

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 124
SENATE BILL 1380

AN ACT

AMENDING SECTIONS 32-1402, 32-1403.01, 32-1404, 32-1405, 32-1422, 32-1430, 32-1434 AND 32-1451.03, ARIZONA REVISED STATUTES; RENUMBERING SECTION 41-3022.09, ARIZONA REVISED STATUTES, AS SECTION 41-3019.04; AMENDING SECTION 41-3019.04, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; 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 32-1402, Arizona Revised Statutes, is amended to
3 read:

4 32-1402. Board; appointment; qualifications; term; removal;
5 compensation; immunity; report

6 A. The Arizona medical board is established. The board consists of
7 twelve members, four of whom shall represent the public and eight of whom
8 shall be actively practicing medicine. One of the four public members shall
9 be a licensed practical nurse or a professional nurse, as defined in chapter
10 15 of this title, with at least five years' experience. The eight physicians
11 must be from at least three different counties of the state. Not more than
12 five of the board members may be from any one county. Members of the board
13 are appointed by the governor. All appointments shall be made promptly, ~~and,~~
14 ~~in the case of the vacancy of a doctor of medicine, the governor shall not~~
15 ~~make this appointment later than ninety days after the governor receives a~~
16 ~~list of nominees as provided in this section.~~ The governor shall make all
17 appointments pursuant to section 38-211.

18 B. Each doctor of medicine who is appointed to the board shall have
19 been a resident of this state and actively engaged in the practice of
20 medicine as a licensed physician IN THIS STATE for at least the five years
21 before appointment.

22 C. The term of office of a member of the board is five years,
23 commencing on July 1 and terminating on July 1 of the fifth year. Each
24 member is eligible for reappointment for not more than one additional term.
25 However, the term of office for a member of the board appointed to fill a
26 vacancy occasioned other than by expiration of a full term is for the
27 unexpired portion of that term ~~and.~~ EACH MEMBER MAY BE APPOINTED ONLY ONCE
28 TO FILL A VACANCY CAUSED OTHER THAN BY EXPIRATION OF A TERM. The governor
29 may reappoint that member to not more than two additional full terms. Each
30 member of the board shall continue to hold office until the appointment and
31 qualification of that member's successor, subject to the following
32 exceptions:

33 1. A member of the board, after notice and a hearing before the
34 governor, may be removed on a finding by the governor of continued neglect of
35 duty, incompetence, or unprofessional or dishonorable conduct, in which event
36 that member's term shall end when the governor makes this finding.

37 2. The term of any member automatically ends:

38 (a) On death.

39 (b) On written resignation submitted to the board chairman or to the
40 governor.

41 (c) On absence from the state for a period of more than six months.

42 (d) For failure to attend three consecutive meetings of the board.

43 (e) Five years after retirement from the active practice of medicine.

1 D. The board shall annually elect, from among its membership, a
2 chairman, a vice-chairman and a secretary, who shall hold their respective
3 offices at the pleasure of the board.

4 E. Board members are eligible to receive compensation in the amount of
5 two hundred fifty dollars per day for each day of actual service in the
6 business of the board and all expenses necessarily and properly incurred in
7 attending meetings of the board.

8 F. Members of the board are personally immune from suit with respect
9 to all acts done and actions taken in good faith and in furtherance of the
10 purposes of this chapter.

11 G. The board shall submit a written report to the governor, [THE](#)
12 [ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS AND THE MEMBERS OF THE](#)
13 [HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE HEALTH COMMITTEE OF](#)
14 [THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES](#), no later than
15 August 31 of each year on the board's licensing and disciplinary activities
16 for the previous fiscal year. [THE REPORT MUST INCLUDE BOTH OF THE FOLLOWING:](#)

17 1. [INFORMATION REGARDING STAFF TURNOVER THAT INDICATES WHETHER THE](#)
18 [PERSON WAS TEMPORARY, PART-TIME OR FULL-TIME AND WHICH DEPARTMENT OR DIVISION](#)
19 [THE PERSON WORKED IN.](#)

20 2. [THE NUMBER OF INVESTIGATORS THAT HAVE BEEN HIRED AND HOW MANY OF](#)
21 [THEM HAVE COMPLETED THE INVESTIGATOR TRAINING PROGRAM REQUIRED BY SECTION](#)
22 [32-1405.](#)

23 H. Public members appointed to the board may submit a separate written
24 report to the governor by August 31 of each year setting forth their comments
25 relative to the board's licensing and disciplinary activities for the
26 previous fiscal year.

