

REFERENCE TITLE: pharmacy board

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1188

Introduced by
Senator Barto

AN ACT

AMENDING SECTIONS 32-1922, 32-1924, 32-1927, 32-1927.01, 32-1927.02, 32-1930
AND 32-1931, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF
PHARMACY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1922, Arizona Revised Statutes, is amended to
3 read:

4 32-1922. Qualifications of applicant; reciprocity; preliminary
5 equivalency examination; honorary certificate; fee

6 A. An applicant for licensure as a pharmacist shall:

7 1. Be of good moral character.

8 2. Be a graduate of a school or college of pharmacy or department of
9 pharmacy of a university recognized by the board OR THE AMERICAN COUNCIL OF
10 PHARMACEUTICAL EDUCATION, or qualify under subsection D of this section.

11 3. Have successfully completed, as substantiated by proper affidavits,
12 a program of practical experience under the direct supervision of a licensed
13 pharmacist approved by the board.

14 4. Pass the pharmacist licensure examination and jurisprudence
15 examination approved by the board. An applicant who fails an examination
16 three times shall petition the board for permission before retaking the
17 examination. The board shall evaluate the petition and determine whether to
18 require additional educational training before approving each additional
19 retake of the examination.

20 5. Pay an application fee prescribed by the board of not more than
21 five hundred dollars. An applicant for reciprocal licensure shall pay the
22 fee prescribed in section 32-1924, subsection D.

23 B. The board may license as a pharmacist, without a pharmacist
24 licensure examination, a person who is licensed as a pharmacist by a
25 pharmacist licensure examination in some other jurisdiction if that person:

26 1. Produces satisfactory evidence to the board of having had the
27 required secondary and professional education and training.

28 2. Is possessed of good morals as demanded of applicants for licensure
29 and relicensure under this chapter.

30 3. Presents proof to the board's satisfaction of ~~initial~~ licensure by
31 a pharmacist licensure examination ~~substantially~~ equivalent to the pharmacist
32 licensure examination required by the board and that the applicant ~~holds~~ HAS
33 HELD the license in good standing FOR AT LEAST ONE YEAR. IF THE APPLICANT
34 WAS EXAMINED AFTER JUNE 1, 1979, THE APPLICANT MUST PRESENT PROOF TO THE
35 BOARD'S SATISFACTION OF HAVING PASSED THE NATIONAL ASSOCIATION OF BOARDS OF
36 PHARMACY LICENSURE EXAMINATION OR THE NORTH AMERICAN PHARMACIST LICENSURE
37 EXAMINATION.

38 4. Presents proof to the board's satisfaction that any other license
39 granted to the applicant by any other jurisdiction has not been suspended,
40 revoked or otherwise restricted for any reason except nonrenewal or for
41 failure to obtain the required continuing education credits in any
42 jurisdiction where the applicant is currently licensed but not engaged in the
43 practice of pharmacy.

44 5. Passes a board approved jurisprudence examination.

1 C. Subsection B of this section applies only if the jurisdiction in
2 which the person is licensed grants, under like conditions, reciprocal
3 licensure as a pharmacist to a pharmacist licensed by examination in this
4 state AND THE APPLICANT HAS HELD A LICENSE IN GOOD STANDING FOR AT LEAST ONE
5 YEAR ISSUED BY AN ACTIVE MEMBER BOARD OF THE NATIONAL ASSOCIATION OF BOARDS
6 OF PHARMACY.

7 D. If an applicant for licensure is a graduate of a pharmacy degree
8 program at a school or college of pharmacy that was not recognized by the
9 board at the time of the person's graduation, the applicant shall pass a
10 preliminary equivalency examination approved by the board in order to qualify
11 to take the examinations prescribed in subsection A of this section.

12 E. The preliminary equivalency examination required pursuant to
13 subsection D of this section shall cover proficiency in English and academic
14 areas the board deems essential to a satisfactory pharmacy curriculum.

15 F. An applicant who fails the preliminary equivalency examination
16 required pursuant to subsection D of this section shall not retake the
17 preliminary equivalency examination until the applicant files written proof
18 with the board that the applicant has completed additional remedial academic
19 work previously approved by the board to correct deficiencies in the
20 applicant's education that were indicated by the results of the applicant's
21 last preliminary equivalency examination.

22 G. A pharmacist who has been licensed in this state for at least fifty
23 years shall be granted an honorary certificate of licensure by the board
24 without the payment of the usual renewal fee, but that certificate of
25 licensure does not confer an exemption from any other requirement of this
26 chapter.

27 H. The board may require a pharmacist who has not been actively
28 engaged in the practice of pharmacy for over one year to serve not more than
29 four hundred hours in an internship training program approved by the board or
30 its designee before the pharmacist may resume the active practice of
31 pharmacy.

32 I. An applicant must complete the application process within twelve
33 months after submitting the application.

34 Sec. 2. Section 32-1924, Arizona Revised Statutes, is amended to read:
35 32-1924. Licenses; fees; signatures

36 A. An applicant for licensure as a pharmacist who passes the board
37 approved examinations shall pay the board an initial licensure fee of not
38 more than five hundred dollars.

39 B. An applicant for licensure as a pharmacist, intern, pharmacy
40 technician or pharmacy technician trainee shall pay a fee prescribed by the
41 board that does not exceed fifty dollars for issuance of a wall license. On
42 payment of a fee of not more than fifty dollars, the board may issue a
43 replacement wall license to a licensee who requests a replacement because the
44 original was damaged or destroyed, because of a change of name or for other
45 good cause as prescribed by the board.

