

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

CHAPTER 135
SENATE BILL 1012

AN ACT

AMENDING SECTIONS 32-1800, 32-1803, 32-1804, 32-1822, 32-1823, 32-1825, 32-1826, 32-1828, 32-1829, 32-1830, 32-1831 AND 32-1832, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 17, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1833; AMENDING SECTIONS 32-1851, 32-1854, 32-1855, 32-1855.01 AND 32-1855.03, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1800, Arizona Revised Statutes, is amended to
3 read:

4 32-1800. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Active license" means a valid license to practice medicine and
7 includes the license of a licensee who has been placed on probation or on
8 whose license the board has placed restrictions.

9 2. "Address of record" means either:

10 (a) The address where a person who is regulated pursuant to this
11 chapter practices medicine or is otherwise employed.

12 (b) The residential address of a person who is regulated pursuant to
13 this chapter if that person has made a written request to the board that the
14 board use that address as the address of record.

15 3. "Adequate records" means legible medical records containing, at a
16 minimum, sufficient information to identify the patient, support the
17 diagnosis, justify the treatment, accurately document the results, indicate
18 advice and cautionary warnings provided to the patient and provide sufficient
19 information for another licensed health care practitioner to assume
20 continuity of the patient's care at any point in the course of treatment.

21 4. "Administrative warning" means a disciplinary action by the board
22 in the form of a written warning to a physician of a violation of this
23 chapter involving patient care that the board determines falls below the
24 community standard.

25 5. "Approved ~~fellowship~~ POSTGRADUATE TRAINING program" means that an
26 applicant for licensure SUCCESSFULLY completed training when the hospital or
27 other facility in which the training occurred was approved for A POSTGRADUATE
28 INTERNSHIP, RESIDENCY OR fellowship by the American osteopathic association
29 or by the accreditation council ~~or~~ FOR graduate medical education.

30 6. "Approved school of osteopathic medicine" means a school or college
31 offering a course of study that, on successful completion, results in the
32 awarding of the degree of doctor of osteopathy and whose course of study has
33 been approved or accredited by the American osteopathic association.

34 7. "Board" means the Arizona board of osteopathic examiners in
35 medicine and surgery.

36 8. "Decree of censure" means a formal written reprimand by the board
37 of a physician for a violation of this chapter that constitutes a
38 disciplinary action against a physician's license.

39 9. "Direct supervision" means that a physician is within the same room
40 or office suite as the unlicensed person in order to be available for
41 consultation regarding those tasks the unlicensed person performs pursuant to
42 section 32-1859.

43 10. "Dispense" means the delivery by a physician of a prescription drug
44 or device to a patient, except for samples packaged for individual use by
45 licensed manufacturers or repackagers of drugs, and includes the prescribing,

1 administering, packaging, labeling and security necessary to prepare and
2 safeguard the drug or device for delivery.

3 11. "Doctor of osteopathy" means a person who holds a license,
4 registration or permit to practice medicine pursuant to this chapter.

5 12. "Immediate family" means the spouse, natural or adopted children,
6 father, mother, brothers and sisters of the physician and the natural and
7 adopted children, father, mother, brothers and sisters of the physician's
8 spouse.

9 13. "Inappropriate fee" means a fee that is not supported by
10 documentation of time, complexity or extreme skill required to perform the
11 service.

12 14. "Investigative hearing" means a meeting between the board and a
13 physician to discuss issues set forth in the investigative hearing notice and
14 during which the board may hear statements from board staff, the complainant,
15 ~~and~~ the physician **AND WITNESSES, IF ANY.**

16 15. "Letter of concern" means an advisory letter to notify a physician
17 that while there is insufficient evidence to support disciplinary action
18 against the physician's license there is sufficient evidence for the board to
19 notify the physician of its concern.

20 16. "Limited license" means a license that restricts the scope and
21 setting of a licensee's practice.

22 17. "Medical assistant" means an unlicensed person who has completed an
23 educational program approved by the board, who assists in a medical practice
24 under the supervision of a doctor of osteopathic medicine and who performs
25 delegated procedures commensurate with the assistant's education and training
26 but who does not diagnose, interpret, design or modify established treatment
27 programs or violate any statute.

28 18. "Medicine" means osteopathic medicine as practiced by a person who
29 receives a degree of doctor of osteopathy.

30 19. "Physician" means a doctor of ~~osteopathic medicine~~ **OSTEOPATHY** who
31 holds a license, a permit or a locum tenens registration to practice
32 osteopathic medicine pursuant to this chapter.

33 20. "Practice of medicine" or "practice of osteopathic medicine" means
34 all of the following:

35 (a) To examine, diagnose, treat, prescribe for, palliate, prevent or
36 correct human diseases, injuries, ailments, infirmities and deformities,
37 physical or mental conditions, real or imaginary, by the use of drugs,
38 surgery, manipulation, electricity or any physical, mechanical or other means
39 as provided by this chapter.

40 (b) Suggesting, recommending, prescribing or administering any form of
41 treatment, operation or healing for the intended palliation, relief or cure
42 of any physical or mental disease, ailment, injury, condition or defect.

43 (c) The practice of osteopathic medicine alone or the practice of
44 osteopathic surgery or osteopathic manipulative therapy, or any combination
45 of either practice.

1 21. "Specialist" means a physician who has successfully completed
2 postdoctoral training in an approved ~~fellowship~~ **POSTGRADUATE TRAINING**
3 program, an approved preceptorship or an approved residency or who is board
4 certified by a specialty board approved by the board.

5 22. "Subscription provider of health care" means an entity that,
6 through contractual agreement, is responsible for the payment, in whole or in
7 part, of debts incurred by a person for medical or other health care
8 services.

9 Sec. 2. Section 32-1803, Arizona Revised Statutes, is amended to read:

10 32-1803. Powers and duties

11 A. The board shall:

12 1. Protect the public from unlawful, incompetent, unqualified,
13 impaired and unprofessional practitioners of osteopathic medicine.

14 2. Issue licenses, conduct hearings, place physicians on probation,
15 revoke or suspend licenses, enter into stipulated orders, issue letters of
16 concern or decrees of censure and administer and enforce this chapter.

17 3. Maintain a record of its acts and proceedings, including the
18 issuance, denial, renewal, suspension or revocation of licenses to practice
19 according to this chapter. The board shall delete records of complaints only
20 as follows:

21 (a) If the board dismisses a complaint, the board shall delete the
22 public record of the complaint five years after it dismissed the complaint.

23 (b) If the board has issued a letter of concern but has taken no
24 further action on the complaint, the board shall delete the public record of
25 the complaint five years after it issued the letter of concern.

26 (c) If the board has required additional continuing medical education
27 pursuant to section 32-1855 but has not taken further action, the board shall
28 delete the public record of the complaint five years after the person
29 satisfies this requirement.

30 4. Maintain a public directory of all osteopathic physicians and
31 surgeons who are or were licensed pursuant to this chapter that includes:

32 (a) The name of the physician.

33 (b) The physician's current or last known address of record.

34 (c) The date and number of the license issued to the physician
35 pursuant to this chapter.

36 (d) The date the license is scheduled to expire if not renewed or the
37 date the license expired or was revoked, suspended or canceled.

38 (e) Any disciplinary actions taken against the physician by the board.

39 (f) Letters of concern, remedial continuing medical education ordered
40 and dismissals of complaints against the physician until deleted from the
41 public record pursuant to paragraph 3 of this subsection.

42 ~~(g) The number of malpractice claims paid by award or by settlement on~~
43 ~~behalf of the physician in the last ten years of practice in this state or in~~
44 ~~another state.~~

45 5. Adopt rules regarding the regulation and the qualifications of
46 medical assistants.