27 Sec. 2. Section 32-1403.01, Arizona Revised Statutes, is amended to
28 read:

29 [32-1403.01. Licensees; profiles; required information; updates;](#)
30 [civil penalty](#)

31 A. The board shall make available to the public a profile of each
32 licensee. The board shall make this information available through an
33 internet website and, if requested, in writing. The profile shall contain
34 the following information:

35 1. A description of any conviction of a felony. For purposes of this
36 paragraph, a licensee is deemed to be convicted if the licensee pled guilty,
37 pled no contest or was found guilty by a court of competent jurisdiction.

38 2. A description of any conviction of a misdemeanor involving moral
39 turpitude that results in disciplinary action. For purposes of this
40 paragraph, a licensee is deemed to be convicted if the licensee pled guilty,
41 pled no contest or was found guilty by a court of competent jurisdiction.

42 3. All final board disciplinary actions.

43 4. Any medical malpractice court judgments and any medical malpractice
44 awards or settlements in which a payment is made to a complaining party that
45 results in disciplinary action.

1 5. The name and location of the licensee's medical school and the date
2 of graduation.

3 6. The name and location of the institution from which the licensee
4 received graduate medical education and the date that education was
5 completed.

6 7. The licensee's primary practice location.

7 B. Each licensee shall submit the information required pursuant to
8 subsection A **OF THIS SECTION** each year as directed by the board. An
9 applicant for licensure shall submit this information at the time of
10 application. The applicant and licensee shall submit the information on a
11 form prescribed by the board. A licensee shall submit immediately any
12 changes in information required pursuant to subsection A, paragraphs 1, 2 and
13 **4 OF THIS SECTION**. The board shall update immediately its internet website
14 to reflect changes in information relating to subsection A, paragraphs 1
15 through 4 **OF THIS SECTION**. The board shall update the internet website
16 information at least annually.

17 C. The board shall provide each licensee with the licensee's profile
18 on request and shall make valid and verifiable corrections to the profile on
19 notification at any time by the licensee. A change made by a licensee to an
20 address or telephone number is subject to the requirements of section
21 32-1435.

22 D. It is an act of unprofessional conduct for a licensee to provide
23 erroneous information pursuant to this section. In addition to other
24 disciplinary action, the board may impose a civil penalty of not more than
25 one thousand dollars for each erroneous statement.

26 E. If the board issues a nondisciplinary order or action against a
27 licensee, the record of the nondisciplinary order or action is available to
28 the public but may not appear on the board's website, except that a practice
29 limitation or restriction, and documentation relating to that action, may
30 appear on the board's website. **ON REQUEST, THE BOARD SHALL SEND WITHIN FIVE
31 BUSINESS DAYS, EITHER ELECTRONICALLY OR BY MAIL, INFORMATION RELATING TO ANY
32 NONDISCIPLINARY ORDER OR ACTION AGAINST A LICENSEE TO A PERSON REQUESTING THE
33 INFORMATION.**

34 Sec. 3. Section 32-1404, Arizona Revised Statutes, is amended to read:
35 **32-1404. Meetings; quorum; committees; rules; posting**

36 A. The board shall hold regular quarterly meetings on a date and at
37 the time and place designated by the chairman. The board shall hold special
38 meetings, including meetings using communications equipment that allows all
39 members participating in the meeting to hear each other, as the chairman
40 determines are necessary to carry out the functions of the board. The board
41 shall hold special meetings on any day that the chairman determines ~~is~~ **ARE**
42 necessary to carry out the functions of the board. The vice-chairman may
43 call meetings and special meetings if the chairman is not available.

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

4 C. The chairman may establish committees from the membership of the
5 board and define committee duties necessary to carry out the functions of the
6 board.

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

9 E. Meetings held pursuant to subsection A of this section shall be
10 audio AND VIDEO recorded. BEGINNING SEPTEMBER 2, 2014, THE BOARD SHALL POST
11 THE VIDEO RECORDING ON THE BOARD'S WEBSITE WITHIN FIVE BUSINESS DAYS AFTER
12 THE MEETING.

13 Sec. 4. Section 32-1405, Arizona Revised Statutes, is amended to read:
14 32-1405. Executive director; compensation; duties; appeal to
15 the board

16 A. Subject to title 41, chapter 4, article 4, the board shall appoint
17 an executive director who shall serve at the pleasure of the board. The
18 executive director shall not be a board member, except that the board may
19 authorize the executive director to represent the board and to vote on behalf
20 of the board at meetings of the federation of state medical boards of the
21 United States.