1 C. An applicant for licensure as an intern shall pay a fee of not more
2 than seventy-five dollars. A license issued pursuant to this subsection
3 expires five years after it is issued. The board shall adopt rules to
4 prescribe the requirements for the renewal of a license that expires before
5 the pharmacy intern completes the education or training required for
6 licensure as a pharmacist.

7 D. An applicant for reciprocal licensure as a pharmacist shall pay a
8 fee of not more than five hundred dollars for the application and expense of
9 making an investigation of the applicant's character, general reputation and
10 pharmaceutical standing in the jurisdiction in which the applicant is
11 licensed.

12 E. AN APPLICANT FOR AN INACTIVE PHARMACIST LICENSEE MUST PAY A FEE OF
13 NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR AN INACTIVE PHARMACIST LICENSE.

14 ~~F.~~ F. All pharmacist licenses shall bear the signatures of the
15 executive director and a majority of the members of the board.

16 ~~F.~~ G. An applicant for licensure as a pharmacy technician trainee
17 shall submit with the application a fee prescribed by the board that does not
18 exceed one hundred dollars. A license issued pursuant to this subsection
19 expires twenty-four months after it is issued. The board shall adopt rules
20 to allow a pharmacy technician trainee who is licensed pursuant to this
21 chapter and who does not complete the training program and pass a board
22 approved pharmacy technician licensure examination within the licensure
23 period to reapply for licensure not more than one time.

24 ~~G.~~ H. An applicant for licensure as a pharmacy technician shall
25 submit with the application a fee prescribed by the board that does not
26 exceed one hundred dollars.

27 Sec. 3. Section 32-1927, Arizona Revised Statutes, is amended to read:

28 32-1927. Pharmacists; pharmacy interns; graduate interns;
29 disciplinary action

30 A. A pharmacist, pharmacy intern or graduate intern is subject to
31 disciplinary action by the board for any of the following:

32 1. The board determines that the licensee has committed an act of
33 unprofessional conduct.

34 2. The licensee is found by psychiatric examination to be mentally
35 unfit to practice the profession of pharmacy.

36 3. The licensee is found to be physically or mentally incapacitated to
37 such a degree as to render the licensee unfit to practice the profession of
38 pharmacy.

39 4. The licensee is found to be professionally incompetent to such a
40 degree as to render the licensee unfit to practice the profession of
41 pharmacy.

42 5. The license was issued through error.

43 B. A pharmacist, pharmacy intern or graduate intern who after a formal
44 hearing is found by the board to be guilty of unprofessional conduct, to be
45 mentally or physically unable safely to engage in the practice of pharmacy or

1 to be professionally incompetent is subject to any one or combination of the
2 following:

3 1. A civil penalty of not to exceed one thousand dollars for each
4 violation of this chapter or a rule adopted under this chapter.

5 2. A letter of reprimand.

6 3. A decree of censure.

7 4. COMPLETION OF BOARD DESIGNATED CONTINUING PHARMACEUTICAL EDUCATION
8 COURSES.

9 ~~4.~~ 5. Probation.

10 ~~5.~~ 6. Suspension or revocation of the license.

11 C. The board may charge the costs of formal hearings to the licensee
12 ~~who~~ WHOM it finds to be in violation of this chapter or a rule adopted under
13 this chapter.

14 D. The board on its own motion may investigate any evidence that
15 appears to show that a pharmacist, pharmacy intern or graduate intern is or
16 may be professionally incompetent, is or may be guilty of unprofessional
17 conduct or is or may be mentally or physically unable safely to engage in the
18 practice of pharmacy. Any person may, and a licensee or permittee of the
19 board must, report to the board any information that appears to show that a
20 pharmacist, pharmacy intern or graduate intern is or may be professionally
21 incompetent, is or may be guilty of unprofessional conduct or is or may be
22 mentally or physically unable safely to engage in the practice of pharmacy.
23 The board or the executive director shall notify the pharmacist, pharmacy
24 intern or graduate intern as to the content of the complaint as soon as
25 reasonable. Any person or entity that reports or provides information to the
26 board in good faith is not subject to an action for civil damages. It is an
27 act of unprofessional conduct for any pharmacist, pharmacy intern or graduate
28 intern to fail to report as required by this ~~section~~ SUBSECTION.

29 E. The pharmacy permittee or pharmacist in charge of a pharmacy
30 located in this state must inform the board if a pharmacist, pharmacy intern
31 or graduate intern employed by the pharmacy is terminated because of actions
32 by the pharmacist, pharmacy intern or graduate intern that appear to show
33 that the pharmacist, pharmacy intern or graduate intern is or may be
34 professionally incompetent, is or may be guilty of unprofessional conduct or
35 is or may be mentally or physically unable safely to engage in the practice
36 of pharmacy, along with a general statement of the reasons that led the
37 pharmacy to take the action. The pharmacy permittee or pharmacist in charge
38 of a pharmacy located in this state must inform the board if a pharmacist,
39 pharmacy intern or graduate intern under investigation resigns or if a
40 pharmacist, pharmacy intern or graduate intern resigns in lieu of
41 disciplinary action by the pharmacy. Notification must include a general
42 statement of the reasons for the resignation. A person who reports
43 information in good faith pursuant to this subsection is not subject to civil
44 liability.

1 F. The board or, if delegated by the board, the executive director
2 shall require any combination of mental, physical, psychological, psychiatric
3 or medical competency examinations or pharmacist licensure examinations and
4 conduct necessary investigations including investigational interviews between
5 representatives of the board and the pharmacist, pharmacy intern or graduate
6 intern to fully inform itself about any information filed with the board
7 under this section. These examinations may also include biological fluid
8 testing. The board may require the pharmacist, pharmacy intern or graduate
9 intern, at that person's expense, to undergo assessment by a board approved
10 substance abuse treatment and rehabilitation program.