- 1 6. Discipline and rehabilitate osteopathic physicians.
2 B. The public records of the board are open to inspection at all times
3 during office hours.
4 C. The board may:
5 1. Adopt rules necessary or proper for the administration of this
6 chapter.
7 2. Appoint one of its members to the jurisdiction arbitration panel
8 pursuant to section 32-2907, subsection B.
9 3. Accept and spend federal monies and private grants, gifts,
10 contributions and devises. These monies do not revert to the state general
11 fund at the end of a fiscal year.
12 4. Develop and publish advisory opinions and standards governing the
13 profession.
14 D. The board shall adopt and use a seal, the imprint of which,
15 together with the signature of either the president, vice-president or
16 executive director, is evidence of its official acts.
17 E. In conducting investigations pursuant to this chapter the board may
18 receive and review confidential internal staff reports relating to complaints
19 and malpractice claims.
20 F. The board may make available to academic and research organizations
21 public records regarding statistical information on doctors of osteopathic
22 medicine and applicants for licensure.
23 Sec. 3. Section 32-1804, Arizona Revised Statutes, is amended to read:
24 32-1804. Executive director; compensation; duties
25 A. Subject to title 41, chapter 4, article 4, the board shall appoint
26 an executive director who is not a member of the board. The executive
27 director shall serve at the pleasure of the board and shall receive
28 compensation as determined pursuant to section 38-611 to be paid from the
29 board fund.
30 B. The executive director or that person's designee shall:
31 1. Serve as administrative assistant to the board and manage the
32 board's offices.
33 2. Collect all monies due and payable to the board.
34 3. Deposit, pursuant to sections 35-146 and 35-147, all monies
35 received by the board in the appropriate fund.
36 4. Pay all bills for authorized board expenditures.
37 5. Administer oaths.
38 6. Act as custodian of the board's seal and books.
39 7. Employ special consultants or other agents subject to title 41,
40 chapter 4, article 4 to make investigations, gather information, review
41 complaints, review malpractice claims, suits and settlements, prepare reports
42 and perform other duties the executive director determines are necessary to
43 enforce this chapter.
44 8. Subject to title 41, chapter 4, article 4 and, as applicable,
45 articles 5 and 6, employ, evaluate, dismiss, discipline and direct
46 professional, clerical, technical, investigative and administrative personnel

1 necessary to carry out the purposes of this chapter. The personnel are
2 eligible to receive compensation pursuant to section 38-611.

3 9. Issue licenses, limited licenses, registrations, permits, license
4 renewal extensions and waivers to applicants who meet the requirements of
5 this chapter.

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

8 11. Prepare minutes, reports and records of all board transactions and
9 orders.

10 12. Prepare a biannual budget.

11 13. As directed by the board, prepare and submit recommendations for
12 changes to this chapter for consideration by the legislature.

13 14. Initiate an investigation if evidence appears to demonstrate that a
14 physician may be engaged in unprofessional conduct or may be mentally
15 incompetent or physically unable to safely practice medicine.

16 15. Issue subpoenas to compel the attendance and testimony of a witness
17 and the production of evidence.

18 16. As directed by the board, provide assistance to the attorney
19 general in preparing and executing disciplinary orders, rehabilitation orders
20 and notices of hearings.

21 17. Represent the board with the federal government, other states and
22 jurisdictions of the United States, this state, political subdivisions of
23 this state, the news media and the public.

24 18. If delegated by the board, dismiss complaints that, after an
25 investigation, demonstrate insufficient evidence that the physician's conduct
26 violated this chapter.

27 19. If delegated by the board, enter into a stipulated agreement with a
28 licensee for the treatment, rehabilitation and monitoring of the licensee's
29 abuse or misuse of a chemical substance.

30 20. Review all complaints filed pursuant to section 32-1855. If
31 delegated by the board, the executive director may also dismiss a complaint
32 if the complaint is without merit. The executive director shall not dismiss
33 a complaint if a court has entered a medical malpractice judgment against a
34 physician. The executive director shall submit to the board a report of each
35 complaint the executive director dismisses for its review at its next regular
36 board meeting. The report shall include the complaint number, the name of
37 the physician and the investigation timeline for each dismissed complaint.

38 21. If delegated by the board, ~~directly~~ refer complaints for an
39 investigative ~~interview~~ HEARING.

40 22. If delegated by the board, close complaints resolved through
41 mediation.

42 23. If delegated by the board, issue letters of concern or orders for
43 nondisciplinary education, or both.

44 24. If delegated by the board, enter into a consent agreement if there
45 is evidence of danger to the public health and safety.

1 25. If delegated by the board, grant uncontested requests for
2 cancellation of a license pursuant to section 32-1827.

3 ~~26. If delegated by the board, refer cases to the board for an~~
4 ~~investigative interview.~~

5 ~~27.~~ 26. Perform any other duty required by the board.

6 Sec. 4. Section 32-1822, Arizona Revised Statutes, is amended to read:

7 32-1822. Qualifications of applicant; application; fees

8 A. On a form and in a manner prescribed by the board, an applicant for
9 licensure shall submit proof that the applicant:

10 1. Is the person named on the application and on all supporting
11 documents submitted.

12 2. Is a citizen of the United States or a resident alien.

13 3. Is a graduate of a ~~board-approved~~ school of osteopathic medicine
14 APPROVED BY THE AMERICAN OSTEOPATHIC ASSOCIATION.

15 4. Has SUCCESSFULLY completed an approved internship, the first year
16 of an approved multiple-year residency or board-approved equivalency.

17 5. Has passed the approved examinations for licensure within seven
18 years of application or has the board-approved equivalency of practice
19 experience.

20 6. Has not engaged in any conduct that, if it occurred in this state,
21 would be considered unprofessional conduct or, if the applicant has engaged
22 in unprofessional conduct, is rehabilitated from the underlying conduct.

23 7. Is physically, mentally and emotionally able to practice medicine,
24 or, if limited, restricted or impaired in the ability to practice medicine,
25 consents to contingent licensure pursuant to subsection E of this section or
26 to entry into a program prescribed in section 32-1861.

27 8. Is of good moral character.

28 B. An applicant must submit with the application the NONREFUNDABLE
29 application fee prescribed in section 32-1826 and pay the prescribed license
30 issuance fee to the board at the time the license is issued.

31 C. The board or the executive director may require an applicant to
32 submit to a personal interview, a physical examination or a mental evaluation
33 or any combination of these, AT THE APPLICANT'S EXPENSE, at a reasonable time
34 and place as prescribed by the board if the board determines that this is
35 necessary to provide the board adequate information regarding the applicant's
36 ability to meet the licensure requirements of this chapter. An interview may
37 include medical knowledge questions and other matters that are relevant to
38 licensure.

39 D. The board may deny a license for any unprofessional conduct that
40 would constitute grounds for disciplinary action pursuant to this chapter or
41 as determined by a competent domestic or foreign jurisdiction.

42 E. The board may issue a license that is contingent on the applicant
43 entering into a stipulated order that may include a period of probation or a
44 restriction on the licensee's practice.

45 F. The executive director may issue licenses to applicants who meet
46 the requirements of this section.

1 G. A person whose license has been revoked, denied or surrendered in
2 this or any other state may apply for licensure not sooner than ~~two~~ FIVE
3 years after the revocation, denial or surrender.

4 H. A license issued pursuant to this section is valid for the
5 remainder of the calendar year in which it was issued, at which time it is
6 eligible for renewal.

7 Sec. 5. Section 32-1823, Arizona Revised Statutes, is amended to read:
8 32-1823. Locum tenens registration; application; term;
9 interview; denial of application; discipline

10 A. A doctor of osteopathy WHO IS licensed to practice osteopathic
11 medicine and surgery by another state may be registered to provide locum
12 tenens medical services to substitute for or temporarily assist a doctor of
13 osteopathy who holds an active license pursuant to this chapter or a doctor
14 of medicine who holds an active license pursuant to chapter 13 of this title
15 under the following conditions:

16 1. The applicant provides on forms and in a manner prescribed by the
17 board proof that ~~he~~ THE APPLICANT meets the applicable requirements of
18 section 32-1822.

