

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

**CHAPTER 109**  
**SENATE BILL 1105**

AN ACT

AMENDING SECTIONS 32-3401, 32-3402, 32-3404, 32-3423, 32-3441 AND 32-3442, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 34, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3446; RELATING TO THE BOARD OF OCCUPATIONAL THERAPY EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-3401, Arizona Revised Statutes, is amended to  
3 read:

4 32-3401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Board" means the board of occupational therapy examiners.

7 2. "Consultation" means the act or procedure of exchanging ideas or  
8 information or providing professional advice to another professional or  
9 responsible party regarding the provision of occupational therapy services.

10 3. "Evaluation" means an occupational therapist's assessment of  
11 treatment needs within the scope of practice of occupational  
12 therapy. Evaluation does not include making a medical diagnosis.

13 4. "Letter of concern" means a nondisciplinary advisory letter to  
14 notify a licensee that, while there is insufficient evidence to support  
15 disciplinary action, the licensee should modify or eliminate certain  
16 practices and that continuation of the activities that led to the information  
17 being submitted to the board may result in future action against the  
18 licensee's license.

19 5. "Occupational therapist" means a person WHO IS licensed pursuant to  
20 this chapter to practice occupational therapy AND who is a graduate of an  
21 accredited occupational therapy education program, completes the approved  
22 fieldwork and passes the examination ~~prescribed~~ AS REQUIRED by the board  
23 pursuant to section 32-3424.

24 6. "Occupational therapy" means the use of therapeutic activities or  
25 modalities to promote engagement in activities with individuals who are  
26 limited by physical or cognitive injury or illness, psychosocial dysfunction,  
27 developmental or learning disabilities, sensory processing or modulation  
28 deficits or the aging process in order to achieve optimum functional  
29 performance, maximize independence, prevent disability and maintain health.  
30 Occupational therapy includes evaluation, treatment and consultation based on  
31 the client's temporal, spiritual and cultural values and needs.

32 7. "Occupational therapy assistant" means a person who is licensed  
33 pursuant to this chapter, who is a graduate of an accredited occupational  
34 therapy assistant education program, who assists in the practice of  
35 occupational therapy and who performs delegated procedures commensurate with  
36 the person's education and training.

37 8. "Occupational therapy services" includes the following:

38 (a) Developing an intervention and training plan that is based on the  
39 occupational therapist's evaluation of the client's occupational history and  
40 experiences, including the client's daily living activities, development,  
41 activity demands, values and needs.

42 (b) Evaluating and facilitating developmental, perceptual-motor,  
43 ~~interaction,~~ communication, neuromuscular and sensory processing function,  
44 PSYCHOSOCIAL SKILLS and systemic functioning, ~~such as~~ INCLUDING wound, and  
45 lymphatic and cardiac functioning.

1 (c) Enhancing functional achievement, prevocational skills and work  
2 capabilities through the use of therapeutic activities and modalities that  
3 are based on anatomy, physiology and kinesiology, growth and development,  
4 disabilities, technology and analysis of human BEHAVIORAL AND OCCUPATIONAL  
5 performance.

6 (d) Evaluating, designing, fabricating and training the individual in  
7 the use of selective orthotics, prosthetics, adaptive devices, assistive  
8 technology and durable medical equipment as appropriate.

9 (e) Administering and interpreting standardized and nonstandardized  
10 tests that are performed within the practice of occupational therapy,  
11 including manual muscle, sensory processing, range of motion, cognition, and  
12 developmental AND PSYCHOSOCIAL tests.

13 (f) Assessing and adapting environments for individuals with  
14 disabilities or who are at risk for dysfunction.

15 9. "Supervision" means ~~that the supervising occupational therapist or~~  
16 ~~occupational therapy assistant is present or available pursuant to rules~~  
17 ~~adopted by the board for the licensee who is performing occupational therapy~~  
18 ~~services or when an unlicensed person is performing tasks at the direction of~~  
19 ~~a licensed occupational therapist or licensed occupational therapy assistant~~  
20 THE GIVING OF INSTRUCTIONS BY THE SUPERVISING OCCUPATIONAL THERAPIST OR THE  
21 OCCUPATIONAL THERAPY ASSISTANT THAT ARE ADEQUATE TO ENSURE THE SAFETY OF  
22 CLIENTS DURING THE PROVISION OF OCCUPATIONAL THERAPY SERVICES AND THAT TAKE  
23 INTO CONSIDERATION AT LEAST THE FOLLOWING FACTORS:

- 24 (a) SKILL LEVEL.
- 25 (b) COMPETENCY.
- 26 (c) EXPERIENCE.
- 27 (d) WORK SETTING DEMANDS.
- 28 (e) CLIENT POPULATION.