11 G. If after completing its investigation the board finds that the
12 information provided pursuant to this section is not of sufficient
13 seriousness to merit disciplinary action against the license of the
14 pharmacist, pharmacy intern or graduate intern, the board may take any of the
15 following actions:

- 16 1. Dismiss if the complaint is without merit.
- 17 2. File an advisory letter. The licensee may file a written response
18 with the board within thirty days after receiving the advisory letter.

19 3. REQUIRE THE LICENSEE TO COMPLETE BOARD DESIGNATED CONTINUING
20 PHARMACEUTICAL EDUCATION COURSES.

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

24 I. If after completing its investigation the board believes that the
25 information is or may be true, it may request a conference with the
26 pharmacist, pharmacy intern or graduate intern. If the pharmacist, pharmacy
27 intern or graduate intern refuses the invitation for A conference and the
28 investigation indicates that grounds may exist for revocation or suspension
29 of a license, probation, issuance of a decree of censure or a letter of
30 reprimand or imposition of a civil penalty, the board shall issue a formal
31 notice that a hearing be held pursuant to title 41, chapter 6, article 10.

32 J. If through information provided pursuant to this section or by
33 other means, the board finds that the protection of the public health,
34 welfare and safety requires emergency action against the license of a
35 pharmacist, pharmacy intern or graduate intern, ~~it may order a summary~~
36 ~~suspension of the license pending a formal hearing for license revocation or~~
37 ~~other action authorized by this section to be held by the board within ten~~
38 ~~days after it issues the order~~ THE BOARD MAY RESTRICT A LICENSE OR ORDER A
39 SUMMARY SUSPENSION OF A LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER
40 ACTION. IF THE BOARD ACTS PURSUANT TO THIS SUBSECTION, THE BOARD SHALL ALSO
41 SERVE THE LICENSEE WITH A WRITTEN NOTICE OF COMPLAINT AND FORMAL HEARING THAT
42 SETS FORTH THE CHARGES AND LICENSEE'S RIGHT TO A FORMAL HEARING BEFORE THE
43 BOARD OR AN ADMINISTRATIVE LAW JUDGE ON THE CHARGES WITHIN SIXTY DAYS
44 PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

1 K. If after completing the conference the board finds the information
2 provided pursuant to this section is not of sufficient seriousness to merit
3 revocation or suspension of a license, probation, issuance of a decree of
4 censure or a letter of reprimand or imposition of a civil penalty, it may
5 take the following actions:

- 6 1. Dismiss if the information is without merit.
- 7 2. File an advisory letter. The licensee may file a written response
8 with the board within thirty days after the licensee receives the advisory
9 letter.

10 3. REQUIRE THE LICENSEE TO COMPLETE BOARD DESIGNATED CONTINUING
11 PHARMACEUTICAL EDUCATION COURSES.

12 L. If during a conference the board finds that the information
13 provided pursuant to this section indicates that grounds may exist for
14 revocation or suspension of a license, probation, issuance of a decree of
15 censure or a letter of reprimand or imposition of a civil penalty, it may
16 take the following actions:

- 17 1. Dismiss if the information is without merit.
- 18 2. File an advisory letter. The licensee may file a written response
19 with the board within thirty days after the licensee receives the advisory
20 letter.

21 3. REQUIRE THE LICENSEE TO COMPLETE BOARD DESIGNATED CONTINUING
22 PHARMACEUTICAL EDUCATION COURSES.

23 ~~3-~~ 4. Enter into an agreement with the licensee to discipline the
24 licensee, restrict the licensee's practice or professional activities or
25 rehabilitate, retrain or assess the licensee in order to protect the public
26 and ensure the licensee's ability to safely engage in the practice of
27 pharmacy. The agreement may include at least the following:

- 28 (a) Issuance of a letter of reprimand.
- 29 (b) Issuance of a decree of censure.
- 30 (c) Practice or professional restrictions, such as not acting as a
31 pharmacist in charge or pharmacy intern preceptor or working with another
32 pharmacist.
- 33 (d) Rehabilitative, retraining or assessment programs, including:
 - 34 (i) Board approved community service.
 - 35 (ii) Successful completion of additional ~~pharmacist continuing~~
36 ~~education hours~~ BOARD DESIGNATED CONTINUING PHARMACEUTICAL EDUCATION COURSES.
 - 37 (iii) Successful passage of board approved pharmacist licensure
38 examinations.
 - 39 (iv) Successful completion of a board approved substance abuse
40 treatment and rehabilitation program at the licensee's own expense.
- 41 (e) A civil penalty not to exceed one thousand dollars for each
42 violation of this chapter or a rule adopted under this chapter.
- 43 (f) A period and terms of probation best adapted to protect the public
44 health and safety and rehabilitate or educate the licensee concerned.
45 Probation may include temporary suspension and any or all of the disciplinary

1 actions, practice or professional restrictions, rehabilitative, retraining or
2 assessment programs listed in this section or any other program agreed to by
3 the board and the licensee.

4 M. If the board finds that the information provided pursuant to this
5 section and additional information provided during the conference warrants
6 revocation or suspension of a license, probation, issuance of a decree of
7 censure or a letter of reprimand or imposition of a civil penalty, it shall
8 initiate formal proceedings pursuant to title 41, chapter 6, article 10.