19 2. The doctor of medicine or doctor of osteopathy for whom the
20 applicant is substituting or assisting provides to the board a written
21 request for locum tenens registration of the applicant.

22 B. On completion of the registration form prescribed by the board and
23 payment of the required fees, the executive director may register a
24 qualifying doctor of osteopathy by locum tenens registration and authorize
25 the doctor to provide locum tenens services.

26 C. Locum tenens registration granted pursuant to this section is valid
27 for ninety days and may be extended once for an additional ninety days on
28 written request by the doctor of medicine or doctor of osteopathy who
29 originally initiated the request for this registration, stating the reason
30 extension is necessary, and by submitting the appropriate fees and other
31 documents requested by the executive director.

32 D. THE BOARD OR THE EXECUTIVE DIRECTOR MAY REQUIRE AN APPLICANT TO
33 SUBMIT TO A PERSONAL INTERVIEW TO PROVIDE THE BOARD WITH ADEQUATE INFORMATION
34 REGARDING THE APPLICANT'S ABILITY TO PRACTICE UNDER LOCUM TENENS
35 REGISTRATION. THE APPLICANT IS RESPONSIBLE FOR ALL COSTS TO ATTEND THE
36 INTERVIEW.

37 E. THE BOARD MAY DENY THE APPLICATION FOR A LOCUM TENENS REGISTRATION
38 FOR ANY UNPROFESSIONAL CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR DISCIPLINARY
39 ACTION PURSUANT TO THIS CHAPTER OR AS DETERMINED BY A COMPETENT DOMESTIC OR
40 FOREIGN JURISDICTION.

41 F. A LOCUM TENENS REGISTRANT IS SUBJECT TO THE DISCIPLINARY PROVISIONS
42 PURSUANT TO THIS CHAPTER.

43 Sec. 6. Section 32-1825, Arizona Revised Statutes, is amended to read:
44 32-1825. Renewal of licenses; continuing medical education;
45 failure to renew; penalty; reinstatement; waiver of
46 continuing medical education

1 A. Except as provided in section 32-4301, each licensee shall renew
2 the license every other year on or before January 1 on an application form
3 approved by the board. At least sixty days before that renewal date, the
4 executive director shall notify each licensee of this requirement. The
5 executive director shall send this notification by ~~first-class~~ mail to the
6 licensee at the licensee's address.

7 B. With the application prescribed pursuant to subsection A of this
8 section, the licensee shall furnish to the executive director a statement of
9 having attended before the license renewal date educational programs,
10 approved by the board, totaling at least ~~twenty~~ FORTY clock hours during ~~each~~
11 ~~of~~ the two preceding years, and a statement that the licensee reported any
12 conduct that may constitute unprofessional conduct in this state or
13 elsewhere. The application must also include the prescribed renewal fee.
14 The executive director shall then issue a renewal receipt to the licensee.
15 The board may require a licensee to submit documentation of continuing
16 medical education.

17 C. The board shall not renew the license of a licensee who does not
18 fully document the licensee's compliance with the continuing education
19 requirements of subsection B of this section unless that person receives a
20 waiver of those requirements. The board may waive the continuing education
21 requirements of subsection B of this section for a particular period if it is
22 satisfied that the licensee's noncompliance was due to the licensee's
23 disability, military service or absence from the United States or to other
24 circumstances beyond the control of the licensee. If a licensee fails to
25 attend the required number of clock hours for reasons other than those
26 specified in this subsection, the board may grant an extension until May 1 of
27 that year for the licensee to comply.

28 D. Unless the board grants an extension pursuant to subsection C of
29 this section, a licensee who fails to renew the license within thirty days
30 after the renewal date shall pay a penalty fee and a reimbursement fee in
31 addition to the prescribed renewal fee. Except as provided in sections
32 32-3202 and 32-4301, a license expires if a person does not renew the license
33 within four months after the renewal date. A person who practices
34 osteopathic medicine after that time is in violation of this chapter. A
35 person whose license expires may reapply for a license pursuant to this
36 chapter.

37 Sec. 7. Section 32-1826, Arizona Revised Statutes, is amended to read:
38 32-1826. Fees; penalty

39 A. The board ~~by a formal vote at its annual January meeting~~ shall
40 establish fees of not to exceed the following:

41 1. For an application to practice osteopathic medicine, four hundred
42 dollars.

43 2. For issuance of a license, two hundred dollars, prorated by each
44 month remaining in the calendar year of issuance.

45 3. For biennial renewal of a license, eight hundred dollars.

46 4. For locum tenens registration or extension, three hundred dollars.

1 5. For issuance of a duplicate license, one hundred dollars.

2 6. For ~~annual registration of~~ AN ANNUAL TRAINING PERMIT FOR an
3 approved ~~internship, residency, clinical fellowship~~ POSTGRADUATE TRAINING
4 program or short-term residency program, one hundred dollars.

5 7. For an annual teaching license issued pursuant to section 32-1831,
6 four hundred dollars.

7 8. For a five-day educational teaching permit at an approved school of
8 medicine or at an approved teaching hospital's accredited graduate medical
9 education program, two hundred dollars.

10 ~~9. For the sale of those copies of the annual osteopathic medical~~
11 ~~directory that are not distributed free of charge, seventy-five dollars.~~

12 ~~10.~~ 9. For the sale of A computerized ~~tapes or diskettes~~ FORMAT OF THE
13 BOARD'S LICENSEE DIRECTORY that ~~do~~ DOES not require programming, one hundred
14 dollars.

15 ~~11.~~ 10. For initial and annual registration to dispense drugs and
16 devices, two hundred fifty dollars, prorated by each month remaining in the
17 calendar year of issuance.

18 B. The board shall charge a one hundred fifty dollar penalty fee for
19 late renewal of a license and a twenty-five dollar reimbursement fee to cover
20 the board's expenses in collecting late renewal fees. The board shall
21 deposit this fee in the board fund.

22 C. The board may charge additional fees for services the board
23 determines are necessary and appropriate to carry out this chapter. These
24 fees shall not exceed the actual cost of providing the services.

25 Sec. 8. Section 32-1828, Arizona Revised Statutes, is amended to read:
26 32-1828. Education teaching permits

27 A. The dean of a ~~board-approved~~
28 APPROVED BY THE AMERICAN OSTEOPATHIC ASSOCIATION school of osteopathic medicine
29 teaching hospital's accredited graduate medical education program may invite
30 a doctor of osteopathy who is not licensed in this state to demonstrate and
31 perform medical procedures and surgical techniques for the sole purpose of
32 promoting professional education for students, interns, residents, fellows
33 and doctors of osteopathy in this state.

34 B. The chairman or dean of the inviting institution shall provide to
35 the board evidence that an applicant for an educational permit has
36 malpractice insurance in an amount that meets the requirements of that
37 institution and that the applicant accepts all responsibility and liability
38 for the procedures the applicant performs within the scope of the applicant's
39 permit.

40 C. In a letter to the board, the chairman or dean of the inviting
41 institution shall outline the procedures and techniques that the doctor of
42 medicine will perform or demonstrate and the dates that this activity will
43 occur. The letter shall also include a summary of the doctor of osteopathy's
44 education and professional background and shall be accompanied by the fee
45 required pursuant to this chapter.

1 D. The inviting institutions shall submit the fees and documents
2 required pursuant to this section no later than two weeks before the
3 scheduled activity.

4 E. The board through its staff shall issue an educational teaching
5 permit for not more than five days for each approved activity.