29 10. "Unprofessional conduct" includes the following:

- 30 (a) Habitual intemperance in the use of alcohol.
- 31 (b) Habitual use of narcotic or hypnotic drugs.
- 32 (c) Gross incompetence, repeated incompetence or incompetence  
33 resulting in injury to a client.
- 34 (d) Having professional connection with or lending the name of the  
35 licensee to an unlicensed occupational therapist.
- 36 (e) Practicing or offering to practice occupational therapy beyond the  
37 scope of the practice of occupational therapy.
- 38 (f) Obtaining or attempting to obtain a license by fraud or  
39 misrepresentation or assisting a person to obtain or to attempt to obtain a  
40 license by fraud or misrepresentation.
- 41 (g) Failing to provide supervision according to this chapter and rules  
42 adopted pursuant to this chapter.
- 43 (h) Making misleading, deceptive, untrue or fraudulent representations  
44 in violation of this chapter.
- 45 (i) Having been adjudged mentally incompetent by a court of competent  
46 jurisdiction.

1 (j) **KNOWINGLY** aiding a person who is not licensed in this state and  
2 who directly or indirectly performs activities requiring a license.

3 (k) Failing to report to the board any act or omission of a licensee  
4 or applicant or of any other person who violates this chapter.

5 (l) Engaging in the performance of substandard care by a licensee due  
6 to a deliberate or negligent act or failure to act, regardless of whether  
7 actual injury to the person receiving occupational therapy services is  
8 established.

9 (m) Failing to refer a client whose condition is beyond the training  
10 or ability of the occupational therapist to another professional qualified to  
11 provide such service.

12 (n) Censure of a licensee or refusal, revocation, suspension or  
13 restriction of a license to practice occupational therapy by any other state,  
14 territory, district or country, unless the applicant or licensee can  
15 demonstrate that the disciplinary action ~~that~~ is not related to the ability  
16 to safely and skillfully practice occupational therapy or to any act of  
17 unprofessional conduct prescribed in this ~~subsection~~ **PARAGRAPH**.

18 (o) Any conduct or practice that violates recognized standards of  
19 ethics of the occupational therapy profession, any conduct or practice that  
20 does or might constitute a danger to the health, welfare or safety of the  
21 client or the public or any conduct, practice or condition that does or might  
22 impair the licensee's ability to safely and skillfully practice occupational  
23 therapy.

24 (p) Violating or attempting to violate, directly or indirectly, or  
25 assisting in or abetting the violation of or conspiring to violate ~~any of the~~  
26 ~~provisions of~~ this chapter.

27 (q) Falsely claiming to have performed a professional service, billing  
28 for a service not rendered or charging or collecting an excessive fee for  
29 services not performed.

30 (r) Sexually inappropriate conduct with a client. For the purposes of  
31 this ~~section~~ **SUBDIVISION**, "sexually inappropriate conduct" includes:

32 (i) Engaging in or soliciting a sexual relationship, whether  
33 consensual or nonconsensual, ~~while a provider relationship exists~~ **WITH A**  
34 **CURRENT CLIENT OR WITH A FORMER CLIENT WITHIN THREE MONTHS AFTER TERMINATION**  
35 **OF OCCUPATIONAL THERAPY SERVICES**.

36 (ii) Making sexual advances, requesting sexual favors or engaging in  
37 other verbal conduct or inappropriate physical contact of a sexual nature  
38 with a person treated by an occupational therapist or occupational therapy  
39 assistant.

40 (iii) Intentionally viewing a completely or partially disrobed client  
41 in the course of treatment if the viewing is not related to treatment under  
42 current practice standards.

43 (s) Knowingly making a false or misleading statement to the board on a  
44 license application or renewal form required by the board or any other verbal  
45 or written communications directed to the board or its staff.