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

24 C. The executive director or the executive director's designee shall:
25 1. Subject to title 41, chapter 4, article 4 and, as applicable,
26 articles 5 and 6, employ, evaluate, dismiss, discipline and direct
27 professional, clerical, technical, investigative and administrative personnel
28 necessary to carry on the work of the board. ~~Investigative personnel~~ AN
29 INVESTIGATOR shall complete a nationally recognized investigator training
30 program within one year of date of hire. Until ~~investigative personnel~~ AN
31 INVESTIGATOR completes a training program, the ~~investigative personnel~~
32 INVESTIGATOR shall work under the supervision of an investigator who has
33 completed a training program.

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

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

38 4. Subject to title 41, chapter 4, article 4, employ medical
39 consultants and agents necessary to conduct investigations, gather
40 information and perform those duties the executive director determines are
41 necessary and appropriate to enforce this chapter.

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

44 6. Manage the board's offices.

- 1 7. Prepare minutes, records, reports, registries, directories, books
2 and newsletters and record all board transactions and orders.
- 3 8. Collect all monies due and payable to the board.
- 4 9. Pay all bills for authorized expenditures of the board and its
5 staff.
- 6 10. Prepare an annual budget.
- 7 11. Submit a copy of the budget each year to the governor, the speaker
8 of the house of representatives and the president of the senate.
- 9 12. Initiate an investigation if evidence appears to demonstrate that a
10 physician may be engaged in unprofessional conduct or may be medically
11 incompetent or mentally or physically unable to safely practice medicine.
- 12 13. Issue subpoenas if necessary to compel the attendance and testimony
13 of witnesses and the production of books, records, documents and other
14 evidence.
- 15 14. Provide assistance to the attorney general in preparing and sign
16 and execute disciplinary orders, rehabilitative orders and notices of
17 hearings as directed by the board.
- 18 15. Enter into contracts for goods and services pursuant to title 41,
19 chapter 23 that are necessary to carry out board policies and directives.
- 20 16. Execute board directives.
- 21 17. Manage and supervise the operation of the Arizona regulatory board
22 of physician assistants.
- 23 18. Issue licenses to physician assistant applicants who meet the
24 requirements of chapter 25 of this title.
- 25 19. Represent the board with the federal government, other states or
26 jurisdictions of the United States, this state, political subdivisions of
27 this state, the news media and the public.
- 28 20. On behalf of the Arizona medical board, enter into stipulated
29 agreements with persons under the jurisdiction of either the Arizona medical
30 board or the Arizona regulatory board of physician assistants for the
31 treatment, rehabilitation and monitoring of chemical substance abuse or
32 misuse.
- 33 21. Review all complaints filed pursuant to section 32-1451. **THE**
34 **EXECUTIVE DIRECTOR SHALL SUBMIT ALL MEDICAL COMPLAINTS ALLEGING HARM AS A**
35 **RESULT OF PATIENT CARE TO A MEDICAL CONSULTANT FOR REVIEW.** If delegated by
36 the board, the executive director may also dismiss a complaint if the
37 complaint is without merit. The executive director shall not dismiss a
38 complaint if a court has entered a medical malpractice judgment against a
39 physician. The executive director shall submit a report of the cases
40 dismissed with the complaint number, the name of the physician and the
41 investigation timeline to the board for review at its regular board meetings.
- 42 22. If delegated by the board, directly refer cases to a formal
43 hearing.
- 44 23. If delegated by the board, close cases resolved through mediation.
- 45 24. If delegated by the board, issue advisory letters.

1 an act that occurred in that jurisdiction AND that constitutes unprofessional
2 conduct pursuant to this chapter. If the applicant is under investigation by
3 a medical regulatory board in another jurisdiction, the board shall suspend
4 the application process and may not issue or deny a license to the applicant
5 until the investigation is resolved.

6 7. Not have surrendered a license to practice medicine in lieu of
7 disciplinary action by a medical regulatory board in another jurisdiction in
8 the United States for an act that occurred in that jurisdiction AND that
9 constitutes unprofessional conduct pursuant to this chapter.

10 8. Pay all fees required by the board.

11 9. Complete the application as required by the board.

12 10. Complete a training unit as prescribed by the board relating to the
13 requirements of this chapter and board rules. The applicant shall submit
14 proof with the application form of having completed the training unit.

15 11. Have submitted directly to the board, electronically or by hard
16 copy, verification of the following:

17 (a) Licensure from every state in which the applicant has ever held a
18 medical license.

19 (b) All hospital affiliations and employment for the five years
20 preceding application. Each hospital must verify affiliations or employment
21 on the hospital's official letterhead or the electronic equivalent.

