofessional conduct.

26 24. "Special purpose licensing examination" means an examination
27 developed by the national board of medical examiners on behalf of the
28 federation of state medical boards for use by state licensing boards to test
29 the basic medical competence of physicians who are applying for licensure and
30 who have been in practice for a considerable period of time in another
31 jurisdiction and to determine the competence of a physician under
32 investigation by a state licensing board.

33 25. "Teaching hospital's accredited graduate medical education program"
34 means that the hospital is incorporated and has an internship, fellowship or
35 residency training program that is accredited by the accreditation council
36 for graduate medical education, the American medical association, the
37 association of American medical colleges, the royal college of physicians and
38 surgeons of Canada or a similar body in the United States or Canada approved
39 by the board whose function is that of approving hospitals for internship,
40 fellowship or residency training.

41 26. "Teaching license" means a valid license to practice medicine as a
42 full-time faculty member of an approved school of medicine or a teaching
43 hospital's accredited graduate medical education program.

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

- 1 (a) Violating any federal or state laws, rules or regulations
2 applicable to the practice of medicine.
- 3 (b) Intentionally disclosing a professional secret or intentionally
4 disclosing a privileged communication except as either act may otherwise be
5 required by law.
- 6 (c) False, fraudulent, deceptive or misleading advertising by a doctor
7 of medicine or the doctor's staff, employer or representative.
- 8 (d) Committing a felony, whether or not involving moral turpitude, or
9 a misdemeanor involving moral turpitude. In either case, conviction by any
10 court of competent jurisdiction or a plea of no contest is conclusive
11 evidence of the commission.
- 12 (e) Failing or refusing to maintain adequate records on a patient.
- 13 (f) Habitual intemperance in the use of alcohol or habitual substance
14 abuse.
- 15 (g) Using controlled substances except if prescribed by another
16 physician for use during a prescribed course of treatment.
- 17 (h) Prescribing or dispensing controlled substances to members of the
18 physician's immediate family.
- 19 (i) Prescribing, dispensing or administering schedule II controlled
20 substances as defined in section 36-2513 including amphetamines and similar
21 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a
22 period in excess of thirty days in any one year, or the non-therapeutic use
23 of injectable amphetamines.
- 24 (j) Prescribing, dispensing or administering any controlled substance
25 or prescription-only drug for other than accepted therapeutic purposes.
- 26 (k) Signing a blank, undated or predated prescription form.
- 27 (l) Conduct that the board determines is gross malpractice, repeated
28 malpractice or any malpractice resulting in the death of a patient.
- 29 (m) Representing that a manifestly incurable disease or infirmity can
30 be permanently cured, or that any disease, ailment or infirmity can be cured
31 by a secret method, procedure, treatment, medicine or device, if this is not
32 true.
- 33 (n) Refusing to divulge to the board on demand the means, method,
34 procedure, modality of treatment or medicine used in the treatment of a
35 disease, injury, ailment or infirmity.
- 36 (o) Action that is taken against a doctor of medicine by another
37 licensing or regulatory jurisdiction due to that doctor's mental or physical
38 inability to engage safely in the practice of medicine or the doctor's
39 medical incompetence or for unprofessional conduct as defined by that
40 jurisdiction and that corresponds directly or indirectly to an act of
41 unprofessional conduct prescribed by this paragraph. The action taken may
42 include refusing, denying, revoking or suspending a license by that
43 jurisdiction or a surrendering of a license to that jurisdiction, otherwise
44 limiting, restricting or monitoring a licensee by that jurisdiction or
45 placing a licensee on probation by that jurisdiction.

1 (p) Sanctions imposed by an agency of the federal government,
2 including restricting, suspending, limiting or removing a person from the
3 practice of medicine or restricting that person's ability to obtain financial
4 remuneration.

5 (q) Any conduct or practice that is or might be harmful or dangerous
6 to the health of the patient or the public.

7 (r) Violating a formal order, probation, consent agreement or
8 stipulation issued or entered into by the board or its executive director
9 under this chapter.

