

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

SENATE BILL 1212

AN ACT

AMENDING SECTION 32-3251, ARIZONA REVISED STATUTES; AMENDING SECTION 32-3253, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 321, SECTION 70; AMENDING SECTION 32-3253, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 242, SECTION 3; AMENDING TITLE 32, CHAPTER 33, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3256; AMENDING SECTION 32-3261, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2013, CHAPTER 242, SECTION 7; AMENDING SECTIONS 32-3274 AND 32-3281, ARIZONA REVISED STATUTES; AMENDING SECTION 32-3311, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 242, SECTION 20; AMENDING SECTION 32-3321, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 242, SECTION 21; RELATING TO THE BOARD OF BEHAVIORAL HEALTH EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-3251, Arizona Revised Statutes, is amended to
3 read:

4 32-3251. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Board" means the board of behavioral health examiners.

7 2. "Client" means a patient who receives behavioral health services
8 from a person licensed pursuant to this chapter.

9 3. "Direct client contact" means, beginning November 1, 2015, the
10 performance of therapeutic or clinical functions related to the applicant's
11 professional practice level of psychotherapy that includes diagnosis,
12 assessment and treatment and that may include psychoeducation for mental,
13 emotional and behavioral disorders based primarily on verbal or nonverbal
14 communications and intervention with, and in the presence of, one or more
15 clients.

16 4. "Equivalent" means comparable in content and quality but not
17 identical.

18 5. "Indirect client service" means, beginning November 1, 2015,
19 training for, and the performance of, functions of an applicant's
20 professional practice level in preparation for or on behalf of a client for
21 whom direct client contact functions are also performed, including case
22 consultation and receipt of clinical supervision. Indirect client service
23 does not include the provision of psychoeducation.

24 6. "Letter of concern" means a nondisciplinary written document sent
25 by the board to notify a licensee that, while there is insufficient evidence
26 to support disciplinary action, the board believes that continuation of the
27 activities that led to the investigation may result in further board action
28 against the licensee.

29 7. "Licensee" means a person who is licensed pursuant to this chapter.

30 8. "Practice of behavioral health" means the practice of marriage and
31 family therapy, professional counseling, social work and substance abuse
32 counseling pursuant to this chapter.

33 9. "Practice of marriage and family therapy" means the professional
34 application of family systems theories, principles and techniques to treat
35 interpersonal relationship issues and nervous, mental and emotional disorders
36 that are cognitive, affective or behavioral. The practice of marriage and
37 family therapy includes:

38 (a) Assessment, appraisal and diagnosis.

39 (b) The use of psychotherapy for the purpose of evaluation, diagnosis
40 and treatment of individuals, couples, families and groups.

41 10. "Practice of professional counseling" means the professional
42 application of mental health, psychological and human development theories,
43 principles and techniques to:

44 (a) Facilitate human development and adjustment throughout the human
45 life span.

- 1 (b) Assess and facilitate career development.
2 (c) Treat interpersonal relationship issues and nervous, mental and
3 emotional disorders that are cognitive, affective or behavioral.
4 (d) Manage symptoms of mental illness.
5 (e) Assess, appraise, evaluate, diagnose and treat individuals,
6 couples, families and groups through the use of psychotherapy.
- 7 11. "Practice of social work" means the professional application of
8 social work theories, principles, methods and techniques to:
9 (a) Treat mental, behavioral and emotional disorders.
10 (b) Assist individuals, families, groups and communities to enhance or
11 restore the ability to function physically, socially, emotionally, mentally
12 and economically.
13 (c) Assess, appraise, diagnose, evaluate and treat individuals,
14 couples, families and groups through the use of psychotherapy.
- 15 12. "Practice of substance abuse counseling" means the professional
16 application of general counseling theories, principles and techniques as
17 specifically adapted, based on research and clinical experience, to the
18 specialized needs and characteristics of persons who are experiencing
19 substance abuse, chemical dependency and related problems and to the families
20 of those persons. The practice of substance abuse counseling includes the
21 following as they relate to substance abuse and chemical dependency issues:
22 (a) Assessment, appraisal and diagnosis.
23 (b) The use of psychotherapy for the purpose of evaluation, diagnosis
24 and treatment of individuals, couples, families and groups.
- 25 13. "Psychoeducation" means the education of a client as part of a
26 treatment process that provides the client with information regarding mental
27 health, emotional disorders or behavioral health.
- 28 14. "Psychotherapy" means a variety of treatment methods developing out
29 of generally accepted theories about human behavior and development.
- 30 15. "TELEPRACTICE" MEANS PROVIDING BEHAVIORAL HEALTH SERVICES THROUGH
31 INTERACTIVE AUDIO, VIDEO OR ELECTRONIC COMMUNICATION THAT OCCURS BETWEEN THE
32 BEHAVIORAL HEALTH PROFESSIONAL AND THE CLIENT, INCLUDING ANY ELECTRONIC
33 COMMUNICATION FOR EVALUATION, DIAGNOSIS AND TREATMENT, INCLUDING DISTANCE
34 COUNSELING, IN A SECURE PLATFORM, AND THAT MEETS THE REQUIREMENTS OF
35 TELEMEDICINE PURSUANT TO SECTION 36-3602.
- 36 ~~15-~~ 16. "Unprofessional conduct" includes the following, whether
37 occurring in this state or elsewhere:
38 (a) Conviction of a felony. Conviction by a court of competent
39 jurisdiction or a plea of no contest is conclusive evidence of the
40 conviction.
41 (b) Use of fraud or deceit in connection with rendering services as a
42 licensee or in establishing qualifications pursuant to this chapter.
43 (c) Any oral or written misrepresentation of a fact by an applicant or
44 licensee:

- 1 (i) To secure or attempt to secure the issuance or renewal of a
2 license.
- 3 (ii) In any statements provided during an investigation or
4 disciplinary proceeding by the board.
- 5 (iii) Regarding the licensee's skills or the value of any treatment
6 provided or to be provided.
- 7 (d) Any false, fraudulent or deceptive statement connected with the
8 practice of behavioral health, including false or misleading advertising by
9 the licensee or the licensee's staff or a representative compensated by the
10 licensee.
- 11 (e) Securing or attempting to secure the issuance or renewal of a
12 license by knowingly taking advantage of the mistake of another person or the
13 board.
- 14 (f) Active habitual intemperance in the use of alcohol or active
15 habitual substance abuse.
- 16 (g) Using a controlled substance that is not prescribed for use during
17 a prescribed course of treatment.
- 18 (h) Obtaining a fee by fraud, deceit or misrepresentation.
- 19 (i) Aiding or abetting a person who is not licensed pursuant to this
20 chapter to purport to be a licensed behavioral health professional in this
21 state.
- 22 (j) Conduct that the board determines is gross negligence or repeated
23 negligence in the licensee's profession.
- 24 (k) Any conduct or practice that is contrary to recognized standards
25 of ethics in the behavioral health profession or that constitutes a danger to
26 the health, welfare or safety of a client.
- 27 (l) Any conduct, practice or condition that impairs the ability of the
28 licensee to safely and competently practice the licensee's profession.
- 29 (m) Engaging or offering to engage as a licensee in activities that
30 are not congruent with the licensee's professional education, training or
31 experience.
- 32 (n) Failing to comply with or violating, attempting to violate or
33 assisting in or abetting the violation of any provision of this chapter, any
34 rule adopted pursuant to this chapter, any lawful order of the board, or any
35 formal order, consent agreement, term of probation or stipulated agreement
36 issued under this chapter.
- 37 (o) Failing to furnish information within a specified time to the
38 board or its investigators or representatives if legally requested by the
39 board.
- 40 (p) Failing to conform to minimum practice standards as developed by
41 the board.
- 42 (q) Failing or refusing to maintain adequate records of behavioral
43 health services provided to a client.

1 (r) Providing behavioral health services that are clinically
2 unjustified or unsafe or otherwise engaging in activities as a licensee that
3 are unprofessional by current standards of practice.

4 (s) Terminating behavioral health services to a client without making
5 an appropriate referral for continuation of care for the client if continuing
6 behavioral health services are indicated.

7 (t) Disclosing a professional confidence or privileged communication
8 except as may otherwise be required by law or permitted by a valid written
9 release.

10 (u) Failing to allow the board or its investigators on demand to
11 examine and have access to documents, reports and records in any format
12 maintained by the licensee that relate to the licensee's practice of
13 behavioral health.

14 (v) Any sexual conduct between a licensee and a client or former
15 client.

16 (w) Providing behavioral health services to any person with whom the
17 licensee has had sexual contact.

18 (x) Exploiting a client, former client or supervisee. For the
19 purposes of this subdivision, "exploiting" means taking advantage of a
20 professional relationship with a client, former client or supervisee for the
21 benefit or profit of the licensee.