6 Sec. 9. Section 32-1829, Arizona Revised Statutes, is amended to read:
7 32-1829. Training permits; issuance of permits

8 A. The board may grant a one-year renewable training permit to a
9 person WHO IS participating in a teaching hospital's accredited internship,
10 residency or clinical fellowship training program to allow that person to
11 practice medicine only in the supervised setting of that program. Before the
12 board issues the permit, the person shall:

13 1. Submit an application ~~demonstrating that, except for the training~~
14 ~~program applied for, the person meets the requirements for licensure~~
15 ~~prescribed in section 32-1822.~~ ON A FORM AND IN A MANNER PRESCRIBED BY THE
16 BOARD AND PROOF THAT THE APPLICANT:

17 (a) IS THE PERSON NAMED ON THE APPLICATION AND ON ALL SUPPORTING
18 DOCUMENTATION.

19 (b) IS A CITIZEN OF THE UNITED STATES OR A RESIDENT ALIEN.

20 (c) IS A GRADUATE OF A SCHOOL APPROVED BY THE AMERICAN OSTEOPATHIC
21 ASSOCIATION.

22 (d) PARTICIPATED IN POSTGRADUATE TRAINING, IF ANY.

23 (e) HAS PASSED APPROVED EXAMINATIONS APPROPRIATE TO THE APPLICANT'S
24 LEVEL OF EDUCATION AND TRAINING.

25 (f) HAS NOT ENGAGED IN ANY CONDUCT THAT, IF IT OCCURRED IN THIS STATE,
26 WOULD BE CONSIDERED UNPROFESSIONAL CONDUCT OR, IF THE APPLICANT HAS ENGAGED
27 IN UNPROFESSIONAL CONDUCT, IS REHABILITATED FROM THE UNDERLYING CONDUCT.

28 (g) IS OF GOOD MORAL CHARACTER.

29 (h) IS PHYSICALLY, MENTALLY AND EMOTIONALLY ABLE TO PRACTICE MEDICINE,
30 OR, IF LIMITED, RESTRICTED OR IMPAIRED IN THE ABILITY TO PRACTICE MEDICINE,
31 CONSENTS TO A CONTINGENT PERMIT OR TO ENTRY INTO A PROGRAM DESCRIBED IN
32 SECTION 32-1861.

33 2. Pay the NONREFUNDABLE APPLICATION fee prescribed ~~in this chapter~~ BY
34 THE BOARD.

35 B. If a permittee who is participating in a teaching hospital's
36 accredited internship, residency or clinical fellowship training program must
37 repeat or make up time in the program due to resident progression or for
38 other reasons, the board may grant that person an extension of the training
39 permit if requested to do so by the program's director of medical education
40 or a person who holds an equivalent position. The extended permit limits the
41 permittee to practicing only in the supervised setting of that program for a
42 period of time sufficient to repeat or make up the training.

43 C. The board may grant a training permit to a person who is not
44 licensed in this state and who is participating in a short-term training
45 program of four months or less for continuing medical education conducted in
46 an approved school of osteopathic medicine or a hospital that has an

1 accredited hospital internship, residency or clinical fellowship training
2 program in this state. Before the board issues the permit, the person shall:

3 1. Submit an application ~~demonstrating that the person meets the~~
4 ~~requirements for licensure prescribed in section 32-1822.~~ ON A FORM AND IN A
5 MANNER PRESCRIBED BY THE BOARD AND PROOF THAT THE APPLICANT MEETS THE
6 REQUIREMENTS PRESCRIBED IN SUBSECTION A, PARAGRAPH 1 OF THIS SECTION.

7 2. Pay the NONREFUNDABLE APPLICATION fee prescribed ~~in this chapter~~ BY
8 THE BOARD.

9 D. A permittee is subject to the disciplinary provisions of this
10 chapter.

11 E. The executive director may issue a permit to an applicant who meets
12 the requirements of this chapter.

13 F. If a permit is not issued pursuant to subsection E of this section,
14 the board may issue a permit or may:

15 1. Issue a permit that is contingent on the applicant entering into a
16 stipulated agreement that may include a period of probation or a restriction
17 on the permittee's practice.

18 2. Deny a permit to an applicant who does not meet the requirements of
19 this chapter.

20 Sec. 10. Section 32-1830, Arizona Revised Statutes, is amended to
21 read:

22 32-1830. Training permits; approved schools

23 The executive director may grant a one-year training permit to a person
24 who:

25 1. Participates in a program at an approved school of medicine or a
26 hospital that has an approved hospital internship, residency or clinical
27 fellowship training program if the purpose of the program is to exchange
28 technical and educational information.

29 2. Pays the fee as prescribed ~~in this article~~ BY THE BOARD.

30 3. Submits a written statement from the dean of the approved school of
31 osteopathic medicine or from the chairman of a teaching hospital's accredited
32 graduate medical education program that:

33 (a) Includes a request for the permit and describes the purpose of the
34 exchange program.

35 (b) Specifies that the host institution shall provide liability
36 coverage.

37 (c) Provides proof that a doctor of medicine will serve as the
38 preceptor of the host institution and provide appropriate supervision of the
39 participant.

40 (d) States that the host institution has advised the participant that
41 the participant may serve as a member of an organized medical team but shall
42 not practice medicine independently and that this training does not accrue
43 toward postgraduate training requirements for licensure.

44 Sec. 11. Section 32-1831, Arizona Revised Statutes, is amended to
45 read:

46 32-1831. Teaching licenses; definitions

1 A. A doctor of osteopathic medicine who is not licensed in this state
2 may be employed as a full-time faculty member by a ~~board-approved~~ school of
3 osteopathic medicine in this state APPROVED BY THE AMERICAN OSTEOPATHIC
4 ASSOCIATION or a teaching hospital's accredited graduate medical education
5 program in this state to provide professional education through lectures,
6 clinics or demonstrations if the doctor holds a teaching license issued
7 pursuant to this section.

8 B. An applicant for a teaching license shall:

9 1. Submit a completed application as prescribed by the board.

10 2. Pay all fees prescribed by the board. APPLICATION FEES ARE
11 NONREFUNDABLE.

12 3. Meet the ~~basic~~ requirements of section 32-1822.

13 C. A person WHO IS licensed pursuant to this section shall not open an
14 office or designate a place to meet patients or receive calls relating to the
15 practice of osteopathic medicine in this state outside of the facilities and
16 programs of the approved school or teaching hospital.

17 D. A person WHO IS licensed pursuant to this section shall comply with
18 the requirements of this chapter, with the exception of those that relate to
19 ~~training and~~ LICENSING examinations.

20 E. THE BOARD OR THE EXECUTIVE DIRECTOR MAY REQUIRE AN APPLICANT TO
21 SUBMIT TO A PERSONAL INTERVIEW, A PHYSICAL EXAMINATION OR A MENTAL HEALTH
22 EVALUATION, OR ANY COMBINATION OF THESE, AT THE APPLICANT'S EXPENSE. THE
23 BOARD SHALL PRESCRIBE A REASONABLE TIME AND PLACE IF THE BOARD DETERMINES
24 THAT THIS IS NECESSARY TO PROVIDE THE BOARD WITH ADEQUATE INFORMATION
25 REGARDING THE APPLICANT'S ABILITY TO MEET THE LICENSURE REQUIREMENTS OF THIS
26 CHAPTER. THE INTERVIEW MAY INCLUDE QUESTIONS REGARDING MEDICAL KNOWLEDGE AND
27 OTHER MATTERS RELEVANT TO LICENSURE.

28 F. THE BOARD MAY DENY A LICENSE FOR ANY UNPROFESSIONAL CONDUCT THAT
29 WOULD CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THIS CHAPTER OR
30 AS DETERMINED BY A COMPETENT DOMESTIC OR FOREIGN JURISDICTION.

31 G. A PERSON WHO IS LICENSED PURSUANT TO THIS SECTION IS SUBJECT TO THE
32 DISCIPLINARY PROVISIONS PURSUANT TO THIS CHAPTER.

33 ~~E.~~ H. A license issued pursuant to this section is valid for two
34 years. A doctor of osteopathic medicine may apply for licensure once every
35 two years, SUBJECT TO THE CONTINUING MEDICAL EDUCATION REQUIREMENTS
36 PRESCRIBED IN SECTION 32-1825.