10 (s) Violating or attempting to violate, directly or indirectly, or
11 assisting in or abetting the violation of or conspiring to violate any
12 provision of this chapter.

13 (t) Knowingly making any false or fraudulent statement, written or
14 oral, in connection with the practice of medicine or if applying for
15 privileges or renewing an application for privileges at a health care
16 institution.

17 (u) Charging a fee for services not rendered or dividing a
18 professional fee for patient referrals among health care providers or health
19 care institutions or between these providers and institutions or a
20 contractual arrangement that has the same effect. This subdivision does not
21 apply to payments from a medical researcher to a physician in connection with
22 identifying and monitoring patients for a clinical trial regulated by the
23 United States food and drug administration.

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

25 (w) Charging or collecting a clearly excessive fee. In determining if
26 a fee is clearly excessive, the board shall consider the fee or range of fees
27 customarily charged in the state for similar services in light of modifying
28 factors such as the time required, the complexity of the service and the
29 skill requisite to perform the service properly. This subdivision does not
30 apply if there is a clear written contract for a fixed fee between the
31 physician and the patient that has been entered into before the provision of
32 service.

33 (x) Fetal experiments conducted in violation of section 36-2302.

34 (y) The use of experimental forms of diagnosis and treatment without
35 adequate informed patient consent, and without conforming to generally
36 accepted experimental criteria, including protocols, detailed records,
37 periodic analysis of results and periodic review by a medical peer review
38 committee as approved by the federal food and drug administration or its
39 successor agency.

40 (z) Engaging in sexual conduct with a current patient or with a former
41 patient within six months after the last medical consultation unless the
42 patient was the licensee's spouse at the time of the contact or, immediately
43 preceding the physician-patient relationship, was in a dating or engagement
44 relationship with the licensee. For the purposes of this subdivision,
45 "sexual conduct" includes:

- 1 (i) Engaging in or soliciting sexual relationships, whether consensual
2 or nonconsensual.
- 3 (ii) Making sexual advances, requesting sexual favors or engaging in
4 any other verbal conduct or physical contact of a sexual nature.
- 5 (iii) Intentionally viewing a completely or partially disrobed patient
6 in the course of treatment if the viewing is not related to patient diagnosis
7 or treatment under current practice standards.
- 8 (aa) Procuring or attempting to procure a license to practice medicine
9 or a license renewal by fraud, by misrepresentation or by knowingly taking
10 advantage of the mistake of another person or an agency.
- 11 (bb) Representing or claiming to be a medical specialist if this is
12 not true.
- 13 (cc) Maintaining a professional connection with or lending one's name
14 to enhance or continue the activities of an illegal practitioner of medicine.
- 15 (dd) Failing to furnish information in a timely manner to the board or
16 the board's investigators or representatives if legally requested by the
17 board.
- 18 (ee) Failing to allow properly authorized board personnel on demand to
19 examine and have access to documents, reports and records maintained by the
20 physician that relate to the physician's medical practice or medically
21 related activities.
- 22 (ff) Knowingly failing to disclose to a patient on a form that is
23 prescribed by the board and that is dated and signed by the patient or
24 guardian acknowledging that the patient or guardian has read and understands
25 that the doctor has a direct financial interest in a separate diagnostic or
26 treatment agency or in nonroutine goods or services that the patient is being
27 prescribed and if the prescribed treatment, goods or services are available
28 on a competitive basis. This subdivision does not apply to a referral by one
29 doctor of medicine to another doctor of medicine within a group of doctors of
30 medicine practicing together.
- 31 (gg) Using chelation therapy in the treatment of arteriosclerosis or
32 as any other form of therapy, with the exception of treatment of heavy metal
33 poisoning, without:
- 34 (i) Adequate informed patient consent.
- 35 (ii) Conforming to generally accepted experimental criteria, including
36 protocols, detailed records, periodic analysis of results and periodic review
37 by a medical peer review committee.
- 38 (iii) Approval by the federal food and drug administration or its
39 successor agency.
- 40 (hh) Prescribing, dispensing or administering anabolic-androgenic
41 steroids to a person for other than therapeutic purposes.
- 42 (ii) Lack of or inappropriate direction, collaboration or direct
43 supervision of a medical assistant or a licensed, certified or registered
44 health care provider employed by, supervised by or assigned to the physician.