22 (y) Engaging in a dual relationship with a client that could impair
23 the licensee's objectivity or professional judgment or create a risk of harm
24 to the client. For the purposes of this subdivision, "dual relationship"
25 means a licensee simultaneously engages in both a professional and
26 nonprofessional relationship with a client that is avoidable and not
27 incidental.

28 (z) Engaging in physical contact between a licensee and a client if
29 there is a reasonable possibility of physical or psychological harm to the
30 client as a result of that contact.

31 (aa) Sexually harassing a client, former client, research subject,
32 supervisee or coworker. For the purposes of this subdivision, "sexually
33 harassing" includes sexual advances, sexual solicitation, requests for sexual
34 favors, unwelcome comments or gestures or any other verbal or physical
35 conduct of a sexual nature.

36 (bb) Harassing, exploiting or retaliating against a client, former
37 client, research subject, supervisee, coworker or witness or a complainant in
38 a disciplinary investigation or proceeding involving a licensee.

39 (cc) Failing to take reasonable steps to inform potential victims and
40 appropriate authorities if the licensee becomes aware during the course of
41 providing or supervising behavioral health services that a client's condition
42 indicates a clear and imminent danger to the client or others.

43 (dd) Failing to comply with the laws of the appropriate licensing or
44 credentialing authority to provide behavioral health services by electronic

1 means in all governmental jurisdictions where the client receiving these
2 services resides.

3 (ee) Giving or receiving a payment, kickback, rebate, bonus or other
4 remuneration for a referral.

5 (ff) Failing to report in writing to the board information that would
6 cause a reasonable licensee to believe that another licensee is guilty of
7 unprofessional conduct or is physically or mentally unable to provide
8 behavioral health services competently or safely. This duty does not extend
9 to information provided by a licensee that is protected by the behavioral
10 health professional-client privilege unless the information indicates a clear
11 and imminent danger to the client or others or is otherwise subject to
12 mandatory reporting requirements pursuant to state or federal law.

13 (gg) Failing to follow federal and state laws regarding the storage,
14 use and release of confidential information regarding a client's personal
15 identifiable information or care.

16 (hh) Failing to retain records pursuant to section 12-2297.

17 (ii) Violating any federal or state law, rule or regulation applicable
18 to the practice of behavioral health.

19 (jj) Failing to make client records in the licensee's possession
20 available in a timely manner to another health professional or licensee on
21 receipt of proper authorization to do so from the client, a minor client's
22 parent, the client's legal guardian or the client's authorized
23 representative.

24 (kk) Failing to make client records in the licensee's possession
25 promptly available to the client, a minor client's parent, the client's legal
26 guardian or the client's authorized representative on receipt of proper
27 authorization to do so from the client, a minor client's parent, the client's
28 legal guardian or the client's authorized representative.

29 (ll) Being the subject of the revocation, suspension, surrender or any
30 other disciplinary sanction of a professional license, certificate or
31 registration or other adverse action related to a professional license,
32 certificate or registration in another jurisdiction or country, including the
33 failure to report the adverse action to the board. The action taken may
34 include refusing, denying, revoking or suspending a license or certificate,
35 the surrendering of a license or certificate, otherwise limiting, restricting
36 or monitoring a licensee or certificate holder or placing a licensee or
37 certificate holder on probation.

38 (mm) Any conduct that results in a sanction imposed by an agency of
39 the federal government that involves restricting, suspending, limiting or
40 removing the licensee's ability to obtain financial remuneration for
41 behavioral health services.

42 (nn) Violating the security of any licensure examination materials.

43 (oo) The use of fraud or deceit in connection with taking or assisting
44 another person in taking a licensure examination.

1 Sec. 2. Section 32-3253, Arizona Revised Statutes, as amended by Laws
2 2012, chapter 321, section 70, is amended to read:

3 32-3253. Powers and duties

4 A. The board shall:

5 1. Adopt rules consistent with and necessary or proper to carry out
6 the purposes of this chapter.

7 2. Administer and enforce this chapter, rules adopted pursuant to this
8 chapter and orders of the board.

9 3. Issue a license by examination, reciprocity or temporary
10 recognition to, and renew the license of, each person who is qualified to be
11 licensed pursuant to this chapter. The board must issue or deny a license
12 within one hundred eighty days after the applicant submits a completed
13 application.

14 4. Establish a licensure fee schedule annually, by a formal vote at a
15 regular board meeting.