37 ~~F.~~ I. For the purposes of this section:

38 1. "Accredited" means that the school or teaching hospital has an
39 internship, fellowship or residency training program that is accredited by
40 the accreditation council for graduate medical education, the American
41 osteopathic association or a similar body that is approved by the board.

42 2. "Full-time faculty member" means a full-time faculty member as
43 prescribed by the school of osteopathic medicine or the teaching hospital.

44 Sec. 12. Section 32-1832, Arizona Revised Statutes, is amended to
45 read:

1 32-1832. Retired license: waiver of fees: reinstatement:
2 limited license: volunteer work

3 A. The board ~~may~~ SHALL waive a physician's biennial renewal fee if the
4 physician has paid all past fees, ~~and~~ presents an affidavit to the board
5 stating that the physician has permanently retired from the practice of
6 osteopathic medicine AND DOES NOT HAVE ANY PENDING COMPLAINTS OR OPEN
7 DISCIPLINARY MATTERS BEFORE THE BOARD.

8 B. A retired physician whose biennial fee has been waived by the board
9 pursuant to this section is not required to comply with any continuing
10 medical education requirements of this chapter.

11 C. AFTER RETIRED STATUS IS GRANTED BY THE BOARD, A RETIRED PHYSICIAN
12 SHALL SUBMIT A RENEWAL OF RETIRED STATUS EVERY TWO YEARS ON A FORM AND IN A
13 MANNER PRESCRIBED BY THE BOARD.

14 ~~D.~~ D. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, a retired
15 physician who has had the biennial renewal fee waived by the board pursuant
16 to this section and who engages in the practice of osteopathic medicine is
17 subject to the same penalties that are imposed pursuant to this chapter on a
18 person who practices medicine without a license or without being exempt from
19 licensure.

20 ~~D.~~ E. The board may reinstate a retired physician to active status on
21 payment of the biennial renewal fee and presentation of evidence satisfactory
22 to the board that the physician meets the qualifications prescribed pursuant
23 to section 32-1822. THE BOARD MAY DENY THE REQUEST FOR REINSTATEMENT, PLACE
24 THE LICENSEE ON PROBATION OR ISSUE A LIMITED LICENSE THAT REQUIRES GENERAL OR
25 DIRECT SUPERVISION BY ANOTHER LICENSED DOCTOR OF OSTEOPATHY FOR NOT MORE THAN
26 ONE YEAR.

27 ~~E. If an applicant for reinstatement to active status has not been~~
28 ~~licensed and actively practicing in another jurisdiction of the United States~~
29 ~~or Canada in the three years immediately preceding the application, the board~~
30 ~~may issue a limited license that requires general or direct supervision by~~
31 ~~another licensed osteopathic physician for not more than one year.~~

32 F. A retired physician who has had the biennial renewal fee waived by
33 the board pursuant to this section may perform volunteer work of not more
34 than ten hours each week and may teach or provide instruction at an approved
35 school of osteopathic medicine.

36 Sec. 13. Title 32, chapter 17, article 2, Arizona Revised Statutes, is
37 amended by adding section 32-1833, to read:

38 32-1833. Pro bono registration

39 A. THE BOARD MAY ISSUE A PRO BONO REGISTRATION TO ALLOW A DOCTOR OF
40 OSTEOPATHY WHO IS NOT A LICENSEE TO PRACTICE IN THIS STATE FOR A TOTAL OF
41 SIXTY DAYS EACH CALENDAR YEAR IF THE DOCTOR MEETS ALL OF THE FOLLOWING
42 REQUIREMENTS:

43 1. HOLDS AN ACTIVE AND UNRESTRICTED LICENSE TO PRACTICE MEDICINE IN A
44 STATE, TERRITORY OR POSSESSION OF THE UNITED STATES.

45 2. HAS NEVER HAD A LICENSE REVOKED OR SUSPENDED BY A HEALTH PROFESSION
46 REGULATORY BOARD OF ANOTHER JURISDICTION.

- 1 3. IS NOT THE SUBJECT OF AN UNRESOLVED COMPLAINT.
- 2 4. APPLIES FOR REGISTRATION ON AN ANNUAL BASIS AS PRESCRIBED BY THE
- 3 BOARD.
- 4 5. AGREES TO RENDER ALL MEDICAL SERVICES WITHOUT ACCEPTING A FEE OR
- 5 SALARY OR PERFORMS ONLY INITIAL OR FOLLOW-UP EXAMINATIONS AT NO COST TO THE
- 6 PATIENT AND THE PATIENT'S FAMILY THROUGH A CHARITABLE ORGANIZATION.
- 7 B. THE SIXTY DAYS OF PRACTICE PRESCRIBED PURSUANT TO SUBSECTION A OF
- 8 THIS SECTION MAY BE PERFORMED CONSECUTIVELY OR CUMULATIVELY DURING EACH
- 9 CALENDAR YEAR.
- 10 C. FOR THE PURPOSE OF MEETING THE REQUIREMENTS OF SUBSECTION A OF THIS
- 11 SECTION, AN APPLICANT UNDER THIS SECTION SHALL PROVIDE THE BOARD THE NAME OF
- 12 EACH STATE IN WHICH THE PERSON IS LICENSED OR HAS HELD A LICENSE. THE BOARD
- 13 SHALL VERIFY WITH THE APPLICABLE REGULATORY BOARD OF EACH STATE THAT THE
- 14 APPLICANT IS LICENSED OR HAS HELD A LICENSE, HAS NEVER HAD A LICENSE REVOKED
- 15 OR SUSPENDED AND IS NOT THE SUBJECT OF AN UNRESOLVED COMPLAINT. THE BOARD
- 16 MAY ACCEPT THE VERIFICATION OF THE INFORMATION REQUIRED BY SUBSECTION A,
- 17 PARAGRAPHS 1, 2 AND 3 OF THIS SECTION FROM EACH OF THE OTHER STATE'S
- 18 REGULATORY BOARDS EITHER ELECTRONICALLY OR BY HARD COPY.

19 Sec. 14. Section 32-1851, Arizona Revised Statutes, is amended to
20 read:

21 32-1851. Prohibited acts

22 The following acts are prohibited:

- 23 1. Practicing medicine and surgery as an osteopathic physician and
- 24 surgeon without holding a license issued by the board under the provisions of
- 25 this chapter.
- 26 2. Misusing the designation "D.O." in a way that leads the public to
- 27 believe that a person is licensed to practice medicine in this state.
- 28 3. Using the designation "doctor of osteopathy", "DOCTOR OF
- 29 OSTEOPATHIC MEDICINE", "osteopathic physician", "osteopathic surgeon",
- 30 "osteopathic physician and surgeon" or any combination of these terms unless
- 31 the designation additionally contains the description of another branch of
- 32 the healing arts.
- 33 ~~4. Using the designation "doctor of osteopathy" by a member of another~~
- 34 ~~branch of the healing arts unless there is set forth with each designation~~
- 35 ~~the other branch of the healing arts concerned.~~
- 36 ~~5.~~ 4. Using any other words, initials or symbols or a combination of
- 37 these ~~which~~ THAT leads the public to believe a person is licensed to practice
- 38 medicine in this state.

39 Sec. 15. Section 32-1854, Arizona Revised Statutes, is amended to
40 read:

41 32-1854. Definition of unprofessional conduct

42 For the purposes of this chapter, "unprofessional conduct" includes the
43 following acts, whether occurring in this state or elsewhere:

- 44 1. ~~Wilfully~~ KNOWINGLY betraying a professional secret or wilfully
- 45 violating a privileged communication except as either of these may otherwise
- 46 be required by law. This paragraph does not prevent members of the board

1 from exchanging information with the licensing and disciplinary boards of
2 other states, territories or districts of the United States or with foreign
3 countries or with osteopathic medical organizations located in this state or
4 in any state, district or territory of this country or in any foreign
5 country.

