

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 282
SENATE BILL 1444

AN ACT

AMENDING SECTION 32-1606, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 262, SECTION 4; AMENDING SECTIONS 32-1632, 32-1634, 32-1637 AND 32-1639, ARIZONA REVISED STATUTES; AMENDING SECTION 32-1646, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 262, SECTION 10; AMENDING SECTION 32-1648, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 262, SECTION 12; AMENDING SECTIONS 32-1650.06, 32-1664, 32-1669 AND 32-3206, ARIZONA REVISED STATUTES; RELATING TO HEALTH PROFESSIONALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-1606, Arizona Revised Statutes, as amended by
3 Laws 2015, chapter 262, section 4, is amended to read:
4 32-1606. Powers and duties of board
5 A. The board may:
6 1. Adopt and revise rules necessary to carry into effect this chapter.
7 2. Publish advisory opinions regarding registered and practical
8 nursing practice and nursing education.
9 3. Issue limited licenses or certificates if it determines that an
10 applicant or licensee cannot function safely in a specific setting or within
11 the full scope of practice.
12 4. Refer criminal violations of this chapter to the appropriate law
13 enforcement agency.
14 5. Establish a confidential program for the monitoring of licensees
15 who are chemically dependent and who enroll in rehabilitation programs that
16 meet the criteria established by the board. The board may take further
17 action if the licensee refuses to enter into a stipulated agreement or fails
18 to comply with its terms. In order to protect the public health and safety,
19 the confidentiality requirements of this paragraph do not apply if the
20 licensee does not comply with the stipulated agreement.
21 6. On the applicant's or regulated party's request, establish a
22 payment schedule with the applicant or regulated party.
23 7. Provide education regarding board functions.
24 8. Collect or assist in the collection of workforce data.
25 9. Adopt rules for conducting pilot programs consistent with public
26 safety for innovative applications in nursing practice, education and
27 regulation.
28 10. Grant retirement status on request to retired nurses who are or
29 were licensed under this chapter, who have no open complaint or investigation
30 pending against them and who are not subject to discipline.
31 11. Accept and spend federal monies and private grants, gifts,
32 contributions and devises to assist in carrying out the purposes of this
33 chapter. These monies do not revert to the state general fund at the end of
34 the fiscal year.
35 B. The board shall:
36 1. Approve regulated training and educational programs that meet the
37 requirements of this chapter and rules adopted by the board.
38 2. By rule, establish approval and reapproval processes for nursing
39 and nursing assistant training programs that meet the requirements of this
40 chapter and board rules.
41 3. Prepare and maintain a list of approved nursing programs for the
42 preparation of registered and practical nurses whose graduates are eligible
43 for licensing under this chapter as registered nurses or as practical nurses
44 if they satisfy the other requirements of this chapter and board rules.
45 4. Examine qualified registered and practical nurse applicants.