1 (jj) Knowingly making a false or misleading statement to the board or
2 on a form required by the board or in a written correspondence, including
3 attachments, with the board.

4 (kk) Failing to dispense drugs and devices in compliance with article
5 6 of this chapter.

6 (ll) Conduct that the board determines is gross negligence, repeated
7 negligence or negligence resulting in harm to or the death of a patient.

8 (mm) The representation by a doctor of medicine or the doctor's staff,
9 employer or representative that the doctor is boarded or board certified if
10 this is not true or the standing is not current or without supplying the full
11 name of the specific agency, organization or entity granting this standing.

12 (nn) Refusing to submit to a body fluid examination or any other
13 examination known to detect the presence of alcohol or other drugs as
14 required by the board pursuant to section 32-1452 or pursuant to a board
15 investigation into a doctor of medicine's alleged substance abuse.

16 (oo) Failing to report in writing to the Arizona medical board or the
17 Arizona regulatory board of physician assistants any evidence that a doctor
18 of medicine or a physician assistant is or may be medically incompetent,
19 guilty of unprofessional conduct or mentally or physically unable to safely
20 practice medicine or to perform as a physician assistant.

21 (pp) The failure of a physician who is the chief executive officer,
22 the medical director or the medical chief of staff of a health care
23 institution to report in writing to the board that the hospital privileges of
24 a doctor of medicine have been denied, revoked, suspended, supervised or
25 limited because of actions by the doctor that appear to show that the doctor
26 is or may be medically incompetent, is or may be guilty of unprofessional
27 conduct or is or may be unable to engage safely in the practice of medicine.

28 (qq) Claiming to be a current member of the board, its staff or a
29 board medical consultant if this is not true.

30 (rr) Failing to make patient medical records in the physician's
31 possession promptly available to a physician assistant, a nurse practitioner,
32 a person licensed pursuant to this chapter or a podiatrist, chiropractor,
33 naturopathic physician, osteopathic physician or homeopathic physician
34 licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper
35 authorization to do so from the patient, a minor patient's parent, the
36 patient's legal guardian or the patient's authorized representative or
37 failing to comply with title 12, chapter 13, article 7.1.

38 (ss) Prescribing, dispensing or furnishing a prescription medication
39 or a prescription-only device as defined in section 32-1901 to a person
40 unless the licensee first conducts a physical examination of that person or
41 has previously established a doctor-patient relationship. This subdivision
42 does not apply to:

43 (i) A physician who provides temporary patient supervision on behalf
44 of the patient's regular treating licensed health care professional.

45 (ii) Emergency medical situations as defined in section 41-1831.

1 (iii) Prescriptions written to prepare a patient for a medical
2 examination.

3 (iv) Prescriptions written or prescription medications issued for use
4 by a county or tribal public health department for immunization programs or
5 emergency treatment or in response to an infectious disease investigation,
6 public health emergency, infectious disease outbreak or act of bioterrorism.
7 For the purposes of this item, "bioterrorism" has the same meaning prescribed
8 in section 36-781.

9 (v) Prescriptions written or antimicrobials dispensed to a contact as
10 defined in section 36-661 who is believed to have had significant exposure
11 risk as defined in section 36-661 with another person who has been diagnosed
12 with a communicable disease as defined in section 36-661 by the prescribing
13 or dispensing physician.

14 (vi) Prescriptions written or prescription medications issued for
15 administration of immunizations or vaccines listed in the United States
16 centers for disease control and prevention's recommended immunization
17 schedule to a household member of a patient.

18 (tt) Performing office based surgery using sedation in violation of
19 board rules.

20 (uu) Practicing medicine under a false or assumed name in this state.