6 2. Committing a felony, ~~whether or not involving moral turpitude,~~ or a
7 misdemeanor involving moral turpitude. In either case conviction by any
8 court of competent jurisdiction is conclusive evidence of the commission OF
9 THE OFFENSE.

10 3. Practicing medicine while under the influence of alcohol, A
11 DANGEROUS DRUG AS DEFINED IN SECTION 13-3401, narcotic or hypnotic drugs or
12 any substance that impairs or may impair the licensee's ability to safely and
13 skillfully practice medicine.

14 4. Being diagnosed by a physician licensed under this chapter or
15 chapter 13 of this title or a psychologist licensed under chapter 19.1 of
16 this title as excessively or illegally using alcohol or a controlled
17 substance.

18 5. Prescribing, dispensing or administering controlled substances or
19 prescription-only drugs for other than accepted therapeutic purposes.

20 6. Engaging in the practice of medicine in a manner that harms or may
21 harm a patient or that the board determines falls below the community
22 standard.

23 7. Impersonating another physician.

24 8. Acting or assuming to act as a member of the board if this is not
25 true.

26 9. Procuring, renewing or attempting to procure or renew a license to
27 practice osteopathic medicine by fraud or misrepresentation.

28 10. Having professional connection with or lending one's name to an
29 illegal practitioner of osteopathic medicine or any of the other healing
30 arts.

31 11. Representing that a manifestly incurable disease, injury, ailment
32 or infirmity can be permanently cured or that a curable disease, injury,
33 ailment or infirmity can be cured within a stated time, if this is not true.

34 12. Failing to reasonably disclose and inform the patient or the
35 patient's representative of the method, device or instrumentality the
36 licensee uses to treat the patient's disease, injury, ailment or infirmity.

37 13. Refusing to divulge to the board on demand the means, method,
38 device or instrumentality used in the treatment of a disease, injury, ailment
39 or infirmity.

40 14. Charging a fee for services not rendered or dividing a professional
41 fee for patient referrals. This paragraph does not apply to payments from a
42 medical researcher to a physician in connection with identifying and
43 monitoring patients for clinical trial regulated by the United States food
44 and drug administration.

1 15. Knowingly making any false or fraudulent statement, written or
2 oral, in connection with the practice of medicine or when applying for or
3 renewing privileges at a health care institution or a health care program.

4 16. Advertising in a false, deceptive or misleading manner.

5 17. Representing or claiming to be an osteopathic medical specialist if
6 the physician has not satisfied the applicable requirements of this chapter
7 or board rules.

8 18. The denial of or disciplinary action against a license by any other
9 state, territory, district or country, unless it can be shown that this
10 occurred for reasons that did not relate to the person's ability to safely
11 and skillfully practice osteopathic medicine or to any act of unprofessional
12 conduct as provided in this section.

13 19. Any conduct or practice contrary to recognized standards of ethics
14 of the osteopathic medical profession.

15 20. Violating or attempting to violate, directly or indirectly, or
16 assisting in or abetting the violation of or conspiring to violate any of the
17 provisions of this chapter.

18 21. Failing or refusing to establish and maintain adequate records on a
19 patient as follows:

20 (a) If the patient is an adult, for at least ~~seven~~ SIX years after the
21 last date the licensee provided the patient with medical or health care
22 services.

23 (b) If the patient is a child, either for at least three years after
24 the child's eighteenth birthday or for at least ~~seven~~ SIX years after the
25 last date the licensee provided that patient with medical or health care
26 services, whichever date occurs ~~first~~ LATER.

27 ~~(c) If the patient dies before the expiration of the dates prescribed~~
28 ~~in subdivision (a) or (b) of this paragraph, for at least three years after~~
29 ~~the patient's death.~~

30 22. Using controlled substances or prescription-only drugs unless they
31 are provided by a medical practitioner, as defined in section 32-1901, as
32 part of a lawful course of treatment.

33 23. Prescribing controlled substances to members of one's immediate
34 family unless there is no other physician available within fifty miles to
35 treat a member of the family and an emergency exists.

36 24. Nontherapeutic use of injectable amphetamines.

37 25. Violating a formal order, probation or a stipulation issued by the
38 board under this chapter.

39 26. Charging or collecting an inappropriate fee. This paragraph does
40 not apply to a fee that is fixed in a written contract between the physician
41 and the patient and entered into before treatment begins.

42 27. Using experimental forms of therapy without adequate informed
43 patient consent or without conforming to generally accepted criteria and
44 complying with federal and state statutes and regulations governing
45 experimental therapies.

1 28. Failing to make patient medical records in the physician's
2 possession promptly available to a physician assistant, a nurse practitioner,
3 a person licensed pursuant to this chapter or a podiatrist, chiropractor,
4 naturopathic physician, physician or homeopathic physician licensed under
5 chapter 7, 8, 13, 14 or 29 of this title on receipt of proper authorization
6 to do so from the patient, a minor patient's parent, the patient's legal
7 guardian or the patient's authorized representative or failing to comply with
8 title 12, chapter 13, article 7.1.

9 29. Failing to allow properly authorized board personnel to have, on
10 presentation of a subpoena, access to any documents, reports or records that
11 are maintained by the physician and that relate to the physician's medical
12 practice or medically related activities pursuant to section 32-1855.01.

13 30. Signing a blank, undated or predated prescription form.

14 31. Obtaining a fee by fraud, deceit or misrepresentation.

15 32. Failing to report to the board an osteopathic physician and surgeon
16 who is or may be guilty of unprofessional conduct or is or may be mentally or
17 physically unable safely to engage in the practice of medicine.

18 33. Referring a patient to a diagnostic or treatment facility or
19 prescribing goods and services without disclosing that the physician has a
20 direct pecuniary interest in the facility, goods or services to which the
21 patient has been referred or prescribed. This paragraph does not apply to a
22 referral by one physician to another physician within a group of physicians
23 practicing together.

24 34. Lack of or inappropriate direction, collaboration or supervision of
25 a licensed, certified or registered health care provider or office personnel
26 employed by or assigned to the physician in the medical care of patients.

27 35. Violating a federal law, a state law or a rule applicable to the
28 practice of medicine.

29 36. Prescribing or dispensing controlled substances or
30 prescription-only medications without establishing and maintaining adequate
31 patient records.

32 37. Failing to dispense drugs and devices in compliance with article 4
33 of this chapter.

34 38. Any conduct or practice that endangers a patient's or the public's
35 health or may reasonably be expected to do so.

36 39. Any conduct or practice that impairs the licensee's ability to
37 safely and skillfully practice medicine or that may reasonably be expected to
38 do so.

39 40. With the exception of heavy metal poisoning, using chelation
40 therapy in the treatment of arteriosclerosis or as any other form of therapy
41 without adequate informed patient consent and without conforming to generally
42 accepted experimental criteria, including protocols, detailed records,
43 periodic analysis of results and periodic review by a medical peer review
44 committee.

45 41. Prescribing, dispensing or administering anabolic-androgenic
46 steroids to a person for other than therapeutic purposes.

1 42. Engaging in sexual conduct with a current patient or with a former
2 patient within six months after the last medical consultation unless the
3 patient was the licensee's spouse at the time of the contact or, immediately
4 preceding the physician-patient relationship, was in a dating or engagement
5 relationship with the licensee. For the purposes of this paragraph, "sexual
6 conduct" includes:

7 (a) Engaging in or soliciting sexual relationships, whether consensual
8 or nonconsensual.

9 (b) Making sexual advances, requesting sexual favors or engaging in
10 any other verbal conduct or physical conduct of a sexual nature.

11 43. Fetal experiments conducted in violation of section 36-2302.

12 44. Conduct that the board determines constitutes gross negligence,
13 repeated negligence or negligence that results in harm or death of a patient.