1 ~~(t) Committing a felony, whether or not involving moral turpitude, or~~  
2 ~~a misdemeanor involving moral turpitude. Conviction by a court of competent~~  
3 ~~jurisdiction or a plea of no contest is conclusive evidence that the felony~~  
4 ~~or misdemeanor was committed.~~

5 (t) CONVICTION OF A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE,  
6 OR A MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE CONVICTION BY A  
7 COURT OF COMPETENT JURISDICTION IS CONCLUSIVE EVIDENCE OF THE COMMISSION AND  
8 THE BOARD MAY TAKE DISCIPLINARY ACTION AFTER THE TIME FOR APPEAL HAS LAPSED,  
9 WHEN JUDGMENT OF CONVICTION HAS BEEN AFFIRMED ON APPEAL OR WHEN AN ORDER  
10 GRANTING PROBATION IS MADE SUSPENDING THE IMPOSITION OF SENTENCE,  
11 IRRESPECTIVE OF A SUBSEQUENT ORDER. FOR THE PURPOSES OF THIS SUBDIVISION,  
12 "CONVICTION" MEANS A PLEA OR VERDICT OF GUILTY OR A CONVICTION FOLLOWING A  
13 PLEA OF NOLO CONTENDERE.

14 (u) Violating any federal law, state law, rule or regulation directly  
15 related to the practice of occupational therapy.

16 (v) Engaging in false advertising of occupational therapy services.

17 (w) Engaging in the assault or battery of a client.

18 (x) Falsifying client documents or reports.

19 (y) Failing to document or maintain client treatment records or  
20 failing to prepare client reports within thirty days of service or treatment.

21 (z) Failing to renew a license while continuing to practice  
22 occupational therapy.

23 (aa) Signing a blank, undated or unprepared prescription form.

24 (bb) ENTERING INTO A FINANCIAL RELATIONSHIP OTHER THAN A NORMAL  
25 BILLING PROCESS THAT LEADS TO EMBEZZLEMENT OR VIOLATES RECOGNIZED ETHICAL  
26 STANDARDS.

27 (cc) FAILING TO MAINTAIN CLIENT CONFIDENTIALITY WITHOUT WRITTEN  
28 CONSENT OF THE CLIENT OR UNLESS OTHERWISE REQUIRED BY LAW.

29 (dd) PROMOTING OR PROVIDING TREATMENT, INTERVENTION OR A DEVICE OR  
30 SERVICE THAT IS UNWARRANTED FOR THE CONDITION OF THE CLIENT BEYOND THE POINT  
31 OF REASONABLE BENEFIT.

32 Sec. 2. Section 32-3402, Arizona Revised Statutes, is amended to read:

33 32-3402. Board of occupational therapy examiners; members;  
34 qualifications; terms; compensation; civil immunity

35 A. The board of occupational therapy examiners is established and  
36 consists of five members appointed by the governor. Each board member shall  
37 be a resident of the state at the time of appointment. The governor shall  
38 appoint two persons who are not engaged, directly or indirectly, in the  
39 provision of health care services to serve as public members. The other  
40 three members shall have at least three years of experience in occupational  
41 therapy or teaching in an accredited occupational therapy education program  
42 in this state immediately ~~prior to~~ BEFORE appointment and SHALL be licensed  
43 under this chapter. The governor may select board members from a list of  
44 licensees submitted by the Arizona occupational therapy association, inc. or  
45 any other appropriate organization.

1 B. The term of office of board members is three years to begin and end  
2 on the third Monday in January. A member shall not serve more than two  
3 consecutive terms.

4 C. The board, AT ITS FIRST REGULAR MEETING AFTER THE START OF EACH  
5 CALENDAR YEAR AND AS NECESSARY, shall ~~meet in January of each year to elect a~~  
6 ~~chairman and other officers~~ ELECT A CHAIRPERSON AND OTHER OFFICERS FROM AMONG  
7 ITS MEMBERS. ~~At least one additional meeting shall be held before the end of~~  
8 ~~each calendar year.~~ THE BOARD SHALL MEET AT LEAST ONCE EACH QUARTER IN  
9 COMPLIANCE WITH THE OPEN MEETING REQUIREMENTS OF TITLE 38, CHAPTER 3, ARTICLE  
10 3.1 AND SHALL KEEP AN OFFICIAL RECORD OF THESE MEETINGS. Other meetings may  
11 be convened at the call of the ~~chairman~~ CHAIRPERSON or the written request of  
12 any two board members. A majority of the members of the board shall  
13 constitute a quorum. ~~All meetings of the board are open to the public,~~  
14 ~~except that the board may hold closed sessions to approve examinations or, at~~  
15 ~~the request of an applicant who fails an examination, to prepare a response~~  
16 ~~indicating any reason for the applicant's failure.~~

17 D. Each member of the board is eligible to receive compensation in the  
18 amount of one hundred dollars for each regular or special board meeting the  
19 member attends and is eligible for reimbursement for all expenses necessarily  
20 and properly incurred in attending board meetings.