16 5. Collect fees and spend monies.

17 6. Keep a record of all persons licensed pursuant to this chapter,
18 actions taken on all applications for licensure, actions involving renewal,
19 suspension, revocation or denial of a license or probation of licensees and
20 the receipt and disbursal of monies.

21 7. Adopt an official seal for attestation of licensure and other
22 official papers and documents.

23 8. Subject to title 41, chapter 4, article 4, employ personnel as it
24 deems necessary.

25 9. Conduct investigations and determine on its own motion if a
26 licensee or an applicant has engaged in unprofessional conduct, is
27 incompetent or is mentally or physically unable to engage in the practice of
28 behavioral health.

29 10. Conduct disciplinary actions pursuant to this chapter and board
30 rules.

31 11. Establish and enforce standards or criteria of programs or other
32 mechanisms to ensure the continuing competence of licensees.

33 12. Establish and enforce compliance with professional standards and
34 rules of conduct for licensees.

35 13. Engage in a full exchange of information with the licensing and
36 disciplinary boards and professional associations for behavioral health
37 professionals in this state and other jurisdictions.

38 14. Subject to section 35-149, accept, expend and account for gifts,
39 grants, devises and other contributions, money or property from any public or
40 private source, including the federal government. Monies received under this
41 paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in
42 special funds for the purpose specified, which are exempt from the provisions
43 of section 35-190 relating to lapsing of appropriations.

44 15. **ADOPT RULES REGARDING THE USE OF TELEPRACTICE BEGINNING ON**
45 **NOVEMBER 1, 2015.**

1 B. The board may join professional organizations and associations
2 organized exclusively to promote the improvement of the standards of the
3 practice of behavioral health, protect the health and welfare of the public
4 or assist and facilitate the work of the board.

5 C. The board may establish a confidential program for the monitoring
6 of licensees who are chemically dependent and who enroll in a rehabilitation
7 program that meets the criteria prescribed by the board. The board may take
8 further action if a licensee refuses to enter into a stipulated agreement or
9 fails to comply with the terms of a stipulated agreement. In order to
10 protect the public health and safety, the confidentiality requirements of
11 this subsection do not apply if a licensee does not comply with the
12 stipulated agreement.

13 Sec. 3. Section 32-3253, Arizona Revised Statutes, as amended by Laws
14 2013, chapter 242, section 3, is amended to read:

15 32-3253. Powers and duties

16 A. The board shall:

17 1. Adopt rules consistent with and necessary or proper to carry out
18 the purposes of this chapter.

19 2. Administer and enforce this chapter, rules adopted pursuant to this
20 chapter and orders of the board.

21 3. Issue a license by examination, endorsement or temporary
22 recognition to, and renew the license of, each person who is qualified to be
23 licensed pursuant to this chapter. The board must issue or deny a license
24 within one hundred eighty days after the applicant submits a completed
25 application.

26 4. Establish a licensure fee schedule annually, by a formal vote at a
27 regular board meeting.

28 5. Collect fees and spend monies.

29 6. Keep a record of all persons licensed pursuant to this chapter,
30 actions taken on all applications for licensure, actions involving renewal,
31 suspension, revocation or denial of a license or probation of licensees and
32 the receipt and disbursal of monies.

33 7. Adopt an official seal for attestation of licensure and other
34 official papers and documents.

35 8. Conduct investigations and determine on its own motion if a
36 licensee or an applicant has engaged in unprofessional conduct, is
37 incompetent or is mentally or physically unable to engage in the practice of
38 behavioral health.

39 9. Conduct disciplinary actions pursuant to this chapter and board
40 rules.

41 10. Establish and enforce standards or criteria of programs or other
42 mechanisms to ensure the continuing competence of licensees.

43 11. Establish and enforce compliance with professional standards and
44 rules of conduct for licensees.

1 12. Engage in a full exchange of information with the licensing and
2 disciplinary boards and professional associations for behavioral health
3 professionals in this state and other jurisdictions.

4 13. Subject to section 35-149, accept, expend and account for gifts,
5 grants, devises and other contributions, money or property from any public or
6 private source, including the federal government. Monies received under this
7 paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in
8 special funds for the purpose specified, which are exempt from the provisions
9 of section 35-190 relating to lapsing of appropriations.

