Senate Engrossed

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

SENATE BILL 1188

AN ACT

AMENDING SECTIONS 32-1901, 32-1922, 32-1927, 32-1927.01, 32-1927.02, 32-1930 AND 32-1931, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF PHARMACY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-1901, Arizona Revised Statutes, is amended to read:

32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by the practitioner's authorized agent or the patient or research subject at the direction of the practitioner.

2. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.

3. "Advisory letter" means a nondisciplinary letter to notify a licensee or permittee that either:

(a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee or permittee.

(b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

(c) While the licensee or permittee has demonstrated substantial compliance through rehabilitation, remediation or reeducation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee or permittee.

4. "Antiseptic", if a drug is represented as such on its label, means a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or other use that involves prolonged contact with the body.

5. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the state board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.

6. "Board" or "board of pharmacy" means the Arizona state board of pharmacy.

7. "Color additive" means a material that either:

(a) Is any dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

(b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material that has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

8. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug by a pharmacist or an intern or pharmacy technician under the pharmacist's supervision, for the purpose of dispensing to a patient based on a valid prescription order. Compounding includes the preparation of drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and the preparation of drugs as an incident to research, teaching or chemical analysis or for administration by a medical practitioner to the medical practitioner's patient and not for sale or dispensing. Compounding does not include the preparation of commercially available products from bulk compounds or the preparation of drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

9. "Compressed medical gas distributor" means a person who holds a current permit issued by the board to distribute compressed medical gases pursuant to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

10. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

11. "Compressed medical gas supplier" means a person who holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

12. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

13. "Controlled substance" means a drug, substance or immediate precursor identified, defined or listed in title 36, chapter 27, article 2.

14. "Corrosive" means any substance that when it comes in contact with living tissue will cause destruction of tissue by chemical action.

15. "Counterfeit drug" means a drug that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness of these, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed that drug.

16. "Dangerous drug" has the same meaning prescribed in section 13-3401.

17. "Decree of censure" means an official action that is taken by the board and that may include a requirement for restitution of fees to a patient or consumer.

18. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

19. "Deputy director" means a pharmacist employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

20. "Device", except as used in paragraph 15 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means instruments, apparatus and contrivances, including their components, parts and accessories, including all such items under the federal act, intended either:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

21. "Direct supervision of a pharmacist" means the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.

22. "Director" means the director of the division of narcotics enforcement and criminal investigation of the department of public safety.

23. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare for that delivery.

24. "Dispenser" means a practitioner who dispenses.

25. "Distribute" means to deliver, other than by administering or dispensing.

26. "Distributor" means a person who distributes.

27. "Drug" means:

(a) Articles recognized, or for which standards or specifications are prescribed, in the official compendium.

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(c) Articles other than food intended to affect the structure or any function of the human body or other animals.

(d) Articles intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.

28. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

29. "Drug or device manufacturing" means the production, preparation, propagation or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of

chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and the promotion and marketing of the same. Drug or device manufacturing does not include compounding.

30. "Economic poison" means any substance that alone, in chemical combination or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and that is used in the production, storage or transportation of raw agricultural commodities.

31. "Established name", with respect to a drug or ingredient of a drug, means any of the following:

(a) The applicable official name.

(b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, then the official title in an official compendium.

(c) If neither subdivision (a) nor (b) of this paragraph applies, then the common or usual name of such drug.

32. "Executive director" means the executive director of the board of pharmacy.

33. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are official at the time any drug, device, poison or hazardous substance is affected by this chapter.

34. "Full service wholesale permittee" means a permittee who may distribute prescription-only drugs and devices, controlled substances and over-the-counter drugs and devices to pharmacies or other legal outlets from a place devoted in whole or in part to wholesaling these items.

35. "Graduate intern" means a person who has graduated from a college, school or program of pharmacy approved by the board and who meets the qualifications and experience for a pharmacy intern as provided in section 32-1923.

36. "Highly toxic" means any substance that falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered.

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, if inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by humans if the substance is used in any reasonably foreseeable manner.