- 1 5. License and renew the licenses of qualified registered and
2 practical nurse applicants and licensed nursing assistants who are not
3 qualified to be licensed by the executive director.
- 4 6. Adopt a seal, which the executive director shall keep.
- 5 7. Keep a record of all proceedings.
- 6 8. For proper cause, deny or rescind approval of a regulated training
7 or educational program for failure to comply with this chapter or the rules
8 of the board.
- 9 9. Adopt rules for the approval of credential evaluation services that
10 evaluate the qualifications of applicants who graduated from an international
11 nursing program.
- 12 10. Determine and administer appropriate disciplinary action against
13 all regulated parties who are found guilty of violating this chapter or rules
14 adopted by the board.
- 15 11. Perform functions necessary to carry out the requirements of
16 nursing assistant and nurse aide training and competency evaluation program
17 as set forth in the omnibus budget reconciliation act of 1987 (P.L. 100-203;
18 101 Stat. 1330), as amended by the medicare catastrophic coverage act of 1988
19 (P.L. 100-360; 102 Stat. 683). These functions shall include:
20 (a) Testing and registration of certified nursing assistants.
21 (b) Testing and licensing of licensed nursing assistants.
22 (c) Maintaining a list of ~~board-approved~~ BOARD-APPROVED training
23 programs.
24 (d) Maintaining a registry of nursing assistants for all certified
25 nursing assistants and licensed nursing assistants.
26 (e) Assessing fees.
- 27 12. Adopt rules establishing those acts that may be performed by a
28 registered nurse practitioner in collaboration with a licensed physician,
29 except that the board does not have authority to decide scope of practice
30 relating to abortion as defined in section 36-2151.
- 31 13. Adopt rules establishing educational requirements for the
32 certification of school nurses.
- 33 14. Publish copies of board rules and distribute these copies on
34 request.
- 35 15. Require each applicant for initial licensure or certification to
36 submit a full set of fingerprints to the board for the purpose of obtaining a
37 state and federal criminal records check pursuant to section 41-1750 and
38 Public Law 92-544. The department of public safety may exchange this
39 fingerprint data with the federal bureau of investigation.
- 40 16. EXCEPT FOR A LICENSEE WHO HAS BEEN CONVICTED OF A FELONY THAT HAS
41 BEEN DESIGNATED A MISDEMEANOR PURSUANT TO SECTION 13-604, revoke a license of
42 a person, revoke the multistate licensure privilege of a person pursuant to
43 section 32-1669 or not issue a license or renewal to an applicant who has one
44 or more felony convictions and who has not received an absolute discharge
45 from the sentences for all felony convictions ~~five~~ THREE or more years before
46 the date of filing an application pursuant to this chapter.

1 2. **THE APPLICANT**, if convicted of one or more felonies, has received
2 an absolute discharge from the sentences for all felony convictions ~~five~~
3 **THREE** or more years before the date of filing an application pursuant to this
4 chapter.

5 3. **IF THE APPLICANT HAS BEEN CONVICTED OF A FELONY PURSUANT TO SECTION**
6 **13-604, THE COURT HAS ENTERED JUDGMENT OF CONVICTION FOR A CLASS 1**
7 **MISDEMEANOR.**

8 Sec. 3. Section 32-1634, Arizona Revised Statutes, is amended to read:
9 ~~32-1634. Licensing out-of-state registered nurses~~

10 A. The board may issue a license to practice registered nursing to an
11 applicant who has been duly licensed or registered as a registered nurse in
12 another state or a territory of the United States if in the opinion of the
13 board the applicant meets the qualifications required of a registered nurse
14 in this state pursuant to sections 32-1632 and 32-1633.

15 B. The board shall not issue a license to an applicant who has one or
16 more felony convictions and who has not received an absolute discharge from
17 the sentences for all felony convictions ~~five~~ **THREE** or more years before the
18 date of filing the application.

19 Sec. 4. Section 32-1637, Arizona Revised Statutes, is amended to read:
20 ~~32-1637. Qualifications of practical nurse; application for~~
21 ~~license~~

22 An applicant for a license to practice as and assume the title of a
23 licensed practical nurse shall file with the board a verified written
24 application accompanied by the prescribed fee and shall submit satisfactory
25 proof that the applicant:

26 1. Has satisfactorily completed the basic curriculum in an approved
27 practical or professional nursing program and holds a diploma, certificate or
28 degree from that program.

29 2. If convicted of one or more felonies, has received an absolute
30 discharge from the sentences for all felony convictions ~~five~~ **THREE** or more
31 years before the date of filing the application.

32 Sec. 5. Section 32-1639, Arizona Revised Statutes, is amended to read:
33 ~~32-1639. Licensing out-of-state practical nurses~~

34 A. The board may issue a license to practice as a practical nurse to
35 an applicant who has been duly licensed as a practical nurse, or licensed to
36 perform similar services and duties under a different title, in another state
37 or territory of the United States, if in the opinion of the board the
38 applicant meets qualifications required of a licensed practical nurse in this
39 state.