9 ~~N. If the board finds that the information provided pursuant to this~~
10 ~~section warrants revocation or suspension of a license, probation, issuance~~
11 ~~of a decree of censure or a letter of reprimand or imposition of a civil~~
12 ~~penalty, it shall initiate formal proceedings pursuant to title 41, chapter~~
13 ~~6, article 10.~~

14 ~~O.~~ N. If the licensee wishes to be present at the formal hearing in
15 person or by representation, or both, the licensee must file with the board
16 an answer to the charges in the notice of hearing. The answer must be in
17 writing, BE verified under oath and BE filed within thirty days after service
18 of the notice of hearing. Failure to answer the board's notice of hearing is
19 deemed an admission of the charges in the notice of hearing.

20 ~~P.~~ O. An advisory letter is a nondisciplinary public document.

21 ~~Q.~~ P. If the board during an investigation determines that a criminal
22 violation might have occurred, it shall disclose its investigative evidence
23 and information to the appropriate criminal justice agency for its
24 consideration.

25 ~~R.~~ Q. In determining the appropriate disciplinary action under this
26 section, the board shall consider all previous nondisciplinary and
27 disciplinary actions against a licensee.

28 ~~S.~~ R. The board may deny a license to an applicant for the grounds
29 prescribed in subsection A of this section.

30 ~~T.~~ S. A person licensed pursuant to this chapter or by any other
31 jurisdiction who has a license revoked or suspended shall not obtain a
32 license as a pharmacy intern, graduate intern, pharmacy technician or
33 pharmacy technician trainee or work as a pharmacy intern, graduate intern,
34 pharmacy technician or pharmacy technician trainee without the approval of
35 the board or its designee.

36 Sec. 4. Section 32-1927.01, Arizona Revised Statutes, is amended to
37 read:

38 32-1927.01. Pharmacy technicians; pharmacy technician trainees;
39 disciplinary action

40 A. A pharmacy technician or pharmacy technician trainee is subject to
41 disciplinary action by the board for any of the following:

- 42 1. The board determines that the licensee has committed an act of
43 unprofessional conduct.
- 44 2. The licensee is found by psychiatric examination to be mentally
45 unfit to safely perform the licensee's employment duties.

1 3. The licensee is found to be physically or mentally incapacitated to
2 such a degree as to render the licensee unfit to safely perform the
3 licensee's employment duties.

4 4. The licensee is found to be professionally incompetent to such a
5 degree as to render the licensee unfit to safely perform the licensee's
6 employment duties.

7 5. The license was issued through error.

8 B. A pharmacy technician or pharmacy technician trainee who after a
9 formal hearing is found by the board to be guilty of unprofessional conduct,
10 to be mentally or physically unable safely to engage in the practice of
11 pharmacy or to be professionally incompetent is subject to any one or
12 combination of the following:

13 1. A civil penalty of not to exceed one thousand dollars for each
14 violation of this chapter or a rule adopted under this chapter.

15 2. A letter of reprimand.

16 3. A decree of censure.

17 4. COMPLETION OF BOARD DESIGNATED CONTINUING EDUCATION COURSES.

18 ~~4.~~ 5. Probation.

19 ~~5.~~ 6. Suspension or revocation of the license.

20 C. The board may charge the costs of formal hearings to the licensee
21 ~~who~~ WHOM it finds to be in violation of this chapter or a rule adopted under
22 this chapter.

23 D. The board on its own motion may investigate any evidence that
24 appears to show that a pharmacy technician or pharmacy technician trainee is
25 or may be professionally incompetent, is or may be guilty of unprofessional
26 conduct or is or may be mentally or physically unable safely to engage in the
27 permissible activities of a pharmacy technician or pharmacy technician
28 trainee. Any person may, and a licensee or permittee of the board must,
29 report to the board any information that appears to show that a pharmacy
30 technician or pharmacy technician trainee is or may be professionally
31 incompetent, is or may be guilty of unprofessional conduct or is or may be
32 mentally or physically unable safely to engage in the permissible activities
33 of a pharmacy technician or pharmacy technician trainee. The board or the
34 executive director shall notify the pharmacy technician or pharmacy
35 technician trainee as to the content of the complaint as soon as reasonable.
36 Any person or entity that reports or provides information to the board in
37 good faith is not subject to an action for civil damages. It is an act of
38 unprofessional conduct for any pharmacy technician or pharmacy technician
39 trainee to fail to report as required by this ~~section~~ SUBSECTION.

40 E. The pharmacy permittee or pharmacist in charge of a pharmacy
41 located in this state must inform the board if a pharmacy technician or
42 pharmacy technician trainee employed by the pharmacy is terminated because of
43 actions by that person that appear to show that the person is or may be
44 professionally incompetent, is or may be guilty of unprofessional conduct or
45 is or may be mentally or physically unable safely to engage in the

1 permissible activities of a pharmacy technician or pharmacy technician
 2 trainee, along with a general statement of the reasons that led the pharmacy
 3 to take the action. The pharmacy permittee or pharmacist in charge of a
 4 pharmacy located in this state must inform the board if a pharmacy technician
 5 or pharmacy technician trainee under investigation resigns or if a pharmacy
 6 technician or pharmacy technician trainee resigns in lieu of disciplinary
 7 action by the pharmacy. Notification must include a general statement of the
 8 reasons for the resignation. A person who reports information in good faith
 9 pursuant to this subsection is not subject to civil liability.

10 F. The board or, if delegated by the board, the executive director
 11 shall require any combination of mental, physical, psychological, psychiatric
 12 or medical competency examinations or pharmacy technician licensure
 13 examinations and conduct necessary investigations including investigational
 14 interviews between representatives of the board and the pharmacy technician
 15 or pharmacy technician trainee to fully inform itself about any information
 16 filed with the board pursuant to this section. These examinations may also
 17 include biological fluid testing. The board may require the licensee, at
 18 that person's expense, to undergo assessment by a board approved substance
 19 abuse treatment and rehabilitation program.