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or

less per kilogram of body weight, if administered by continuous contact with the bare skin for twenty-four hours or less.
If the board finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations prescribed in this paragraph, the human data shall take precedence.

37. "Hospital" means any institution for the care and treatment of the sick and injured that is approved and licensed as a hospital by the department of health services.

38. "Intern" means a pharmacy intern and a graduate intern.

39. "Internship" means the practical, experiential, hands-on training of a pharmacy intern under the supervision of a preceptor.

40. "Irritant" means any substance, other than a corrosive, that on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

41. "Jurisprudence examination" means a board approved pharmacy law examination that is written and administered in cooperation with the national association of boards of pharmacy or another board approved pharmacy law examination.

42. "Label" means a display of written, printed or graphic matter on the immediate container of any article that, unless easily legible through the outside wrapper or container, also appears on the outside wrapper or container of the article's retail package. For the purposes of this paragraph, the immediate container does not include package liners.

43. "Labeling" means all labels and other written, printed or graphic matter either:

(a) On any article or any of its containers or wrappers.

(b) Accompanying that article.

44. "Letter of reprimand" means a disciplinary letter that is a public document issued by the board and that informs a licensee or permittee that the licensee's or permittee's conduct violates state or federal law and may require the board to monitor the licensee or permittee.

45. "Limited service pharmacy" means a pharmacy approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

46. "Manufacture" or "manufacturer" means every person who prepares, derives, produces, compounds, processes, packages or repackages or labels any drug in a place, other than a pharmacy, devoted to manufacturing the drug.

47. "Marijuana" has the same meaning prescribed in section 13-3401.

48. "Medical practitioner" means any medical doctor, doctor of osteopathy, dentist, podiatrist, veterinarian or other person licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or animals or for the diagnosis or prevention of sickness in human beings or animals in this state or any state, territory or district of the United States.

49. "Medication order" means a written or verbal order from a medical practitioner or that person's authorized agent to administer a drug or device.

50. "Narcotic drug" has the same meaning prescribed in section 13-3401.

51. "New drug" means either:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling.

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in the investigations, been used to a material extent or for a material time under those conditions.

52. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and is prepackaged and labeled for use by the consumer in accordance with the requirements of the laws of this state and federal law. Nonprescription drug does not include:

(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only."

(d) A drug intended for human use by hypodermic injection.

53. "Nonprescription drug wholesale permittee" means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.

54. "Notice" means personal service or the mailing of a copy of the notice by certified mail addressed either to the person at the person's latest address of record in the board office or to the person's attorney.

55. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

56. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.

57. "Package" means a receptacle defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

58. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.

59. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

60. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.

61. "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

62. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice of pharmacy, the manufacturing of drugs and the distribution of drugs and devices.

63. "Pharmacist licensure examination" means a board approved examination that is written and administered in cooperation with the national association of boards of pharmacy or any other board approved pharmacist licensure examination.

64. "Pharmacy" means any place:

(a) Where drugs, devices, poisons or related hazardous substances are offered for sale at retail.

(b) In which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(c) That has displayed on it or in it the words, "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drugstore," "drugs," "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or that is advertised by any sign containing any of these words.

(d) Where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited.

(e) Or a portion of any building or structure that is leased, used or controlled by the permittee to conduct the business authorized by the board at the address for which the permit was issued and that is enclosed and secured when a pharmacist is not in attendance.

65. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

66. "Pharmacy technician" means a person licensed pursuant to this chapter.

67. "Pharmacy technician trainee" means a person licensed pursuant to this chapter.

68. "Poison" or "hazardous substance" includes, but is not limited to, any of the following if intended and suitable for household use or use by children:

(a) Any substance that, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, if applied to, introduced into or developed within the body in relatively small quantities by its inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.

(d) A corrosive substance.

(e) An irritant.

(f) A strong sensitizer.

(g) A mixture of any of the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(h) A substance designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive substances, economic poisons subject to the federal insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article that is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but that is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing an economic poison or hazardous substance.

69. "Practice of pharmacy" means:

(a) Interpreting, evaluating and dispensing prescription orders in the patient's best interests.

(b) Compounding drugs pursuant to or in anticipation of a prescription order.