21 E. A BOARD MEMBER IS IMMUNE FROM CIVIL LIABILITY FOR ANY ACTIONS THAT  
22 ARE WITHIN THE SCOPE OF THE BOARD MEMBER'S DUTIES IF THEY ARE TAKEN WITHOUT  
23 MALICE AND IN THE REASONABLE BELIEF THAT THEY ARE WARRANTED BY LAW.

24 Sec. 3. Section 32-3404, Arizona Revised Statutes, is amended to read:  
25 32-3404. Powers and duties; commissioners; committees

26 A. The board shall:

- 27 1. Administer, coordinate and enforce this chapter.  
28 2. Evaluate the qualifications of applicants.  
29 3. Prescribe examination requirements for licensure.  
30 4. Adopt rules necessary to carry out this chapter.  
31 5. Conduct informal meetings, formal interviews and hearings and keep  
32 records and minutes necessary to carry out its functions.  
33 6. Prescribe educational programs required for licensure pursuant to  
34 this chapter.

35 B. The board may:

- 36 1. Appoint commissioners to assist in the performance of its duties.  
37 2. Report any violations of this chapter or rules adopted pursuant to  
38 this chapter to a county attorney, the attorney general, a federal agency or  
39 a state or national organization.

40 3. ESTABLISH COMMITTEES TO ASSIST IN CARRYING OUT ITS DUTIES FOR A  
41 TIME PRESCRIBED BY THE BOARD. THE BOARD MAY REQUIRE A COMMITTEE APPOINTED  
42 PURSUANT TO THIS PARAGRAPH TO MAKE REGULAR REPORTS TO THE BOARD.

43 C. Commissioners appointed pursuant to subsection B, paragraph 1 OF  
44 THIS SECTION shall receive no compensation for their services but shall be  
45 reimbursed for actual and necessary expenses that they incur in the  
46 performance of their duties.

1           Sec. 4. Section 32-3423, Arizona Revised Statutes, is amended to read:  
2           32-3423. Application for licensure; qualifications

3           A. An applicant for licensure as an occupational therapist or as an  
4 occupational therapy assistant shall:

5           1. Be of good moral character. ~~In determining whether a person is of~~  
6 ~~good moral character, the board may consider whether the person has been~~  
7 ~~convicted of a felony or misdemeanor involving moral turpitude.~~

8           2. Successfully complete the academic AND FIELDWORK requirements of an  
9 educational program ~~in occupational therapy approved by the board pursuant to~~  
10 ~~section 32-3404~~ SUBJECT TO BOARD REVIEW AND STANDARDS PRESCRIBED BY THE  
11 BOARD. The board shall require:

12           ~~3. Successfully complete a period of supervised fieldwork experience~~  
13 ~~acceptable to the board.~~

14           (a) For an occupational therapist, a minimum of nine hundred  
15 twenty-eight hours of supervised fieldwork experience as determined by the  
16 supervising institution, organization or sponsor.

17           (b) For an occupational therapy assistant, a minimum of six hundred  
18 eight hours of supervised fieldwork experience as determined by the  
19 supervising institution, organization or sponsor.

20           ~~4.~~ 3. Pass an examination administered pursuant to section 32-3424.

21           ~~5. Pay the application fee prescribed in section 32-3427.~~

22           4. COMPLETE THE APPLICATION PROCESS AND PAY ALL FEES REQUIRED PURSUANT  
23 TO THIS CHAPTER.

24           B. THE BOARD MAY DENY A LICENSE TO AN APPLICANT WHO:

25           1. COMMITS A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR A  
26 MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE CONVICTION BY A COURT  
27 OF COMPETENT JURISDICTION IS CONCLUSIVE EVIDENCE OF THE COMMISSION.

28           2. ENGAGES IN ANY CONDUCT THAT VIOLATES SECTION 32-3401.