21 Sec. 2. Section 32-1404, Arizona Revised Statutes, is amended to read:
22 32-1404. Meetings; quorum; committees; rules

23 A. The board shall hold regular quarterly meetings on a date and at
24 the time and place designated by the chairman. The board shall hold special
25 meetings, including meetings using communications equipment that allows all
26 members participating in the meeting to hear each other, as the chairman
27 determines are necessary to carry out the functions of the board. The board
28 shall hold special meetings on any day that the chairman determines is
29 necessary to carry out the functions of the board. The vice-chairman may
30 call meetings and special meetings if the chairman is not available.

31 B. The presence of seven board members at a meeting constitutes a
32 quorum. A majority vote of the quorum is necessary for the board to take any
33 action.

34 C. The chairman may establish committees from the membership of the
35 board and define committee duties necessary to carry out the functions of the
36 board.

37 D. The board may adopt rules pursuant to title 41, chapter 6 that are
38 necessary and proper to carry out the purposes of this chapter.

39 E. MEETINGS HELD PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE
40 AUDIO RECORDED.

41 Sec. 3. Section 32-1405, Arizona Revised Statutes, is amended to read:

42 32-1405. Executive director; compensation; duties; appeal to
43 the board

44 A. The board shall appoint an executive director who shall serve at
45 the pleasure of the board. The executive director shall not be a board
46 member, except that the board may authorize the executive director to

1 represent the board and to vote on behalf of the board at meetings of the
2 federation of state medical boards of the United States.

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

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

6 1. Employ, evaluate, dismiss, discipline and direct professional,
7 clerical, technical, investigative and administrative personnel necessary to
8 carry on the work of the board. INVESTIGATIVE PERSONNEL SHALL COMPLETE A
9 NATIONALLY RECOGNIZED INVESTIGATOR TRAINING PROGRAM WITHIN ONE YEAR OF DATE
10 OF HIRE. UNTIL INVESTIGATIVE PERSONNEL COMPLETES A TRAINING PROGRAM, THE
11 INVESTIGATIVE PERSONNEL SHALL WORK UNDER THE SUPERVISION OF AN INVESTIGATOR
12 WHO HAS COMPLETED A TRAINING PROGRAM.

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

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

17 4. Appoint and employ medical consultants and agents necessary to
18 conduct investigations, gather information and perform those duties the
19 executive director determines are necessary and appropriate to enforce this
20 chapter.

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

23 6. Manage the board's offices.

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

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

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

29 10. Prepare an annual budget.

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

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

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

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

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

43 16. Execute board directives.

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

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

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

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

11 21. Review all complaints filed pursuant to section 32-1451. If
12 delegated by the board, the executive director may also dismiss a complaint
13 if the complaint is without merit. The executive director shall not dismiss
14 a complaint if a court has entered a medical malpractice judgment against a
15 physician. The executive director shall submit a report of the cases
16 dismissed with the complaint number, the name of the physician and the
17 investigation timeline to the board for review at its regular board meetings.

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

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

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

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

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

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

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

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

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

45 Sec. 4. Title 32, chapter 13, article 3, Arizona Revised Statutes, is
46 amended by adding sections 32-1451.03 and 32-1451.04, to read:

1 32-1451.03. Complaints; requirements; exception

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

6 B. THE BOARD SHALL NOT OPEN AN INVESTIGATION IF IDENTIFYING
7 INFORMATION REGARDING THE COMPLAINANT IS NOT PROVIDED.

8 32-1451.04. Burden of proof

9 EXCEPT FOR DISCIPLINARY MATTERS BROUGHT PURSUANT TO SECTION 32-1401,
10 PARAGRAPH 27, SUBDIVISION (z), THE BOARD HAS THE BURDEN OF PROOF BY CLEAR AND
11 CONVINCING EVIDENCE FOR DISCIPLINARY MATTERS BROUGHT PURSUANT TO THIS
12 CHAPTER.

APPROVED BY THE GOVERNOR MARCH 29, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2012.