10 14. Adopt rules regarding the application for and approval of
11 educational curricula of regionally accredited colleges or universities with
12 a program not otherwise accredited by an organization or entity recognized by
13 the board that are consistent with the requirements of this chapter and
14 maintain a list of those programs. Approvals shall be valid for a period of
15 five years if no changes of curricula are made that are inconsistent with the
16 requirements of this chapter or board rule.

17 15. Maintain a registry of licensees who have met the educational
18 requirements to provide supervision as required pursuant to this chapter to
19 applicants in the same profession.

20 16. Adopt rules to allow approval of persons who wish to provide
21 supervision pursuant to this chapter and who are not licensed by the board
22 and who are licensed in a profession other than the profession in which the
23 applicant is seeking licensure.

24 17. Recognize not more than four hundred hours of psychoeducation for
25 work experience required pursuant to sections 32-3293, 32-3301, 32-3311 and
26 32-3321.

27 18. **ADOPT RULES REGARDING THE USE OF TELEPRACTICE BEGINNING ON**
28 **NOVEMBER 1, 2015.**

29 B. The board may join professional organizations and associations
30 organized exclusively to promote the improvement of the standards of the
31 practice of behavioral health, protect the health and welfare of the public
32 or assist and facilitate the work of the board.

33 C. The board may enter into stipulated agreements with a licensee for
34 the confidential treatment, rehabilitation and monitoring of chemical
35 dependency or ~~medical~~, psychiatric, psychological or behavioral health
36 disorders in a program provided pursuant to subsection D of this section. A
37 licensee who materially fails to comply with a program shall be terminated
38 from the confidential program. Any records of the licensee who is terminated
39 from a confidential program are no longer confidential or exempt from the
40 public records law, notwithstanding any law to the contrary. Stipulated
41 agreements are not public records if the following conditions are met:

42 1. The licensee voluntarily agrees to participate in the confidential
43 program.

44 2. The licensee complies with all treatment requirements or
45 recommendations including participation in approved programs.

1 3. The licensee refrains from professional practice until the return
2 to practice has been approved by the treatment program and the board.

3 4. The licensee complies with all monitoring requirements of the
4 stipulated agreement, including random bodily fluid testing.

5 5. The licensee's professional employer is notified of the licensee's
6 chemical dependency or medical, psychiatric, psychological or behavioral
7 health disorders and participation in the confidential program and is
8 provided a copy of the stipulated agreement.

9 D. The board shall establish a confidential program for the monitoring
10 of licensees who are chemically dependent or who have ~~medical~~, psychiatric,
11 psychological or behavioral health disorders that may impact their ability to
12 safely practice and who enroll in a rehabilitation program that meets the
13 criteria prescribed by the board. The licensee shall be responsible for the
14 costs associated with rehabilitative services and monitoring. The board may
15 take further action if a licensee refuses to enter into a stipulated
16 agreement or fails to comply with the terms of a stipulated agreement. In
17 order to protect the public health and safety, the confidentiality
18 requirements of this subsection do not apply if a licensee does not comply
19 with the stipulated agreement.

20 E. The board shall audio record all meetings and maintain all audio
21 and video recordings or stenographic records of interviews and meetings for a
22 period of three years from when the record was created.

23 Sec. 4. Title 32, chapter 33, article 1, Arizona Revised Statutes, is
24 amended by adding section 32-3256, to read:

25 32-3256. Executive director; complaints; dismissal; review

26 A. IF DELEGATED BY THE BOARD, THE EXECUTIVE DIRECTOR MAY DISMISS A
27 COMPLAINT IF THE INVESTIGATIVE STAFF'S REVIEW INDICATES THAT THE COMPLAINT IS
28 WITHOUT MERIT AND THAT DISMISSAL IS APPROPRIATE.

29 B. AT EACH REGULARLY SCHEDULED BOARD MEETING, THE EXECUTIVE DIRECTOR
30 SHALL PROVIDE TO THE BOARD A LIST OF EACH COMPLAINT THE EXECUTIVE DIRECTOR
31 DISMISSED PURSUANT TO SUBSECTION A OF THIS SECTION SINCE THE LAST BOARD
32 MEETING.