20 G. If after completing its investigation the board finds that the
 21 information provided pursuant to this section is not of sufficient
 22 seriousness to merit disciplinary action against the license of the pharmacy
 23 technician or pharmacy technician trainee, the board may take any of the
 24 following actions:

- 25 1. Dismiss if the complaint is without merit.
- 26 2. File an advisory letter. The licensee may file a written response
 27 with the board within thirty days after receiving the advisory letter.

28 3. REQUIRE THE LICENSEE TO COMPLETE BOARD DESIGNATED CONTINUING
 29 PHARMACEUTICAL EDUCATION COURSES.

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

33 I. If after completing its investigation the board believes that the
 34 information is or may be true, it may request a conference with the licensee.
 35 If the licensee refuses the invitation for A conference and the investigation
 36 indicates that grounds may exist for revocation or suspension of a license,
 37 probation, issuance of a decree of censure or a letter of reprimand or
 38 imposition of a civil penalty, the board shall issue a formal notice that a
 39 hearing be held pursuant to title 41, chapter 6, article 10.

40 J. If through information provided pursuant to this section or by
 41 other means, the board finds that the protection of the public health,
 42 welfare and safety requires emergency action against the license of a
 43 pharmacy technician or pharmacy technician trainee, ~~it may order a summary~~
 44 ~~suspension of the license pending a formal hearing for license revocation or~~
 45 ~~other action authorized by this section to be held by the board within ten~~

1 ~~days after it issues the order~~ THE BOARD MAY RESTRICT A LICENSE OR ORDER A
2 SUMMARY SUSPENSION OF A LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER
3 ACTION. IF THE BOARD ACTS PURSUANT TO THIS SUBSECTION, THE BOARD SHALL ALSO
4 SERVE THE LICENSEE WITH A WRITTEN NOTICE OF COMPLAINT AND FORMAL HEARING THAT
5 SETS FORTH THE CHARGES MADE AGAINST THE LICENSEE AND THE LICENSEE'S RIGHT TO
6 A FORMAL HEARING BEFORE THE BOARD OR AN ADMINISTRATIVE LAW JUDGE ON THE
7 CHARGES WITHIN SIXTY DAYS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

8 K. If after completing the conference the board finds the information
9 provided pursuant to this section is not of sufficient seriousness to merit
10 revocation or suspension of a license, probation, issuance of a decree of
11 censure or a letter of reprimand or imposition of a civil penalty, it may
12 take the following actions:

- 13 1. Dismiss if the information is without merit.
- 14 2. File an advisory letter. The licensee may file a written response
15 with the board within thirty days after the licensee receives the advisory
16 letter.
- 17 3. REQUIRE THE LICENSEE TO COMPLETE BOARD DESIGNATED CONTINUING
18 PHARMACEUTICAL EDUCATION COURSES.

19 L. If during a conference the board finds that the information
20 provided pursuant to this section indicates that grounds may exist for
21 revocation or suspension of a license, probation, issuance of a decree of
22 censure or a letter of reprimand or imposition of a civil penalty, it may
23 take the following actions:

- 24 1. Dismiss if the information is without merit.
- 25 2. File an advisory letter. The licensee may file a written response
26 with the board within thirty days after the licensee receives the advisory
27 letter.
- 28 3. REQUIRE THE LICENSEE TO COMPLETE BOARD DESIGNATED CONTINUING
29 PHARMACEUTICAL EDUCATION COURSES.

30 ~~3-~~ 4. Enter into an agreement with the licensee to discipline the
31 licensee, restrict the licensee's practice or professional activities or
32 rehabilitate, retrain or assess the licensee in order to protect the public
33 and ensure the licensee's ability to safely engage in the permissible
34 activities of a pharmacy technician or pharmacy technician trainee. The
35 agreement may include at least the following:

- 36 (a) Issuance of a letter of reprimand.
- 37 (b) Issuance of a decree of censure.
- 38 (c) Practice or professional restrictions, such as doing the following
39 only under pharmacist supervision:
 - 40 (i) Entering prescription or patient data.
 - 41 (ii) Initiating or accepting verbal refill authorization.
 - 42 (iii) Counting, pouring, packaging or labeling prescription
43 medication.
 - 44 (iv) Compounding, reconstituting, prepackaging or repackaging drugs.