29           ~~B.~~ C. An applicant who is denied a license may request a hearing  
30 pursuant to title 41, chapter 6, article 10.

31           Sec. 5. Section 32-3441, Arizona Revised Statutes, is amended to read:  
32           32-3441. Proper use of title or designation of occupational

33           therapists; license display; supervision;  
34           responsibilities

35           A. A person who is licensed pursuant to this chapter to practice as an  
36 occupational therapist and who is in good standing may use the title of  
37 licensed occupational therapist and the abbreviation "O.T.", "O.T./L.",  
38 "O.T.R." or "O.T.R./L.". A person who is licensed pursuant to this chapter  
39 to practice as a licensed occupational therapy assistant and who is in good  
40 standing may use the title of licensed occupational therapy assistant and the  
41 abbreviation "O.T.A.", "O.T.A./L.", "C.O.T.A." or "C.O.T.A./L.".

42           B. Each occupational therapist and occupational therapy assistant  
43 shall display the person's current license in each facility in which the  
44 person practices occupational therapy. ~~If an occupational therapist or~~  
45 ~~occupational therapy assistant fails to display the current license the board~~  
46 ~~shall take disciplinary action against the licensee. Disciplinary action may~~

1 ~~include censure, a civil penalty, probation, suspension or any combination of~~  
2 ~~these actions.~~ IF A FACILITY IS NOT AVAILABLE FOR THE DISPLAY OF THE  
3 LICENSE, THE OCCUPATIONAL THERAPIST OR THE OCCUPATIONAL THERAPY ASSISTANT  
4 MUST CARRY A BOARD-ISSUED WALLET-SIZED LICENSE CARD DURING WORKING HOURS.

5 C. The board may adopt rules reasonably related to sound client care  
6 governing an occupational therapist's supervision of licensed occupational  
7 therapy assistants or unlicensed ~~employees~~ PERSONNEL or ~~volunteers~~ STUDENTS  
8 working with the occupational therapist.

9 D. An occupational therapist and an occupational therapy assistant are  
10 professionally and legally responsible for supervising client care given by  
11 ~~nonlicensed employees or volunteers~~ UNLICENSED PERSONNEL OR STUDENTS. If an  
12 occupational therapist or occupational therapy assistant fails to adequately  
13 supervise client care given by ~~employees or volunteers~~ UNLICENSED PERSONNEL  
14 OR STUDENTS, the board may take disciplinary action against the occupational  
15 therapist or occupational therapy assistant.

16 E. IN ALL SETTINGS IN WHICH OCCUPATIONAL THERAPY SERVICES ARE  
17 PROVIDED, AN OCCUPATIONAL THERAPIST, DURING EVALUATION, INTERVENTION AND  
18 OUTCOME AND DISCHARGE PLANNING:

19 1. MUST SIGN ALL CLINICAL DOCUMENTATION PERFORMED BY STUDENTS.

20 2. MUST BE THE PRIMARY CLINICAL SUPERVISOR FOR LEVEL II OCCUPATIONAL  
21 THERAPIST AND OCCUPATIONAL THERAPY ASSISTANT STUDENTS, INCLUDING LEVEL II  
22 DOCTORAL STUDENTS. THE OCCUPATIONAL THERAPIST'S SUPERVISION OF THE STUDENT  
23 MUST INITIALLY BE DIRECT AND SUBSEQUENTLY MAY BE DECREASED TO LESS DIRECT  
24 SUPERVISION AS APPROPRIATE TO THE SETTING, THE CLIENT'S NEEDS AND THE  
25 STUDENT'S ABILITY.

26 F. IN ALL SETTINGS IN WHICH OCCUPATIONAL THERAPY SERVICES ARE  
27 PROVIDED, AN OCCUPATIONAL THERAPY ASSISTANT, DURING EVALUATION, INTERVENTION  
28 AND OUTCOME AND DISCHARGE PLANNING:

29 1. MUST SIGN ALL CLINICAL DOCUMENTATION PERFORMED BY STUDENTS.

30 2. MUST BE UNDER THE DIRECTION OF AN OCCUPATIONAL THERAPIST.