33 C. A PERSON WHO IS AGGRIEVED BY AN ACTION TAKEN BY THE EXECUTIVE
34 DIRECTOR PURSUANT TO SUBSECTION A OF THIS SECTION MAY FILE A WRITTEN REQUEST
35 THAT THE BOARD REVIEW THAT ACTION. THE REQUEST MUST BE FILED WITHIN THIRTY
36 DAYS AFTER THAT PERSON IS NOTIFIED OF THE EXECUTIVE DIRECTOR'S ACTION BY
37 PERSONAL DELIVERY OR, IF THE NOTIFICATION IS MAILED TO THAT PERSON'S LAST
38 KNOWN RESIDENCE OR PLACE OF BUSINESS, WITHIN THIRTY-FIVE DAYS AFTER THE DATE
39 ON THE NOTIFICATION. AT THE NEXT REGULAR BOARD MEETING, THE BOARD SHALL
40 REVIEW THE EXECUTIVE DIRECTOR'S ACTION AND, ON REVIEW, SHALL APPROVE, MODIFY
41 OR REJECT THE EXECUTIVE DIRECTOR'S ACTION.

1 Sec. 5. Section 32-3261, Arizona Revised Statutes, as added by Laws
2 2013, chapter 242, section 7, is amended to read:

3 32-3261. Academic review committees; members; appointment;
4 qualifications; terms; compensation; immunity;
5 training

6 A. The board ~~may~~ SHALL establish an academic review committee for each
7 professional area licensed pursuant to this chapter to do the following:

8 1. Review applications referred to the committee by the board or the
9 executive director to determine~~+-~~

10 ~~(a) If~~ whether an applicant, whose curriculum has not been approved
11 pursuant to section 32-3253, subsection A, paragraph ~~15~~ 14 or whose program
12 is not accredited by an organization or entity approved by the board, has met
13 the educational requirements of this chapter or board rules.

14 ~~(b) 2. If ON REFERRAL BY THE EXECUTIVE DIRECTOR, MAKE RECOMMENDATIONS~~
15 ~~TO THE BOARD REGARDING WHETHER~~ an applicant has met the requirements of
16 ~~SUPERVISED~~ work ~~supervision~~ EXPERIENCE required for licensure pursuant to
17 this chapter or board rules.

18 ~~2- 3. Make specific findings concerning an application's deficiencies~~
19 ~~and make recommendations to the board regarding the manner in which the~~
20 ~~deficiencies can be addressed.~~

21 ~~3- 4. Review requests~~ APPLICATIONS and make recommendations to the
22 board for curriculum approval applications made pursuant to section 32-3253,
23 SUBSECTION A, PARAGRAPH 14.

24 ~~4- 5. At the request of the board, make recommendations regarding~~
25 examinations required pursuant to this chapter.

26 6. REVIEW APPLICATIONS FOR AND MAKE DETERMINATIONS REGARDING
27 EXEMPTIONS RELATED TO CLINICAL SUPERVISION REQUIREMENTS.

28 B. An academic review committee shall be composed of three members who
29 have been residents of this state for at least one year before appointment,
30 at least one but not more than two of whom are licensed IN THE PROFESSIONAL
31 AREA pursuant to this chapter and have five years of experience in the
32 applicable profession. At least one but not more than two members must have
33 served within the previous ten years as core or full-time faculty at a
34 regionally accredited college or university in a program related to the
35 applicable profession AND HAVE EXPERIENCE IN THE DESIGN AND DEVELOPMENT OF
36 THE CURRICULUM OF A RELATED PROGRAM. IF QUALIFIED, A FACULTY MEMBER MAY
37 SERVE ON MORE THAN ONE ACADEMIC REVIEW COMMITTEE. A BOARD MEMBER MAY NOT BE
38 APPOINTED TO SERVE ON AN ACADEMIC REVIEW COMMITTEE.

39 C. COMMITTEE MEMBERS SHALL INITIALLY BE APPOINTED BY THE BOARD. FROM
40 AND AFTER JANUARY 1, 2016, THE GOVERNOR SHALL APPOINT THE COMMITTEE MEMBERS.
41 A COMMITTEE MEMBER WHO IS INITIALLY APPOINTED BY THE BOARD MAY BE REAPPOINTED
42 BY THE GOVERNOR. A COMMITTEE MEMBER WHO IS INITIALLY APPOINTED BY THE BOARD
43 SHALL CONTINUE TO SERVE UNTIL APPOINTED OR REPLACED BY THE GOVERNOR.

1 ~~C.~~ D. Committee members serve at the pleasure of the ~~board~~ GOVERNOR
2 for terms of three years. A member shall not serve more than two full
3 consecutive terms. ~~The board shall stagger the terms of members.~~

4 ~~D.~~ E. Committee members are eligible to receive compensation of not
5 more than eighty-five dollars for each ~~eight hours~~ DAY actually and
6 necessarily spent in the performance of their duties.