(c) Labeling of drugs and devices in compliance with state and federal requirements.

(d) Participating in drug selection and drug utilization reviews, drug administration, drug or drug related research and drug therapy monitoring or management.

(e) Providing patient counseling necessary to provide pharmaceutical care.

(f) Properly and safely storing drugs and devices in anticipation of dispensing.

(g) Maintaining required records of drugs and devices.

(h) Offering or performing of acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

70. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state, or any pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

71. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and complies with section 32-1923.

72. "Precursor chemical" means a substance that is:

(a) The principal compound that is commonly used or that is produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(b) Listed in section 13-3401, paragraph 26 or 27.

73. "Prescription" means either a prescription order or a prescription medication.

74. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

75. "Prescription-only device" includes:

(a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.

(b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

76. "Prescription-only drug" does not include a controlled substance but does include:

(a) Any drug that because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Rx only".

77. "Prescription order" means ~~either~~ ANY OF THE FOLLOWING:

(a) An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

(b) An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964 and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

(c) AN ORDER INITIATED BY A PHARMACIST PURSUANT TO A PROTOCOL-BASED DRUG THERAPY AGREEMENT WITH A PROVIDER AS OUTLINED IN SECTION 32-1970, OR IMMUNIZATIONS OR VACCINES ADMINISTERED BY A PHARMACIST PURSUANT TO SECTION 32-1974.

78. "Professionally incompetent" means:

(a) Incompetence based on a variety of factors including a lack of sufficient pharmaceutical knowledge or skills or experience to a degree likely to endanger the health of patients.

(b) When considered with other indications of professional incompetence, a pharmacist, pharmacy intern or graduate intern who fails to obtain a passing score on a board approved pharmacist licensure examination or a pharmacy technician or pharmacy technician trainee who fails to obtain a passing score on a board approved pharmacy technician licensure examination.

79. "Radioactive substance" means a substance that emits ionizing radiation.

80. "Safely engage in employment duties" means that a permittee or the permittee's employee is able to safely engage in employment duties related to the manufacture, sale, distribution or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals.

81. "Symbol" means the characteristic symbols that have historically identified pharmacy, including "show globes", "mortar and pestle" and the sign "Rx".

82. "Toxic substance" means a substance, other than a radioactive substance, that has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

83. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.

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

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

A. An applicant for licensure as a pharmacist shall:

1. Be of good moral character.

2. Be a graduate of a school or college of pharmacy or department of pharmacy of a university recognized by the board OR THE ACCREDITATION COUNCIL FOR PHARMACY EDUCATION, or qualify under subsection D of this section.

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

4. Pass the pharmacist licensure examination and jurisprudence examination approved by the board. An applicant who fails an examination three times shall petition the board for permission before retaking the examination. The board shall evaluate the petition and determine whether to

require additional educational training before approving each additional retake of the examination.

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

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

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

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

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

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

5. Passes a board approved jurisprudence examination.

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

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

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

F. An applicant who fails the preliminary equivalency examination required pursuant to subsection D of this section shall not retake the preliminary equivalency examination until the applicant files written proof with the board that the applicant has completed additional remedial academic

work previously approved by the board to correct deficiencies in the applicant's education that were indicated by the results of the applicant's last preliminary equivalency examination.

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

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

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

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

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

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

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

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

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

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

5. The license was issued through error.

B. A pharmacist, pharmacy intern or graduate intern who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable safely to engage in the practice of pharmacy or to be professionally incompetent is subject to any one or combination of the following:

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

2. A letter of reprimand.

3. A decree of censure.

4. COMPLETION OF BOARD DESIGNATED CONTINUING PHARMACEUTICAL EDUCATION COURSES.

~~4.~~ 5. Probation.

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

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

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

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

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

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

1. Dismiss if the complaint is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.

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

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

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

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

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

1. Dismiss if the information is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

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

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

1. Dismiss if the information is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

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

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

(a) Issuance of a letter of reprimand.

(b) Issuance of a decree of censure.

(c) Practice or professional restrictions, such as not acting as a pharmacist in charge or pharmacy intern preceptor or working with another pharmacist.