40 B. The board shall not issue a license to practice practical nursing
41 to an applicant who has one or more felony convictions and who has not
42 received an absolute discharge from the sentences for all felony convictions
43 ~~five~~ **THREE** or more years before the date of filing an application.

1 Sec. 6. Section 32-1646, Arizona Revised Statutes, as amended by Laws
2 2015, chapter 262, section 10, is amended to read:

3 32-1646. Licensed nursing assistants; certified nursing
4 assistants; board powers

5 A. In the regulation of licensed nursing assistants, the board may:

6 1. Investigate allegations of ~~violation~~ VIOLATIONS of this article and
7 refer criminal violations of this article to the appropriate law enforcement
8 agency.

9 2. File a letter of concern if the board believes there is
10 insufficient evidence to support direct action against the licensed nursing
11 assistant's license but sufficient evidence for the board to notify the
12 licensed nursing assistant of its concern.

13 3. Deny a license or refuse to renew a license or take disciplinary
14 action if a licensed nursing assistant commits an act of unprofessional
15 conduct.

16 4. Issue a temporary licensed nursing assistant license to an
17 applicant who meets the qualifications for licensure specified in section
18 32-1645. The license expires six months after the date of issuance and may
19 be renewed at the discretion of the board.

20 5. In addition to any other disciplinary action it may take, impose a
21 civil penalty of not more than one thousand dollars for each violation of
22 this chapter.

23 B. The board shall revoke a license of a person or not issue or renew
24 a license to an applicant who has one or more felony convictions and who has
25 not received an absolute discharge from the sentences for all felony
26 convictions ~~five~~ THREE or more years prior to the date of filing an
27 application pursuant to this chapter.

28 C. In the regulation of certified nursing assistants the board may:

29 1. Investigate allegations of abuse, neglect or misappropriation of
30 property and refer criminal violations to the appropriate law enforcement
31 agency.

32 2. File a letter of concern if the board believes there is
33 insufficient evidence to support direct action against the certified nursing
34 assistant's registration but sufficient evidence for the board to notify the
35 nursing assistant of its concern.

36 3. Pursuant to the omnibus budget reconciliation act of 1987
37 (P.L. 100-203; 101 Stat. 1330), as amended by the medicare catastrophic
38 coverage act of 1988 (P.L. 100-360; 102 Stat. 683), indicate on the
39 registration the existence of any substantiated complaints against the
40 certified nursing assistant in compliance with title 41, chapter 6,
41 article 10.

1 Sec. 7. Section 32-1648, Arizona Revised Statutes, as amended by Laws
2 2015, chapter 262, section 12, is amended to read:

3 32-1648. Licensed nursing assistants; certified nursing
4 assistants; acceptance of out-of-state licenses

5 A. The board may issue a license to a nursing assistant who has a
6 current certificate or an equivalent document issued by another state if the
7 board receives an application pursuant to section 32-1645 and determines that
8 the applicant meets the qualifications of this article.

9 B. The board shall not issue a license to an applicant under
10 subsection A of this section who has one or more felony convictions and who
11 has not received an absolute discharge from the sentences for all felony
12 convictions ~~five~~ THREE or more years prior to the date of filing the
13 application.

14 C. The board may register a person as a certified nursing assistant
15 who has been listed on the nursing assistant registry maintained in another
16 state if the nursing assistant provides to the board current proof of
17 registration or an equivalent document issued by another state and the board
18 receives an application pursuant to section 32-1645 and determines that the
19 applicant meets the qualifications of this article.

20 Sec. 8. Section 32-1650.06, Arizona Revised Statutes, is amended to
21 read:

22 32-1650.06. Certified medication assistants; disciplinary
23 actions; civil penalties; revocation or denial of
24 certificate

25 A. In regulating medication assistants, the board may:

26 1. Refer criminal violations to the appropriate law enforcement
27 agency.

28 2. File a letter of concern if the board believes there is
29 insufficient evidence to support direct action against a medication
30 assistant's certificate but sufficient evidence for the board to notify a
31 medication assistant of its concern.