7 ~~E.~~ F. An academic review committee shall annually elect a chairman
8 and secretary from its membership.

9 ~~F.~~ G. Committee members are personally immune from suit with respect
10 to all acts done and actions taken in good faith and in furtherance of the
11 purposes of this chapter.

12 ~~G.~~ H. COMMITTEE MEMBERS SHALL RECEIVE AT LEAST FIVE HOURS OF TRAINING
13 AS PRESCRIBED BY THE BOARD WITHIN ONE YEAR AFTER THE MEMBER IS INITIALLY
14 APPOINTED AND THAT INCLUDES INSTRUCTION IN ETHICS AND OPEN MEETING
15 REQUIREMENTS.

16 Sec. 6. Section 32-3274, Arizona Revised Statutes, is amended to read:
17 ~~32-3274.~~ Licensure by endorsement

18 A. The board may issue a license by endorsement to a person in that
19 person's particular behavioral health profession if the person is licensed or
20 certified by the regulatory agency of one or more other states at an
21 equivalent or higher practice level as determined by the board, pays the fee
22 prescribed by the board and meets all of the following requirements:

23 1. The person is currently licensed or certified in behavioral health
24 by the regulatory agency of one or more other states and each license or
25 certification is current and in good standing.

26 2. The person has been licensed or certified in the discipline applied
27 for and at the same practice level as determined by the board for a minimum
28 of three years.

29 3. The person was engaged in the practice of behavioral health in one
30 or more states issuing the license or certification used by the person to
31 qualify for a license by endorsement pursuant to this section for a minimum
32 of three thousand six hundred hours in a period of not more than five years
33 prior to applying for licensure by endorsement. The three thousand six
34 hundred hours must be in the discipline and at least in the practice level
35 for which the person is applying. ~~A PERSON WHO WAS ENGAGED IN THE PRACTICE~~
36 ~~OF BEHAVIORAL HEALTH WHILE APPOINTED UNDER 38 UNITED STATES CODE SECTION~~
37 ~~7402(b)(9), (10) OR (11) OR A PERSON WHO MEETS THE LICENSURE REQUIREMENTS OF~~
38 ~~10 UNITED STATES CODE SECTION 1094 AND PERFORMS AUTHORIZED DUTIES FOR THE~~
39 ~~UNITED STATES DEPARTMENT OF DEFENSE MAY SUBMIT BEHAVIORAL HEALTH PRACTICE~~
40 ~~OUTSIDE THE STATE OR STATES ISSUING THE LICENSE OR CERTIFICATION.~~

41 ~~4. The person met the education, work experience and clinical~~
42 ~~supervision requirements in effect at the time the person was licensed or~~
43 ~~certified by the regulatory agency of the other state or states and the~~
44 ~~licensing or certifying agency of the other state or states verifies that the~~

1 ~~person met those requirements in order to be licensed or certified in the~~
2 ~~other state or states.~~

3 ~~5.~~ 4. The person passed an examination required for the license
4 sought pursuant to article 5, 6, 7 or 8 of this chapter.

5 ~~6.~~ 5. The person meets the basic requirements for licensure
6 prescribed by section 32-3275.

7 ~~7.~~ 6. The person submits to the board a notarized affidavit listing
8 every jurisdiction in the United States in which the person has been licensed
9 or certified in the practice of behavioral health and any disciplinary action
10 taken by any regulatory agency or any instance in which a license has been
11 surrendered in lieu of discipline and verification of licensure or
12 certification from every state in which the person is licensed or certified
13 for the particular health profession for which the person applies.

14 B. In addition to the requirements of subsection A of this section, a
15 person seeking license by endorsement for the following practice levels must
16 have earned a master's or higher degree in the applicable field of practice
17 granted by a regionally accredited college or university:

- 18 1. Licensed clinical social worker.
- 19 2. Licensed professional counselor.
- 20 3. Licensed marriage and family therapist.
- 21 4. Licensed independent substance abuse counselor.

22 C. Except for licenses by endorsement issued in the practice levels
23 prescribed in subsection B of this section, a person issued a license
24 pursuant to this section shall practice behavioral health only under the
25 direct supervision of a licensee.