22 12. BEGINNING SEPTEMBER 2, 2014, HAVE SUBMITTED A FULL SET OF
23 FINGERPRINTS TO THE BOARD FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL
24 CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW
25 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA
26 WITH THE FEDERAL BUREAU OF INVESTIGATION.

27 B. The board may require the submission of credentials or other
28 evidence, written and oral, and make any investigation it deems necessary to
29 adequately inform itself with respect to an applicant's ability to meet the
30 requirements prescribed by this section, including a requirement that the
31 applicant for licensure undergo a physical examination, a mental evaluation
32 and an oral competence examination and interview, or any combination thereof,
33 as the board deems proper.

34 C. In determining if the requirements of subsection A, paragraph 4 OF
35 THIS SECTION have been met, if the board finds that the applicant committed
36 an act or engaged in conduct that would constitute grounds for disciplinary
37 action, the board shall determine to its satisfaction that the conduct has
38 been corrected, monitored and resolved. If the matter has not been resolved,
39 the board shall determine to its satisfaction that mitigating circumstances
40 exist that prevent its resolution.

41 D. In determining if the requirements of subsection A, paragraph 6 OF
42 THIS SECTION have been met, if another jurisdiction has taken disciplinary
43 action against an applicant, the board shall determine to its satisfaction
44 that the cause for the action was corrected and the matter resolved. If the
45 matter has not been resolved by that jurisdiction, the board shall determine

1 to its satisfaction that mitigating circumstances exist that prevent its
2 resolution.

3 E. The board may delegate authority to the executive director to deny
4 licenses if applicants do not meet the requirements of this section.

5 F. ANY CREDENTIAL INFORMATION REQUIRED TO BE SUBMITTED TO THE BOARD
6 PURSUANT TO THIS ARTICLE MUST BE SUBMITTED, ELECTRONICALLY OR BY HARD COPY,
7 FROM THE PRIMARY SOURCE WHERE THE DOCUMENT OR INFORMATION ORIGINATED, EXCEPT
8 THAT THE BOARD MAY ACCEPT PRIMARY-SOURCE VERIFIED CREDENTIALS FROM A
9 CREDENTIALS VERIFICATION SERVICE APPROVED BY THE BOARD. THE BOARD IS NOT
10 REQUIRED TO VERIFY ANY DOCUMENTATION OR INFORMATION RECEIVED BY THE BOARD
11 FROM A CREDENTIALS VERIFICATION SERVICE THAT HAS BEEN APPROVED BY THE BOARD.
12 IF AN APPLICANT IS UNABLE TO PROVIDE A DOCUMENT OR INFORMATION FROM THE
13 PRIMARY SOURCE DUE TO NO FAULT OF THE APPLICANT, THE EXECUTIVE DIRECTOR SHALL
14 FORWARD THE ISSUE TO THE FULL BOARD FOR REVIEW AND DETERMINATION. THE BOARD
15 SHALL ADOPT RULES ESTABLISHING THE CRITERIA THAT MUST BE MET IN ORDER TO
16 WAIVE A DOCUMENTATION REQUIREMENT OF THIS ARTICLE.

17 Sec. 6. Section 32-1430, Arizona Revised Statutes, is amended to read:
18 32-1430. License renewal; expiration; fingerprinting

19 A. Except as provided in section 32-4301, each person holding an
20 active license to practice medicine in this state shall renew the license
21 every other year on or before the licensee's birthday and shall pay the fee
22 required by this article, accompanied by a completed renewal form. THE BOARD
23 SHALL PROVIDE THE RENEWAL FORM ONLINE AND, ON REQUEST, SHALL MAIL THE FORM TO
24 THE LICENSEE. A licensee who does not renew an active license as required by
25 this subsection on or before thirty days after the licensee's birthday must
26 also pay a penalty fee as required by this article for late renewal. A
27 licensee's license automatically expires if the licensee does not renew an
28 active license within four months after the licensee's birthday. A person
29 who practices medicine in this state after that person's active license has
30 expired is in violation of this chapter.

31 B. A person renewing an active license to practice medicine in this
32 state shall ~~attach to the completed renewal form~~ PROVIDE TO THE BOARD AS PART
33 OF THE RENEWAL PROCESS a report of disciplinary actions, restrictions or any
34 other action placed on or against that person's license or practice by
35 another state licensing or disciplinary board or an agency of the federal
36 government. This action may include denying a license or failing the special
37 purpose licensing examination. The report shall include the name and address
38 of the sanctioning agency or health care institution, the nature of the
39 action taken and a general statement of the charges leading to the action
40 taken.