14 45. Conduct in the practice of medicine that evidences moral unfitness
15 to practice medicine.

16 46. Engaging in disruptive or abusive behavior in a professional
17 setting.

18 47. Failing to disclose to a patient that the licensee has a direct
19 financial interest in a prescribed treatment, good or service if the
20 treatment, good or service is available on a competitive basis. This
21 paragraph does not apply to a referral by one licensee to another licensee
22 within a group of licensees who practice together. A licensee meets the
23 disclosure requirements of this paragraph if all of the following are true:

24 (a) The licensee makes the disclosure on a form prescribed by the
25 board.

26 (b) The patient or the patient's guardian or parent acknowledges by
27 signing the form that the licensee has disclosed the licensee's direct
28 financial interest.

29 48. Prescribing, dispensing or furnishing a prescription medication or
30 a prescription-only device to a person if the licensee has not conducted a
31 physical or mental health status examination of that person or has not
32 previously established a physician-patient relationship. The physical or
33 mental health status examination may be conducted during a real-time
34 telemedicine encounter with audio and video capability if the telemedicine
35 audio and video capability meets the elements required by the centers for
36 medicare and medicaid services, unless the examination is for the purpose of
37 obtaining a written certification from the physician for the purposes of
38 title 36, chapter 28.1. This paragraph does not apply to:

39 (a) Emergencies.

40 (b) A licensee who provides patient care on behalf of the patient's
41 regular treating licensed health care professional or provides a consultation
42 requested by the patient's regular treating licensed health care
43 professional.

44 (c) Prescriptions written or antimicrobials dispensed to a contact as
45 defined in section 36-661 who is believed to have had significant exposure
46 risk as defined in section 36-661 with another person who has been diagnosed

1 with a communicable disease as defined in section 36-661 by the prescribing
2 or dispensing physician.

3 (d) Prescriptions for epinephrine auto-injectors written or dispensed
4 for a school district or charter school to be stocked for emergency use
5 pursuant to section 15-157.

6 (e) Prescriptions written by a licensee through a telemedicine program
7 that is covered by the policies and procedures adopted by the administrator
8 of a hospital or outpatient treatment center.

9 49. If a licensee provides medical care by computer, failing to
10 disclose the licensee's license number and the board's address and telephone
11 number.

12 Sec. 16. Section 32-1855, Arizona Revised Statutes, is amended to
13 read:

14 32-1855. Disciplinary action; duty to report; hearing; notice;
15 independent medical examinations; surrender of
16 license

17 A. The board on its own motion may investigate any information that
18 appears to show that an osteopathic physician and surgeon is or may be guilty
19 of unprofessional conduct or is or may be mentally or physically unable
20 safely to engage in the practice of medicine. Any osteopathic physician or
21 surgeon or the Arizona osteopathic medical association or any health care
22 institution as defined in section 36-401 shall, and any other person may,
23 report to the board any information the physician or surgeon, association,
24 health care institution or other person may have that appears to show that an
25 osteopathic physician and surgeon is or may be guilty of unprofessional
26 conduct or is or may be mentally or physically unable safely to engage in the
27 practice of medicine. The board shall notify the doctor about whom
28 information has been received as to the content of the information as soon as
29 reasonable after receiving the information. Any person who reports or
30 provides information to the board in good faith is not subject to civil
31 damages as a result of that action. If requested the board shall not
32 disclose the informant's name unless it is essential to the disciplinary
33 proceedings conducted pursuant to this section. It is an act of
34 unprofessional conduct for any osteopathic physician or surgeon to fail to
35 report as required by this section. The board shall report any health care
36 institution that fails to report as required by this section to that
37 institution's licensing agency. A person who reports information in good
38 faith pursuant to this subsection is not subject to civil liability.

39 B. The board may require a physician under investigation pursuant to
40 subsection A of this section to be interviewed by the board or its
41 representatives. The board or the executive director may require a licensee
42 who is under investigation pursuant to subsection A of this section to
43 undergo at the licensee's expense any combination of medical, physical or
44 mental examinations the board finds necessary to determine the physician's
45 competence.

1 C. If the board finds, based on the information it received under
2 ~~subsections~~ SUBSECTION A ~~and~~ OR B of this section, that the public health,
3 safety or welfare imperatively requires emergency action and incorporates a
4 finding to that effect in its order, the board may order a summary suspension
5 of a license pending proceedings for revocation or other action. If an order
6 of summary suspension is issued, the licensee shall also be served with a
7 written notice of complaint and formal hearing setting forth the charges made
8 against the licensee and is entitled to a formal hearing on the charges
9 pursuant to title 41, chapter 6, article 10. Formal proceedings shall be
10 promptly instituted and determined.

11 D. 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 direct action against the physician's license, it may
14 take any combination of the following actions:

15 1. Dismiss if, in the opinion of the board, the information is without
16 merit.

17 2. ~~File~~ ISSUE a letter of concern.

18 3. In addition to the requirements of section 32-1825, require
19 continuing medical education on subjects and within a time period determined
20 by the board.

21 4. Issue a nondisciplinary order requiring the licensee to complete a
22 prescribed number of hours of continuing education in an area or areas
23 prescribed by the board to provide the licensee with the necessary
24 understanding of current developments, skills, procedures or treatment.

25 E. If, in the opinion of the board, it appears that information
26 provided pursuant to this section is or may be true, the board may request an
27 investigative hearing with the physician concerned. At an investigative
28 hearing the board may receive and consider sworn statements of persons who
29 may be called as witnesses ~~in a formal hearing~~ and other pertinent documents.
30 Legal counsel may be present and participate in the meeting. If the
31 physician refuses the request or if the physician accepts the request and the
32 results of the investigative hearing indicate suspension of more than twelve
33 months or revocation of the license may be in order, a complaint shall be
34 issued and an administrative hearing shall be held pursuant to title 41,
35 chapter 6, article 10. ~~If,~~ After the investigative hearing and a mental,
36 physical or medical competence examination as the board deems necessary, the
37 board ~~finds the information provided pursuant to this section to be true but~~
38 ~~not of sufficient seriousness to merit suspension or revocation of the~~
39 ~~license, it~~ may take any of the following actions:

40 1. Dismiss if, in the opinion of the board, the information is without
41 merit.

42 2. ~~File~~ ISSUE a letter of concern.

43 3. In addition to the requirements of section 32-1825, require
44 continuing medical education on subjects and within a time period determined
45 by the board.

1 4. Issue a decree of censure, which constitutes an official action
2 against a physician's license.

3 5. Fix a period and terms of probation best adapted to protect the
4 public health and safety and rehabilitate or educate the physician concerned.
5 Any costs incidental to the terms of probation are at the physician's own
6 expense.

7 6. Restrict or limit the physician's practice in a manner and for a
8 time determined by the board.

9 7. Suspend the physician's license for not more than twelve months.

10 8. Impose a civil penalty of not to exceed five hundred dollars for
11 each violation of this chapter.

12 9. Issue a nondisciplinary order requiring the licensee to complete a
13 prescribed number of hours of continuing education in an area or areas
14 prescribed by the board to provide the licensee with the necessary
15 understanding of current developments, skills, procedures or treatment.

16 10. Issue an administrative warning.

17 F. If, in the opinion of the board, it appears the charge is of such
18 magnitude as to warrant suspension for more than twelve months or revocation
19 of the license, the board shall immediately initiate formal revocation or
20 suspension proceedings pursuant to title 41, chapter 6, article 10. The
21 board shall notify a licensee of a complaint and hearing by certified mail
22 addressed to the licensee's last known address on record in the board's
23 files.