32 3. Issue a decree of censure for a violation of this chapter or board
33 rules.

34 4. Deny certification or recertification or take disciplinary action
35 if a medication assistant commits an act of unprofessional conduct.

36 5. In addition to any other disciplinary action it may take, impose a
37 civil penalty of not more than one thousand dollars.

38 B. The board shall revoke a certificate or deny an application for
39 certification or recertification of a person who has one or more felony
40 convictions and who has not received an absolute discharge from the sentences
41 for all felony convictions ~~five~~ THREE or more years before the date of filing
42 an application pursuant to this chapter.

1 Sec. 9. Section 32-1664, Arizona Revised Statutes, is amended to read:
2 32-1664. Investigation; hearing; notice

3 A. In connection with an investigation, the board or its duly
4 authorized agents or employees may obtain any documents, reports, records,
5 papers, books and materials, including hospital records, medical staff
6 records and medical staff review committee records, or any other physical
7 evidence that indicates that a person or regulated party may have violated
8 this chapter or a rule adopted pursuant to this chapter:

9 1. By entering the premises, at any reasonable time, and inspecting
10 and copying materials in the possession of a regulated party that relate to
11 nursing competence, unprofessional conduct or mental or physical ability of a
12 licensee to safely practice nursing.

13 2. By issuing a subpoena under the board's seal to require the
14 attendance and testimony of witnesses or to demand the production for
15 examination or copying of documents or any other physical evidence. Within
16 five days after a person is served with a subpoena, that person may petition
17 the board to revoke, limit or modify the subpoena. The board shall do so if
18 in its opinion the evidence required does not relate to unlawful practices
19 covered by this chapter, is not relevant to the charge that is the subject
20 matter of the hearing or investigation or does not describe with sufficient
21 particularity the physical evidence whose production is required.

22 3. By submitting a written request for the information.

23 4. In the case of an applicant's or a regulated party's personal
24 medical records, as defined in section 12-2291, by any means permitted by
25 this section if the board either:

26 (a) Obtains from the applicant or regulated party, or the health care
27 decision maker of the applicant or regulated party, a written authorization
28 that satisfies the requirements of title 12, chapter 13, article 7.1.

29 (b) Reasonably believes that the records relate to information already
30 in the board's possession regarding the competence, unprofessional conduct or
31 mental or physical ability of the applicant or regulated party as it pertains
32 to safe practice. If the board adopts a substantive policy statement
33 pursuant to section 41-1091, it may authorize the executive director, or a
34 designee in the absence of the executive director, to make the determination
35 of reasonable belief.

36 B. A regulated party and a health care institution as defined in
37 section 36-401 shall, and any other person may, report to the board any
38 information the licensee, certificate holder, health care institution or
39 individual may have that appears to show that a regulated party or applicant
40 is, was or may be a threat to the public health or safety.

41 C. The board retains jurisdiction to proceed with an investigation or
42 a disciplinary proceeding against a regulated party whose license or
43 certificate expired not more than five years before the board initiates the
44 investigation.

45 D. Any regulated party, health care institution or other person that
46 reports or provides information to the board in good faith is not subject to

1 civil liability. If requested the board shall not disclose the name of the
2 reporter unless the information is essential to proceedings conducted
3 pursuant to this section.

4 E. Any regulated party or person who is subject to an investigation
5 may obtain representation by counsel.

6 F. On determination of reasonable cause, the board, or if delegated by
7 the board the executive director, may require a licensee, certificate holder
8 or applicant to undergo at the expense of the licensee, certificate holder or
9 applicant any combination of mental, physical or psychological examinations,
10 assessments or skills evaluations necessary to determine the person's
11 competence or ability to practice safely. These examinations may include
12 bodily fluid testing and other examinations known to detect the presence of
13 alcohol or drugs. If the executive director orders the licensee, applicant
14 or certificate holder to undertake an examination, assessment or evaluation
15 pursuant to this subsection, and the licensee, certificate holder or
16 applicant fails to affirm to the board in writing within fifteen days after
17 receipt of the notice of the order that the licensee, certificate holder or
18 applicant intends to comply with the order, the executive director shall
19 refer the matter to the board to permit the board to determine whether to
20 issue an order pursuant to this subsection. At each regular meeting of the
21 board the executive director shall report to the board data concerning orders
22 issued by the executive director pursuant to this subsection since the last
23 regular meeting of the board and any other data requested by the board.