1 (d) Rehabilitative, retraining or assessment programs, including:
2 (i) Board approved community service.
3 (ii) Successful completion of additional ~~pharmacy continuing education~~
4 ~~hours~~ BOARD DESIGNATED CONTINUING PHARMACEUTICAL EDUCATION COURSES.
5 (iii) Successful passage of board approved pharmacist technician
6 licensure examinations.
7 (iv) Successful completion of a board approved substance abuse
8 treatment and rehabilitation program at the licensee's own expense.
9 (e) A civil penalty not to exceed one thousand dollars for each
10 violation of this chapter or a rule adopted under this chapter.
11 (f) A period and terms of probation best adapted to protect the public
12 health and safety and rehabilitate or educate the licensee concerned.
13 Probation may include temporary suspension and any or all of the disciplinary
14 actions, practice or professional restrictions, rehabilitative, retraining or
15 assessment programs listed in this section or any other program agreed to by
16 the board and the licensee.
17 M. If the board finds that the information provided pursuant to this
18 section and additional information provided during the conference warrants
19 revocation or suspension of a license, probation, issuance of a decree of
20 censure or a letter of reprimand or imposition of a civil penalty, it shall
21 initiate formal proceedings pursuant to title 41, chapter 6, article 10.
22 ~~N. If the board finds that the information provided pursuant to this~~
23 ~~section warrants revocation or suspension of a license, probation, issuance~~
24 ~~of a decree of censure or a letter of reprimand or imposition of a civil~~
25 ~~penalty, it shall initiate formal proceedings pursuant to title 41, chapter~~
26 ~~6, article 10.~~
27 ~~0.~~ N. If the licensee wishes to be present at the formal hearing in
28 person or by representation, or both, the licensee must file with the board
29 an answer to the charges in the notice of hearing. The answer must be in
30 writing, BE verified under oath and BE filed within thirty days after service
31 of the notice of hearing. Failure to answer the board's notice of hearing is
32 deemed an admission of the charges in the notice of hearing.
33 ~~P.~~ O. An advisory letter is a nondisciplinary public document.
34 ~~Q.~~ P. If the board during an investigation determines that a criminal
35 violation might have occurred, it shall disclose its investigative evidence
36 and information to the appropriate criminal justice agency for its
37 consideration.
38 ~~R.~~ Q. In determining the appropriate disciplinary action under this
39 section, the board shall consider all previous nondisciplinary and
40 disciplinary actions against a licensee.
41 ~~S.~~ R. The board may deny a license to an applicant for the grounds
42 prescribed in subsection A of this section.
43 ~~T.~~ S. A person licensed pursuant to this chapter or by any other
44 jurisdiction who has a license revoked or suspended shall not obtain a
45 license as a pharmacy technician or pharmacy technician trainee or work as a

1 pharmacy technician or pharmacy technician trainee without the approval of
2 the board or its designee.

3 Sec. 5. Section 32-1927.02, Arizona Revised Statutes, is amended to
4 read:

5 32-1927.02. Permittees; disciplinary action

6 A. The board may discipline a permittee if:

7 1. The board determines that the permittee or permittee's employee is
8 guilty of unethical conduct pursuant to section 32-1901.01, subsection A.

9 2. Pursuant to a psychiatric examination, the permittee or the
10 permittee's employee is found to be mentally unfit to safely engage in
11 employment duties.

12 3. The board determines that the permittee or the permittee's employee
13 is physically or mentally incapacitated to such a degree as to render the
14 permittee or permittee's employee unfit to safely engage in employment
15 duties.

16 4. The permit was issued through error.

17 5. A permittee or permittee's employee allows a person who does not
18 possess a current license issued by the board to work as a pharmacist,
19 pharmacy intern, graduate intern, pharmacy technician or pharmacy technician
20 trainee.

21 B. A permittee who after a formal hearing is found by the board to be
22 guilty of unethical conduct, to be mentally or physically unable safely to
23 engage in employment duties or to be in violation of this chapter or a rule
24 adopted under this chapter or whose employee after a formal hearing is found
25 by the board to be guilty of unethical conduct, to be mentally or physically
26 unable safely to engage in employment duties or to be in violation of this
27 chapter or a rule adopted under this chapter is subject to any one or
28 combination of the following:

29 1. A civil penalty not to exceed one thousand dollars for each
30 violation of this chapter or a rule adopted under this chapter.

31 2. A letter of reprimand.

32 3. A decree of censure.

33 4. COMPLETION OF BOARD DESIGNATED PHARMACY LAW CONTINUING EDUCATION
34 COURSES.

35 ~~4-~~ 5. Probation.

36 ~~5-~~ 6. Suspension or revocation of the permit.

37 C. The board may charge the costs of formal hearings to the permittee
38 ~~who~~ WHOM it finds to be in violation of this chapter or a rule adopted under
39 this chapter or whose employee it finds to be in violation of this chapter or
40 a rule adopted under this chapter.

41 D. The board ~~of~~ ON its own motion may investigate any evidence that
42 appears to show that a permittee or permittee's employee is or may be guilty
43 of unethical conduct, is or may be mentally or physically unable safely to
44 engage in employment duties or is or may be in violation of this chapter or a
45 rule adopted under this chapter. Any person may, and any licensee or

1 permittee must, report to the board any information that appears to show that
2 a permittee or permittee's employee is or may be guilty of unethical conduct,
3 is or may be mentally or physically unable safely to engage in employment
4 duties or is or may be in violation of this chapter or a rule adopted under
5 this chapter. The board or the executive director shall notify the permittee
6 as to the content of the complaint as soon as reasonable. Any person or
7 entity that reports or provides information to the board in good faith is not
8 subject to an action for civil damages. It is an act of unethical conduct
9 for any permittee to fail to report as required by this ~~section~~ SUBSECTION.

10 E. The board or, if delegated by the board, the executive director
11 shall require any combination of mental, physical, psychological, psychiatric
12 or medical competency examinations and conduct necessary investigations
13 including investigational interviews between representatives of the board and
14 the permittee or permittee's employee to fully inform itself about any
15 information filed with the board under subsection D of this section. These
16 examinations may also include biological fluid testing. The board may
17 require the permittee or permittee's employee, at that person's expense, to
18 undergo assessment by a board approved substance abuse treatment and
19 rehabilitation program.

20 F. If after completing its investigation the board finds that the
21 information provided pursuant to subsection D of this section is not of
22 sufficient seriousness to merit disciplinary action against the permit, the
23 board may take any of the following actions:

- 24 1. Dismiss if the complaint is without merit.
- 25 2. File an advisory letter. The permittee may file a written response
26 with the board within thirty days after receiving the advisory letter.
- 27 3. REQUIRE THE PERMITTEE TO COMPLETE BOARD DESIGNATED PHARMACY LAW
28 CONTINUING EDUCATION COURSES.