31 3. MAY BE THE PRIMARY CLINICAL EDUCATOR FOR LEVEL I OCCUPATIONAL  
32 THERAPIST AND OCCUPATIONAL THERAPY ASSISTANT STUDENTS AND LEVEL II  
33 OCCUPATIONAL THERAPY ASSISTANT STUDENTS. THE OCCUPATIONAL THERAPY  
34 ASSISTANT'S SUPERVISION OF THE STUDENT MUST INITIALLY BE DIRECT AND  
35 SUBSEQUENTLY MAY BE DECREASED TO LESS DIRECT SUPERVISION AS APPROPRIATE TO  
36 THE SETTING, THE CLIENT'S NEEDS AND THE STUDENT'S ABILITY.

37 Sec. 6. Section 32-3442, Arizona Revised Statutes, is amended to read:

38 32-3442. Disciplinary action; informal meetings; formal  
39 interviews; hearings; penalties; reinstatement of  
40 license

41 A. The board may:

42 1. Receive written complaints filed against licensees and conduct  
43 investigations.

44 2. Conduct an investigation at any time on its own initiative without  
45 receipt of a written complaint if the board has reason to believe:

1 (a) That there may be a violation of this chapter, A RULE ADOPTED  
2 PURSUANT TO THIS CHAPTER OR A WRITTEN BOARD ORDER.

3 (b) That a licensee is or may be guilty of unprofessional conduct OR  
4 IS OR MAY BE ACTING OUTSIDE THE SCOPE OF PRACTICE. ~~OR~~

5 (c) That a licensee is or may be incompetent.

6 B. Any occupational therapist, occupational therapy assistant or  
7 health care institution as defined in section 36-401 shall report to the  
8 board any information the occupational therapist, occupational therapy  
9 assistant, health care institution or individual may have that appears to  
10 show that an occupational therapist or an occupational therapy assistant is  
11 or may be guilty of unprofessional conduct or is or may be incompetent.

12 C. A person who provides information to the board in good faith  
13 pursuant to subsection A or B of this section is not subject to an action in  
14 civil damages as a result of providing the information.

15 D. Within sixty days of receipt of a written complaint pursuant to  
16 subsection A of this section or information pursuant to subsection B of this  
17 section, the board shall notify the licensee about whom information has been  
18 received as to the content of the complaint or information.

19 E. The board may request an informal meeting or a formal interview  
20 with the licensee or any other person to further its investigation or to  
21 resolve a complaint.

22 F. If a licensee refuses the board's request for an informal meeting  
23 or a formal interview, or in place of holding an informal meeting or a formal  
24 interview, the board shall hold a hearing pursuant to title 41, chapter 6,  
25 article 10.

26 G. If the results of an informal meeting or a formal interview  
27 indicate that suspension or revocation of the licensee's license or a civil  
28 penalty might be appropriate, the board shall notify the licensee of the time  
29 and place for a hearing pursuant to title 41, chapter 6, article 10.

30 H. If, ~~at the informal meeting or formal interview,~~ the board finds  
31 a violation of this chapter, but the violation is not of sufficient  
32 seriousness to merit a civil penalty or suspension or revocation of a  
33 license, it may take one or more of the following actions:

34 1. Issue a decree of censure.

35 2. Establish length and terms of probation best adapted to protect the  
36 public health and safety and rehabilitate or educate the licensee. Probation  
37 may include:

38 (a) Submission of the licensee to examinations to determine the mental  
39 or physical condition or professional competence of the licensee at the  
40 licensee's expense.

41 (b) Occupational therapy training or education that the board believes  
42 to be necessary to correct deficiencies.

43 (c) Review or supervision of the licensee's practice that the board  
44 finds necessary to identify and correct deficiencies in the practice,  
45 including a requirement that the licensee regularly report to the board on  
46 matters related to the licensee's probationary requirements.

1 (d) Restrictions on the nature and scope of practice to ensure that  
2 the licensee does not practice beyond the limits of the licensee's  
3 capabilities.

4 3. Issue a letter of concern.

5 4. Issue a nondisciplinary order requiring the licensee to complete a  
6 prescribed number of hours of continuing education in an area or areas  
7 prescribed by the board to provide the licensee with the necessary  
8 understanding of practice standards for licensees including current  
9 developments, skills, procedures or treatment interventions.

10 5. Dismiss the complaint.

11 I. In addition to the terms of probation described in subsection H,  
12 paragraph 2 of this section, probation may also include temporary suspension  
13 or restriction of the licensee's license to practice. A licensee's failure  
14 to comply with probation or any other board order is cause for a hearing  
15 pursuant to title 41, chapter 6, article 10.