24 G. THE BOARD SHALL PROVIDE THE INVESTIGATIVE REPORT IF REQUESTED
25 PURSUANT TO SECTION 32-3206.

26 ~~G.~~ H. If after completing its investigation the board finds that the
27 information provided pursuant to this section is not of sufficient
28 seriousness to merit disciplinary action against the regulated party or
29 applicant, it may take either of the following actions:

30 1. Dismiss if in the opinion of the board the information is without
31 merit.

32 2. File a letter of concern if in the opinion of the board there is
33 insufficient evidence to support disciplinary action against the regulated
34 party or applicant but sufficient evidence for the board to notify the
35 regulated party or applicant of its concern.

36 ~~H.~~ I. Except as provided pursuant to section 32-1663, subsection F
37 and subsection ~~I~~ J of this section, if the investigation in the opinion of
38 the board reveals reasonable grounds to support the charge, the regulated
39 party is entitled to an administrative hearing pursuant to title 41, chapter
40 6, article 10. If notice of the hearing is served by certified mail, service
41 is complete on the date the notice is placed in the mail.

1 ~~I~~ J. A regulated party shall respond in writing to the board within
2 thirty days after notice of the hearing is served as prescribed in subsection
3 ~~H~~ I of this section. The board may consider a regulated party's failure to
4 respond within this time as an admission by default to the allegations stated
5 in the complaint. The board may then take disciplinary actions allowed by
6 this chapter without conducting a hearing.

7 ~~J~~ K. An administrative law judge or a panel of board members may
8 conduct hearings pursuant to this section.

9 ~~K~~ L. In any matters pending before it, the board may issue subpoenas
10 under its seal to compel the attendance of witnesses.

11 ~~L~~ M. Patient records, including clinical records, medical reports,
12 laboratory statements and reports, any file, film, other report or oral
13 statement relating to diagnostic findings or treatment of patients, any
14 information from which a patient or a patient's family might be identified or
15 information received and records kept by the board as a result of the
16 investigation procedure outlined in this chapter are not available to the
17 public and are not subject to discovery in civil or criminal proceedings.

18 ~~M~~ N. Hospital records, medical staff records, medical staff review
19 committee records, testimony concerning these records and proceedings related
20 to the creation of these records shall not be available to the public. They
21 shall be kept confidential by the board and shall be subject to the same
22 provisions concerning discovery and use in legal actions as are the original
23 records in the possession and control of hospitals, their medical staffs and
24 their medical staff review committees. The board shall use these records and
25 testimony during the course of investigations and proceedings pursuant to
26 this chapter.

27 ~~N~~ O. If the regulated party is found to have committed an act of
28 unprofessional conduct or to have violated this chapter or a rule adopted
29 pursuant to this chapter, the board may take disciplinary action.

30 ~~O~~ P. The board may subsequently issue a denied license or
31 certificate and may reissue a revoked or voluntarily surrendered license or
32 certificate.

33 ~~P~~ Q. On application by the board to any superior court judge, a
34 person who without just cause fails to comply with a subpoena issued pursuant
35 to this section may be ordered by the judge to comply with the subpoena and
36 punished by the court for failing to comply. Subpoenas shall be served by
37 regular or certified mail or in the manner required by the Arizona rules of
38 civil procedure.

39 ~~Q~~ R. The board may share investigative information that is
40 confidential under subsections ~~L~~ M and ~~M~~ N of this section with other
41 state, federal and international health care agencies and with state, federal
42 and international law enforcement authorities if the recipient is subject to
43 confidentiality requirements similar to those established by this section. A
44 disclosure made by the board pursuant to this subsection is not a waiver of
45 the confidentiality requirements established by this section.