(d) Rehabilitative, retraining or assessment programs, including:

(i) Board approved community service.

(ii) Successful completion of additional ~~pharmacist continuing education hours~~ BOARD DESIGNATED CONTINUING PHARMACEUTICAL EDUCATION COURSES.

(iii) Successful passage of board approved pharmacist licensure examinations.

(iv) Successful completion of a board approved substance abuse treatment and rehabilitation program at the licensee's own expense.

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

(f) A period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee concerned. Probation may include temporary suspension and any or all of the disciplinary actions, practice or professional restrictions, rehabilitative, retraining or assessment programs listed in this section or any other program agreed to by the board and the licensee.

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

~~N. If the board finds that the information provided pursuant to this section warrants revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil~~

~~penalty, it shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.~~

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

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

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

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

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

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

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

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

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

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

2. The licensee is found by psychiatric examination to be mentally unfit to safely perform the licensee's employment duties.

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

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

5. The license was issued through error.

B. A pharmacy technician or pharmacy technician trainee who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable safely to engage in the practice of

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

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

2. A letter of reprimand.

3. A decree of censure.

4. COMPLETION OF BOARD DESIGNATED CONTINUING EDUCATION COURSES.

~~4.~~ 5. Probation.

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

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

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

E. The pharmacy permittee or pharmacist in charge of a pharmacy located in this state must inform the board if a pharmacy technician or pharmacy technician trainee employed by the pharmacy is terminated because of actions by that person that appear to show that the person is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the permissible activities of a pharmacy technician or pharmacy technician trainee, along with a general statement of the reasons that led the pharmacy to take the action. The pharmacy permittee or pharmacist in charge of a pharmacy located in this state must inform the board if a pharmacy technician or pharmacy technician trainee under investigation resigns or if a pharmacy technician or pharmacy technician trainee resigns in lieu of disciplinary action by the pharmacy. Notification must include a general statement of the reasons for the resignation. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

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

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

1. Dismiss if the complaint is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.

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

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

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

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

K. If after completing the conference the board finds the information provided pursuant to this section is not of sufficient seriousness to merit

revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it may take the following actions:

1. Dismiss if the information is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

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

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

1. Dismiss if the information is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

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

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

(a) Issuance of a letter of reprimand.

(b) Issuance of a decree of censure.

(c) Practice or professional restrictions, such as doing the following only under pharmacist supervision:

(i) Entering prescription or patient data.

(ii) Initiating or accepting verbal refill authorization.

(iii) Counting, pouring, packaging or labeling prescription medication.

(iv) Compounding, reconstituting, prepackaging or repackaging drugs.

(d) Rehabilitative, retraining or assessment programs, including:

(i) Board approved community service.

(ii) Successful completion of additional ~~pharmacy continuing education hours~~ BOARD DESIGNATED CONTINUING PHARMACEUTICAL EDUCATION COURSES.

(iii) Successful passage of board approved pharmacist technician licensure examinations.

(iv) Successful completion of a board approved substance abuse treatment and rehabilitation program at the licensee's own expense.

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

(f) A period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee concerned. Probation may include temporary suspension and any or all of the disciplinary actions, practice or professional restrictions, rehabilitative, retraining or assessment programs listed in this section or any other program agreed to by the board and the licensee.

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

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

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

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

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

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

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

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

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

32-1927.02. Permittees; disciplinary action

A. The board may discipline a permittee if:

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

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

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

4. The permit was issued through error.

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

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

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

2. A letter of reprimand.

3. A decree of censure.

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

~~4.~~ 5. Probation.

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

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

D. The board ~~of~~ ON its own motion may investigate any evidence that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties or is or may be in violation of this chapter or a rule adopted under this chapter. Any person may, and any licensee or permittee must, report to the board any information that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties or is or may be in violation of this chapter or a rule adopted under this chapter. The board or the executive director shall notify the permittee as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not

subject to an action for civil damages. It is an act of unethical conduct for any permittee to fail to report as required by this ~~section~~ SUBSECTION.