16 J. At the licensee's expense the board may require any combination of  
17 a physical, mental or occupational therapy competence examination as part of  
18 a board investigation, including, if necessary, the taking of depositions as  
19 may be required to fully inform itself with respect to the allegations  
20 presented by the complaint. These examinations may include biological fluid  
21 testing.

22 K. Any licensee who, after a hearing, is found guilty of  
23 unprofessional conduct or incompetence is subject to the following:

24 1. A decree of censure.

25 2. Probation as provided in this section.

26 3. Suspension or revocation of the license.

27 4. Imposition of a civil penalty of not less than two hundred fifty  
28 dollars nor more than ten thousand dollars for each violation of this  
29 chapter.

30 5. Any combination of these sanctions for a period of time or  
31 permanently and under conditions as the board deems appropriate for the  
32 protection of the public health and safety.

33 L. A licensee shall return to the board a revoked or suspended license  
34 within fifteen days after it is revoked or suspended.

35 M. THE BOARD MAY REINSTATE A PERSON'S LICENSE THAT HAS BEEN SUSPENDED  
36 FOR LESS THAN TWO YEARS PURSUANT TO THIS SECTION IF THE PERSON PAYS A RENEWAL  
37 FEE AND A REINSTATEMENT FEE AS PRESCRIBED BY THE BOARD BY RULE AND COMPLETES  
38 THE REAPPLICATION PROCESS AS PRESCRIBED BY THE BOARD.

39 N. THE BOARD MAY REINSTATE A PERSON'S LICENSE THAT HAS BEEN SUSPENDED  
40 FOR MORE THAN TWO YEARS PURSUANT TO THIS SECTION IF THE PERSON DOES ALL OF  
41 THE FOLLOWING:

42 1. REAPPLIES FOR A LICENSE PURSUANT TO SECTION 32-3423.

43 2. TO THE BOARD'S SATISFACTION, DEMONSTRATES COMPETENCY TO PRACTICE.

44 3. COMPLETES ANY OTHER REQUIREMENTS PRESCRIBED BY THE BOARD.

45 Sec. 7. Title 32, chapter 34, article 3, Arizona Revised Statutes, is  
46 amended by adding section 32-3446, to read:

1           32-3446. Substance abuse recovery program: consent agreement

2           IN LIEU OF A DISCIPLINARY PROCEEDING PRESCRIBED BY THIS ARTICLE, THE  
3 BOARD MAY PERMIT A LICENSEE TO ACTIVELY PARTICIPATE IN A BOARD-APPROVED  
4 SUBSTANCE ABUSE RECOVERY PROGRAM IF:

5           1. THE BOARD HAS EVIDENCE THAT THE LICENSEE IS AN IMPAIRED  
6 PROFESSIONAL.

7           2. THE LICENSEE HAS NOT BEEN CONVICTED OF A FELONY RELATING TO A  
8 CONTROLLED SUBSTANCE IN A COURT OF COMPETENT JURISDICTION.

9           3. THE LICENSEE ENTERS INTO A CONSENT AGREEMENT AND COMPLIES WITH ALL  
10 OF THE TERMS OF THE AGREEMENT, INCLUDING MAKING SATISFACTORY PROGRESS IN THE  
11 PROGRAM AND ADHERING TO ANY LIMITATIONS ON THE LICENSEE'S PRACTICE IMPOSED BY  
12 THE BOARD TO PROTECT THE PUBLIC. IF A LICENSEE DOES NOT ENTER INTO A CONSENT  
13 AGREEMENT, THE BOARD MAY BEGIN AN INVESTIGATION AND DISCIPLINARY PROCEEDINGS.

14           4. AS PART OF THE AGREEMENT BETWEEN THE LICENSEE AND THE BOARD, THE  
15 LICENSEE SIGNS A WAIVER THAT ALLOWS THE SUBSTANCE ABUSE RECOVERY PROGRAM TO  
16 RELEASE INFORMATION TO THE BOARD IF THE LICENSEE DOES NOT COMPLY WITH THE  
17 REQUIREMENTS OF THIS SECTION OR IS UNABLE TO PRACTICE WITH REASONABLE SKILL  
18 OR SAFETY.

APPROVED BY THE GOVERNOR APRIL 16, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2013.