24 ~~G. If the physician wishes to be present at the investigative or
25 administrative hearing in person or by representation, or both, the physician
26 shall file with the board an answer to the charges in the complaint. The
27 answer shall be in writing, verified under oath and filed within twenty days
28 after service of the summons and complaint.~~

29 ~~H. A physician who complies with subsection G of this section may be
30 present at the hearing in person with counsel and witnesses.~~

31 I. G. A physician who, after an investigative or administrative
32 hearing, is found to be guilty of unprofessional conduct or is found to be
33 mentally or physically unable safely to engage in the practice of osteopathic
34 medicine is subject to any combination of censure, probation, suspension of
35 license, revocation of license, an order to return patient fees, imposition
36 of hearing costs, imposition of a civil penalty of not to exceed five hundred
37 dollars for each violation for a period of time, or permanently, and under
38 conditions the board deems appropriate for the protection of the public
39 health and safety and just in the circumstances. The board may charge the
40 costs of an investigative or administrative hearing to the licensee if
41 pursuant to that hearing the board determines that the licensee violated this
42 chapter or board rules.

43 J. H. If the board acts to modify a physician's prescription writing
44 privileges, it shall immediately notify the state board of pharmacy and the
45 federal drug enforcement administration in the United States department of
46 justice of the modification.

1 ~~K.~~ I. The board shall report allegations of evidence of criminal
2 wrongdoing to the appropriate criminal justice agency.

3 ~~L.~~ J. Notice of a complaint and administrative hearing is effective
4 when a true copy of the notice is sent by certified mail to the licensee's
5 last known address of record in the board's files and is complete on the date
6 of its deposit in the mail. The board shall hold an administrative hearing
7 within one hundred twenty days after that date.

8 ~~M.~~ K. The board may accept the surrender of an active license from a
9 licensee who admits in writing to having committed an act of unprofessional
10 conduct, ~~or~~ to having violated this chapter or board rules OR TO BEING UNABLE
11 TO SAFELY PRACTICE MEDICINE.

12 L. A LICENSEE SHALL RESPOND IN WRITING TO THE BOARD WITHIN THIRTY DAYS
13 AFTER THE NOTICE OF FORMAL OR ADMINISTRATIVE HEARING IS SERVED. A LICENSEE
14 WHO FAILS TO ANSWER THE CHARGES IN A COMPLAINT AND NOTICE OF FORMAL OR
15 ADMINISTRATIVE HEARING ISSUED PURSUANT TO THIS ARTICLE AND TITLE 41, CHAPTER
16 6, ARTICLE 10 IS DEEMED TO ADMIT THE ACTS CHARGED IN THE COMPLAINT, AND THE
17 BOARD MAY REVOKE OR SUSPEND THE LICENSE WITHOUT A HEARING.

18 Sec. 17. Section 32-1855.01, Arizona Revised Statutes, is amended to
19 read:

20 32-1855.01. Right to examine and copy evidence; summoning
21 witnesses and documents; taking testimony; right
22 to counsel; court aid; process

23 A. Pursuant to an investigation conducted under this chapter, the
24 board and its authorized agents and employees may examine any documents,
25 reports, records or other physical evidence of any person being investigated,
26 as well as the reports, records and other documents maintained by and in
27 possession of any hospital, clinic, physician's office, laboratory, pharmacy
28 or other public or private agency and health care institution as defined in
29 section 36-401, that relate to medical competence, unprofessional conduct or
30 the licensee's mental or physical ability to safely practice medicine. The
31 investigators may copy evidence on site and at the licensee's expense.
32 Failing to permit access on request is unprofessional conduct.

33 B. For the purpose of all investigations and proceedings conducted by
34 the board:

35 1. The board, the executive director and the administrative law judges
36 on their own initiative, or ~~upon~~ ON application of any person involved in the
37 investigation, may issue subpoenas to compel the attendance and testimony of
38 witnesses or to demand the production for examination or copying of documents
39 or any other physical evidence that relates to medical competence,
40 unprofessional conduct or the mental or physical ability of a licensee to
41 safely practice medicine. Within five days after the service of a subpoena
42 requiring the production of evidence, the recipient of the subpoena may
43 petition the board to revoke, limit or modify the subpoena. The board shall
44 take the requested action if in its opinion the evidence required does not
45 relate to unlawful practices covered by this chapter, is not relevant to the
46 charge ~~which~~ THAT is the subject matter of the hearing or investigation or

1 does not describe with sufficient particularity the physical evidence whose
2 production is required. Any member of the board or any agent designated by
3 the board may administer oaths or affirmations, examine witnesses and receive
4 evidence. The superior court may enforce a subpoena issued by the board.

5 2. Any person appearing before the board has the right to be
6 represented by counsel.

7 3. The superior court ~~upon~~ ON application by the board has
8 jurisdiction to issue an order to require the subject of the subpoena to
9 appear before the board or its agent and produce evidence relating to the
10 matter under investigation. On application by the subject of the subpoena,
11 the court may revoke, limit or modify the subpoena if in the court's opinion
12 the evidence demanded does not relate to unlawful practices covered by this
13 chapter, is not relevant to the charge ~~which~~ THAT is the subject matter of
14 the hearing or investigation or does not describe with sufficient
15 particularity the evidence whose production is required.

16 4. The superior court, on application by the board, has jurisdiction
17 to issue an order enforcing a board-ordered examination for mental, physical
18 or medical competence as provided in section 32-1855, subsection ~~E~~ B.

19 Sec. 18. Section 32-1855.03, Arizona Revised Statutes, is amended to
20 read:

21 32-1855.03. Health care institution duty to report; immunity;
22 patient records; confidentiality

23 A. A health care institution as defined in section 36-401 or a
24 subscription provider of health care shall report to the board any
25 information it may have ~~which~~ THAT appears to show that a physician may be
26 guilty of unprofessional conduct or may be mentally or physically unable
27 safely to engage in the practice of medicine. A health care institution or
28 subscription provider of health care that provides information to the board
29 in good faith is not subject to an action for civil damages as a result and,
30 if requested, the board shall not disclose its name unless the testimony is
31 essential to the disciplinary proceedings conducted pursuant to section
32 32-1855. The board shall report a health care institution or subscription
33 provider of health care that fails to report as required by this section to
34 the institution's licensing agency.

35 B. The chief executive officer, the medical director or the medical
36 chief of staff of a health care institution or subscription provider of
37 health care shall inform the board when the privileges of a physician to
38 practice in the health care institution or subscription provider of health
39 care are denied, revoked, suspended or limited because of actions by the
40 physician ~~which~~ THAT jeopardized patient health and welfare or when the
41 physician resigned during pending proceedings for denial, revocation,
42 suspension or limitation of ~~his~~ privileges. A report to the board pursuant
43 to this subsection shall contain a general statement of the reasons the
44 health care institution or subscription provider of health care took an
45 action to deny, revoke, suspend or limit a physician's privileges. ~~The board~~

1 ~~shall inform all hospitals in this state of all disciplinary actions taken~~
2 ~~against a licensee except for letters of concern.~~

3 C. Hospital records, medical staff records, medical staff review
4 committee records and testimony concerning these records and proceedings
5 related to the creation of these records are confidential and are subject to
6 the same discovery and use in legal actions only as are the original records
7 in the possession and control of hospitals, their medical staff and their
8 medical staff review committees. The board shall use these records and
9 testimony only during the course of investigations and proceedings pursuant
10 to this chapter.

11 D. Patient records, including clinical records, medical reports,
12 laboratory statements and reports, any file or film, any other report or oral
13 statement relating to diagnostic findings or treatment of patients, any
14 information from which a patient or ~~his~~ THE PATIENT'S family might be
15 identified or information received and records kept by the board as a result
16 of the investigation made pursuant to this chapter are confidential.

17 E. Nothing in this chapter or any other provision of law relating to
18 privileged communications between a physician and ~~his~~ patient applies to
19 investigations or proceedings conducted pursuant to this chapter. The board
20 and its employees, agents and representatives shall keep confidential the
21 name of a patient whose records are reviewed during the course of an
22 investigation and proceedings.

APPROVED BY THE GOVERNOR APRIL 1, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 2015.