41 C. The licensee shall submit proof with the renewal form of having
42 completed a training unit as prescribed by the board relating to the
43 requirements of this chapter and board rules.

44 D. A person whose license has expired may reapply for a license to
45 practice medicine as provided in this chapter.

1 E. BEGINNING SEPTEMBER 2, 2014, IF A PERSON DID NOT SUBMIT
2 FINGERPRINTS FOR A CRIMINAL RECORDS CHECK WHEN THE PERSON WAS INITIALLY
3 LICENSED PURSUANT TO SECTION 32-1422, THE PERSON RENEWING AN ACTIVE LICENSE
4 TO PRACTICE MEDICINE IN THIS STATE FOR THE FIRST TIME ON OR AFTER SEPTEMBER
5 2, 2014 SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE BOARD FOR THE PURPOSE
6 OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION
7 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE
8 THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

9 Sec. 7. Section 32-1434, Arizona Revised Statutes, is amended to read:

10 32-1434. Continuing medical education; audit

11 A. A person who holds an active license to practice medicine in this
12 state shall satisfy a continuing medical education requirement ~~which~~ THAT is
13 designed to provide the necessary understanding of current developments,
14 skills, procedures or treatment related to the practice of medicine in such
15 amount and during such period as the board establishes by rule ~~and~~
16 ~~regulation~~.

17 B. Compliance with subsection A OF THIS SECTION shall be documented at
18 such times and in such manner as the board shall establish.

19 C. Failure of a person holding an active license to practice medicine
20 to comply with this section without adequate cause being shown is grounds for
21 probation, suspension or revocation of such person's license.

22 D. THE BOARD SHALL RANDOMLY AUDIT, ONCE EVERY TWO YEARS, AT LEAST TEN
23 PER CENT OF PHYSICIANS TO VERIFY CONTINUING MEDICAL EDUCATION COMPLIANCE.

24 Sec. 8. Section 32-1451.03, Arizona Revised Statutes, is amended to
25 read:

26 32-1451.03. Complaints; requirements; confidentiality; exception

27 A. The board shall not act on any complaint in which an allegation of
28 unprofessional conduct or any other violation of this chapter occurred more
29 than seven years before the complaint is received by the board. The time
30 limitation does not apply to medical malpractice settlements or judgments.

31 B. BEGINNING SEPTEMBER 2, 2014, IF A COMPLAINANT WISHES TO HAVE THE
32 COMPLAINANT'S IDENTIFYING INFORMATION WITHHELD FROM THE PHYSICIAN AGAINST
33 WHOM THE ALLEGATION OF UNPROFESSIONAL CONDUCT IS BEING MADE, THE BOARD SHALL
34 ENTER INTO A WRITTEN AGREEMENT WITH THE COMPLAINANT STATING THAT THE
35 COMPLAINANT'S IDENTIFYING INFORMATION WILL NOT BE PROVIDED TO THE PHYSICIAN
36 AGAINST WHOM THE ALLEGATION OF UNPROFESSIONAL CONDUCT IS BEING MADE TO THE
37 EXTENT CONSISTENT WITH THE ADMINISTRATIVE APPEALS PROCESS. THE BOARD SHALL
38 POST THIS POLICY ON THE BOARD'S WEBSITE WHERE A PERSON WOULD SUBMIT A
39 COMPLAINT ONLINE.

40 ~~B-~~ C. The board shall not open an investigation if identifying
41 information regarding the complainant is not provided.

42 Sec. 9. Section 41-3022.09, Arizona Revised Statutes, is renumbered as
43 section 41-3019.04 and, as so renumbered, is amended to read:

44 41-3019.04. Arizona medical board; termination July 1, 2019

45 A. The Arizona medical board terminates on July 1, ~~2022~~ 2019.

1 B. Title 32, chapter 13 is repealed on January 1, ~~2023~~ 2020.

2 Sec. 10. Rulemaking exemption; Arizona medical board

3 For the purposes of implementing this act, to adjust renewal time
4 frames and to modify current rules consistent with section 41-1080, Arizona
5 Revised Statutes, the Arizona medical board is exempt from the rulemaking
6 requirements of title 41, chapter 6, Arizona Revised Statutes, for one year
7 after the effective date of this act, except that the board shall provide
8 public notice and an opportunity for public comment on proposed rules at
9 least thirty days before a rule is adopted or amended.

10 Sec. 11. Emergency

11 This act is an emergency measure that is necessary to preserve the
12 public peace, health or safety and is operative immediately as provided by
13 law.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.