1 Sec. 10. Section 32-1669, Arizona Revised Statutes, is amended to
2 read:

3 32-1669. Nurse licensure compact; board jurisdiction;
4 notification requirements; withdrawal from compact

5 A. A person who is extended the privilege to practice in this state
6 pursuant to the compact adopted pursuant to section 32-1668 is subject to the
7 same disciplinary requirements prescribed in this chapter, and the board's
8 investigative and disciplinary powers and procedures apply to a person who
9 practices in this state pursuant to this compact.

10 B. A person who is extended the privilege to practice in this state
11 pursuant to the compact adopted pursuant to section 32-1668 may use the title
12 that is prescribed in section 32-1636 and that is appropriate to the person's
13 qualifications.

14 C. A person who wishes to engage in the practice of nursing in this
15 state pursuant to the compact adopted pursuant to section 32-1668 must notify
16 the board if that person has had a license to practice a health care
17 profession denied, suspended or revoked in another jurisdiction within the
18 past five years or if that person has been convicted of a felony for which
19 the person did not receive an absolute discharge from the sentences at least
20 ~~five~~ THREE years before the date on which the person applies to practice
21 nursing in this state pursuant to the compact. A person who violates this
22 subsection commits an act of unprofessional conduct.

23 D. The governor may withdraw this state from the compact adopted
24 pursuant to section 32-1668 if the board notifies the governor that another
25 state that is a party to the compact has changed its licensure requirements
26 to make them substantially lower than the requirements of this state.

27 Sec. 11. Section 32-3206, Arizona Revised Statutes, is amended to
28 read:

29 32-3206. Disciplinary action; information; disclosure

30 A. AT LEAST TEN BUSINESS DAYS BEFORE A MEETING OF A HEALTH PROFESSION
31 REGULATORY BOARD TO REVIEW THE STATUS OF AN INVESTIGATION, THE BOARD SHALL
32 PROVIDE NOTICE OF THE MEETING TO THE HEALTH PROFESSIONAL, INCLUDING NOTICE OF
33 THE OPPORTUNITY FOR THE HEALTH PROFESSIONAL TO REQUEST A COPY OF THE REPORT
34 CONCERNING THE INVESTIGATION.

35 ~~A.~~ B. At least ten business days before a disciplinary interview or a
36 hearing, if the board does not hold a disciplinary interview, the health
37 profession regulatory board shall notify the health professional and, at that
38 person's request, the board shall provide the health professional or the
39 health professional's attorney with the information listed in this section.
40 The board shall provide the following information:

41 1. Any review conducted by an expert or consultant providing an
42 evaluation of or opinion on the allegations.

43 2. Any records on the patient obtained by the board from other health
44 care providers.

45 3. The results of any evaluations or tests of the health professional
46 conducted at the board's direction.

1 4. Any other factual information that the board will use in making its
2 determination.

3 ~~B.~~ C. A person who obtains information from the board pursuant to
4 this section may not release it to any other person or entity or use it in
5 any proceeding or action except **IN CONNECTION WITH THE BOARD'S REVIEW OF THE**
6 **INVESTIGATION**, the disciplinary interview and any administrative proceedings
7 or appeals related to the disciplinary interview **OR HEARING**. A person who
8 violates this subsection commits an act of unprofessional conduct.

9 ~~C.~~ D. The board may charge the health professional or the health
10 professional's attorney for the cost of providing the information received up
11 to the fee for making a copy of each page as prescribed by section 12-284,
12 subsection A.

13 Sec. 12. Effective date

14 Section 32-1606, Arizona Revised Statutes, as amended by Laws 2015,
15 chapter 262, section 4 and this act, section 32-1646, Arizona Revised
16 Statutes, as amended by Laws 2015, chapter 262, section 10 and this act and
17 section 32-1648, Arizona Revised Statutes, as amended by Laws 2015, chapter
18 262, section 12 and this act are effective from and after June 30, 2016.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2016.