29 G. The board shall not disclose the name of the person who ~~provided~~
30 PROVIDES information regarding a permittee's or permittee's employee's drug
31 or alcohol impairment or the name of the person who files a complaint if that
32 person requests anonymity.

33 H. If after completing its investigation the board believes that the
34 information is or may be true, it may request a conference with the permittee
35 or permittee's employee. If the permittee or permittee's employee refuses
36 the invitation for A conference and the investigation indicates that grounds
37 may exist for revocation or suspension of a ~~license~~ PERMIT, probation,
38 issuance of a decree of censure or a letter of reprimand or imposition of a
39 civil penalty, the board shall issue a formal notice that a hearing be held
40 pursuant to title 41, chapter 6, article 10.

41 I. If through information provided pursuant to subsection D of this
42 section or by other means the board finds that the protection of the public
43 health, welfare and safety requires emergency action against the permit, ~~it~~
44 ~~may order a summary suspension of the permit pending a formal hearing for~~
45 ~~permit revocation or other action authorized by this section to be held by~~

~~the board within ten days after the board issues the order~~ THE BOARD MAY RESTRICT A PERMIT OR ORDER A SUMMARY SUSPENSION OF A PERMIT PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION. IF THE BOARD ACTS PURSUANT TO THIS SUBSECTION, THE BOARD SHALL ALSO SERVE THE PERMITTEE WITH A WRITTEN NOTICE OF COMPLAINT AND FORMAL HEARING THAT SETS FORTH THE CHARGES AND THE PERMITTEE'S RIGHT TO A FORMAL HEARING ON THE CHARGES BEFORE THE BOARD OR AN ADMINISTRATIVE LAW JUDGE WITHIN SIXTY DAYS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

J. If after completing the conference the board finds the information provided pursuant to subsection D of this section is not of sufficient seriousness to merit revocation or suspension of a ~~license~~ PERMIT, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it may take the following actions:

1. Dismiss if the information is without merit.
2. File an advisory letter. The permittee may file a written response with the board within thirty days after receiving the advisory letter.
3. REQUIRE THE PERMITTEE TO COMPLETE BOARD DESIGNATED PHARMACY LAW CONTINUING EDUCATION COURSES.

K. If during a conference the board finds that the information provided pursuant to subsection D of this section indicates that grounds may exist for revocation or suspension of a ~~license~~ PERMIT, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it may take the following actions:

1. Dismiss if the information is without merit.
2. File an advisory letter. The permittee may file a written response with the board within thirty days after the permittee receives the advisory letter.
3. REQUIRE THE PERMITTEE TO COMPLETE BOARD DESIGNATED PHARMACY LAW CONTINUING EDUCATION COURSES.

~~3-~~ 4. Enter into an agreement with the permittee to discipline the permittee, restrict the permittee's business activities or rehabilitate or assess the permittee in order to protect the public and ensure the permittee's ability to safely engage in employment duties. The agreement may include, at a minimum, the following disciplinary actions, business activity restrictions and rehabilitative or assessment programs:

- (a) Issuance of a letter of reprimand.
- (b) Issuance of a decree of censure.
- (c) Business activity restrictions, including limitations on the number, type, classification or schedule of drug, device, poison, hazardous substance, controlled substance or precursor chemical that may be manufactured, sold, distributed or dispensed.
- (d) SUCCESSFUL COMPLETION OF BOARD DESIGNATED PHARMACY LAW CONTINUING EDUCATION COURSES.

~~(d)~~ (e) Rehabilitative or assessment programs, including board approved community service or successful completion of a board approved

1 substance abuse treatment and rehabilitation program at the permittee's own
2 expense.

3 ~~(e)~~ (f) A civil penalty not to exceed one thousand dollars for each
4 violation of this chapter or a rule adopted under this chapter.

5 ~~(f)~~ (g) A period and terms of probation best adapted to protect the
6 public health and safety and rehabilitate or assess the permittee concerned.
7 Probation may include temporary suspension and any or all of the disciplinary
8 actions, business practice restrictions, rehabilitative or assessment
9 programs listed in this section or any other program agreed to by the board
10 and the permittee.

11 L. If the board finds that the information provided pursuant to
12 subsection D of this section and additional information provided during the
13 conference indicates that grounds may exist for revocation or suspension of a
14 ~~license~~ PERMIT, probation, issuance of a decree of censure or a letter of
15 reprimand or imposition of a civil penalty, it shall initiate formal
16 proceedings pursuant to title 41, chapter 6, article 10.

17 ~~M. If the board finds that the information provided pursuant to~~
18 ~~subsection D of this section warrants revocation or suspension of a license,~~
19 ~~probation, issuance of a decree of censure or a letter of reprimand or~~
20 ~~imposition of a civil penalty, it shall initiate formal proceedings pursuant~~
21 ~~to title 41, chapter 6, article 10.~~

22 ~~N.~~ M. If the permittee wishes to be present at the formal hearing in
23 person or by representation, or both, the permittee must file with the board
24 an answer to the charges in the notice of hearing. The answer must be in
25 writing, BE verified under oath and BE filed within thirty days after service
26 of the notice of hearing. Failure to answer the board's notice of hearing is
27 deemed an admission of the charges in the notice of hearing.

28 ~~O.~~ N. If the board, during any investigation, determines that a
29 criminal violation might have occurred, it shall disclose its investigative
30 evidence and information to the appropriate criminal justice agency for its
31 consideration.

32 ~~P.~~ O. In determining the appropriate disciplinary action under this
33 section, the board shall consider all previous nondisciplinary and
34 disciplinary actions against a permittee.