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

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

1. Dismiss if the complaint is without merit.

2. File an advisory letter. The permittee may file a written response with the board within thirty days after receiving the advisory letter.

3. REQUIRE THE PERMITTEE TO COMPLETE BOARD DESIGNATED PHARMACY LAW CONTINUING EDUCATION COURSES.

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

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

I. If through information provided pursuant to subsection D of this section or by other means the board finds that the protection of the public health, welfare and safety requires emergency action against the permit, ~~it may order a summary suspension of the permit pending a formal hearing for permit revocation or other action authorized by this section to be held by the board within ten days after the board issues the order~~ THE BOARD MAY RESTRICT A PERMIT OR ORDER A SUMMARY SUSPENSION OF A PERMIT PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION. IF THE BOARD ACTS PURSUANT TO THIS SUBSECTION, THE BOARD SHALL ALSO SERVE THE PERMITTEE WITH A WRITTEN NOTICE OF COMPLAINT AND FORMAL HEARING THAT SETS FORTH THE CHARGES AND THE PERMITTEE'S RIGHT TO A FORMAL HEARING ON THE CHARGES BEFORE THE BOARD OR AN

ADMINISTRATIVE LAW JUDGE WITHIN SIXTY DAYS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

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

1. Dismiss if the information is without merit.

2. File an advisory letter. The permittee may file a written response with the board within thirty days after receiving the advisory letter.

3. REQUIRE THE PERMITTEE TO COMPLETE BOARD DESIGNATED PHARMACY LAW CONTINUING EDUCATION COURSES.

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

1. Dismiss if the information is without merit.

2. File an advisory letter. The permittee may file a written response with the board within thirty days after the permittee receives the advisory letter.

3. REQUIRE THE PERMITTEE TO COMPLETE BOARD DESIGNATED PHARMACY LAW CONTINUING EDUCATION COURSES.

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

(a) Issuance of a letter of reprimand.

(b) Issuance of a decree of censure.

(c) Business activity restrictions, including limitations on the number, type, classification or schedule of drug, device, poison, hazardous substance, controlled substance or precursor chemical that may be manufactured, sold, distributed or dispensed.

(d) SUCCESSFUL COMPLETION OF BOARD DESIGNATED PHARMACY LAW CONTINUING EDUCATION COURSES.

~~(d)~~ (e) Rehabilitative or assessment programs, including board approved community service or successful completion of a board approved substance abuse treatment and rehabilitation program at the permittee's own expense.

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

~~(f)~~ (g) A period and terms of probation best adapted to protect the public health and safety and rehabilitate or assess the permittee concerned.

Probation may include temporary suspension and any or all of the disciplinary actions, business practice restrictions, rehabilitative or assessment programs listed in this section or any other program agreed to by the board and the permittee.

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

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

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

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

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

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

Sec. 6. Section 32-1930, Arizona Revised Statutes, is amended to read:

32-1930. Types of permits; restrictions on permits; discontinuance of pharmacy permit

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

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

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

3. Drug packager or drug prepackager permit to an individual or establishment that is currently listed by the United States federal food and drug administration and has met the requirements of that agency to purchase, repackage, relabel or otherwise alter the manufacturer's original package of

an approved drug product with the intent of reselling these items to persons or businesses authorized to possess or resell the repackaged, prepackaged or relabeled drug.

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

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

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

Sec. 7. Section 32-1931, Arizona Revised Statutes, is amended to read:

32-1931. Permit fees; issuance; expiration; renewals

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

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

C. Permit fees that are designated to be not more than a maximum amount shall be set by the board for the following two fiscal years beginning November 1. The board shall establish the fees approximately proportionate to the maximum fee allowed to cover the board's anticipated expenditures for the following two fiscal years. Variation in a fee is not effective except at the expiration date of the permit.

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

1. A nonprescription drug permit, not more than two hundred dollars. Permittees stocking thirty different nonprescription drug products or less shall be classified as category I retailers. Permittees stocking more than thirty different nonprescription drug products shall be classified

as category II retailers. Both categories are subject to biennial permit fees established by the board pursuant to this chapter.

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

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

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

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

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

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

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

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

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

F. Permits issued under this section are not transferable.

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