35 ~~Q.~~ P. The board may deny a permit to an applicant for the grounds
36 prescribed in subsection A of this section.

37 Sec. 6. Section 32-1930, Arizona Revised Statutes, is amended to read:
38 32-1930. Types of permits; restrictions on permits;
39 discontinuance of pharmacy permit

40 A. On application, the board may issue the following classes or kinds
41 of permits:

42 1. A nonprescription drug permit to sell, retail, stock, expose or
43 offer for sale at retail nonprescription drugs in the original package. A
44 permittee is not required to conduct business in any fixed place.

1 2. If approved by the board, a pharmacy, limited service pharmacy,
2 full service wholesale drug, nonprescription drug wholesale and drug
3 manufacturer's permit.

4 3. Drug packager or drug prepacker permit to an individual or
5 establishment that is currently listed by the United States federal food and
6 drug administration and has met the requirements of that agency to purchase,
7 repackage, relabel or otherwise alter the manufacturer's original package of
8 an approved drug product with the intent of reselling these items to persons
9 or businesses authorized to possess or resell the repackaged, prepackaged or
10 relabeled drug.

11 4. A compressed medical gas distributor permit and a DURABLE MEDICAL
12 EQUIPMENT AND compressed medical gas supplier permit.

13 B. The board shall deny or revoke a pharmacy permit if a medical
14 practitioner receives compensation, either directly or indirectly, from a
15 pharmacy as a result of the practitioner's prescription orders. This does
16 not include compensation to a medical practitioner who is the owner of a
17 building where space is leased to a pharmacy at the prevailing rate, not
18 resulting in a rebate to the medical practitioner.

19 C. If a pharmacy permanently discontinues operation the permittee
20 shall immediately surrender the permit to the executive director. The
21 permittee shall remove all drug signs and symbols, either within or without
22 the premises, and shall remove or destroy all drugs, devices, poisons and
23 hazardous substances.

24 Sec. 7. Section 32-1931, Arizona Revised Statutes, is amended to read:
25 32-1931. Permit fees; issuance; expiration; renewals

26 A. The board shall assign the permit of all persons or firms issued
27 under this chapter to one of two permit renewal groups. Except as provided
28 in section 32-4301, a holder of a permit ending in an even number shall renew
29 it biennially on or before November 1 of the even numbered year, two years
30 from the last renewal date. Except as provided in section 32-4301, a holder
31 of a permit ending in an odd number shall renew it biennially on or before
32 November 1 of the odd numbered year, two years from the last renewal date.
33 Failure to renew and pay all required fees on or before November 1 of the
34 year in which the renewal is due suspends the permit. The board shall vacate
35 a suspension when the permittee pays penalties of not to exceed three hundred
36 fifty dollars and all past due fees. The board may waive collection of a fee
37 or penalty due after suspension under conditions established by a majority of
38 the board.

39 B. The board shall prorate the fee for new permits for the remaining
40 full calendar months of the respective group to which the permit is assigned.

41 C. Permit fees that are designated to be not more than a maximum
42 amount shall be set by the board for the following two fiscal years beginning
43 November 1. The board shall establish the fees approximately proportionate
44 to the maximum fee allowed to cover the board's anticipated expenditures for

1 the following two fiscal years. Variation in a fee is not effective except
2 at the expiration date of the permit.

3 D. Applications for permits shall be accompanied by the following
4 biennial fees as determined by subsection C of this section:

5 1. A nonprescription drug permit, not more than two hundred
6 dollars. Permittees stocking thirty different nonprescription drug products
7 or less shall be classified as category I retailers. Permittees stocking
8 more than thirty different nonprescription drug products shall be classified
9 as category II retailers. Both categories are subject to biennial permit
10 fees established by the board pursuant to this chapter.

11 2. A drug manufacturer's permit, not more than one thousand dollars.

12 3. A pharmacy permit, not more than five hundred dollars.

13 4. A limited service pharmacy permit, not more than five hundred
14 dollars.

15 5. A full service wholesale drug permit, not more than one thousand
16 dollars.

17 6. A nonprescription drug wholesale permit, not more than five hundred
18 dollars.

19 7. A drug repackager's permit, not more than one thousand dollars.

20 8. A compressed medical gas distributor permit, not more than two
21 hundred dollars.

22 9. A **DURABLE MEDICAL EQUIPMENT AND** compressed medical gas supplier
23 permit, not more than one hundred dollars.

24 E. If an applicant is found to be satisfactory to the board, the
25 executive director shall issue to the applicant a permit for each pharmacy,
26 manufacturer, wholesaler or other place of business in which drugs are sold,
27 manufactured, compounded, dispensed, stocked, exposed or offered for sale,
28 for which application is made.

29 F. Permits issued under this section are not transferable.

30 G. If a permittee does not apply for renewal, the permit expires
31 pursuant to subsection A of this section. A person may activate and renew an
32 expired permit by filing the required application and fee. Renewal thirty
33 days after the expiration date of a permit may be made only on payment of the
34 required biennial renewal fee, all past due fees and a penalty of one-half of
35 the amount of the applicable biennial renewal fee. The board may waive the
36 collection of a fee or penalty due after suspension pursuant to conditions
37 prescribed by the board.

38 Sec. 8. Requirements for enactment; two-thirds vote

39 Pursuant to article IX, section 22, Constitution of Arizona, this act
40 is effective only on the affirmative vote of at least two-thirds of the
41 members of each house of the legislature and is effective immediately on the
42 signature of the governor or, if the governor vetoes this act, on the
43 subsequent affirmative vote of at least three-fourths of the members of each
44 house of the legislature.