26 D. The board by rule may prescribe a procedure to issue licenses
27 pursuant to this section.

28 Sec. 7. Section 32-3281, Arizona Revised Statutes, is amended to read:
29 32-3281. Disciplinary action; investigations; hearings; civil
30 penalty; timely complaints; burden of proof

31 A. The board, on its own motion or on a complaint, may investigate any
32 evidence that appears to show that a licensee is or may be incompetent, is or
33 may be guilty of unprofessional conduct or is or may be mentally or
34 physically unable to safely engage in the practice of behavioral health. As
35 part of its investigation, the board may hold an investigational meeting
36 pursuant to this chapter. Any person may, and a licensee and any entity
37 licensed by the office of behavioral health licensure shall, report to the
38 board any information that would cause a reasonable licensee to believe that
39 another licensee is guilty of unprofessional conduct or is physically or
40 mentally unable to provide behavioral health services competently or safely.
41 Any person or entity that reports or provides information to the board in
42 good faith is not subject to an action for civil damages. It is an act of
43 unprofessional conduct for any licensee to fail to report as required by this
44 section. The board shall report to the office of behavioral health licensure
45 in the department of health services any entity licensed by the office of

1 behavioral health licensure that fails to report as required by this section.
2 For complaints related to conduct that is inconsistent with professional
3 standards or ethics, scope of practice or standard of care, the board may
4 consult with one or more licensed or retired behavioral health professionals
5 of the same profession as the licensee to review complaints and make
6 recommendations to the board.

7 B. On determination of reasonable cause the board shall require, at
8 the licensee's own expense, any combination of mental, physical or
9 psychological examinations, assessments or skills evaluations necessary to
10 determine the licensee's competence or ability to safely engage in the
11 practice of behavioral health and conduct necessary investigations, including
12 investigational interviews between representatives of the board and the
13 licensee, to fully inform itself with respect to any information filed with
14 the board under subsection A of this section. These examinations may include
15 biological fluid testing. The board may require the licensee, at the
16 licensee's expense, to undergo assessment by a rehabilitative, retraining or
17 assessment program approved by the board.

18 C. If the board finds, based on the information received pursuant to
19 subsection A or B of this section, that the public health, safety or welfare
20 imperatively requires emergency action, and incorporates a finding to that
21 effect in its order, the board may restrict, limit or order a summary
22 suspension of a license pending proceedings for revocation or other action.
23 If the board takes action pursuant to this subsection, it must also serve the
24 licensee with a written notice that states the charges and that the licensee
25 is entitled to a formal hearing before the board or an administrative law
26 judge within sixty days.

27 D. If after completing an investigation the board finds that the
28 information provided is not of sufficient seriousness to merit disciplinary
29 action against the licensee, the board shall either:

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

32 2. File a letter of concern and dismiss the complaint. The licensee
33 may file a written response with the board within thirty days after the
34 licensee receives the letter of concern.

35 3. Issue a nondisciplinary order requiring the licensee to complete a
36 prescribed number of hours of continuing education in an area or areas
37 prescribed by the board to provide the licensee with the necessary
38 understanding of current developments, skills, procedures or treatment.

39 E. A complaint dismissed by the board pursuant to subsection D,
40 paragraph 1 of this section is not a complaint of unprofessional conduct and
41 shall not be disclosed by the board as a complaint on the licensee's
42 complaint history.

43 F. If after completing its investigation the board believes that the
44 information is or may be true, the board may enter into a consent agreement
45 with the licensee to limit or restrict the licensee's practice or to

1 rehabilitate the licensee, protect the public and ensure the licensee's
2 ability to safely engage in the practice of behavioral health. A consent
3 agreement may also require the licensee to successfully complete a board
4 approved rehabilitative, retraining or assessment program.

5 G. If the board finds that the information provided pursuant to
6 subsection A of this section is or may be true, the board may request a
7 formal interview with the licensee. If the licensee refuses the invitation
8 for a formal interview or accepts and the results indicate that grounds may
9 exist for revocation or suspension of the licensee's license for more than
10 twelve months, the board shall issue a formal complaint and order that a
11 hearing be held pursuant to title 41, chapter 6, article 10. If after
12 completing a formal interview the board finds that the protection of the
13 public requires emergency action, the board may order a summary suspension of
14 the licensee's license pending formal revocation proceedings or other action
15 authorized by this section.

16 H. If after completing the formal interview the board finds the
17 information provided is not of sufficient seriousness to merit suspension for
18 more than twelve months or revocation of the license, the board may take the
19 following actions:

20 1. Dismiss if, in the opinion of the board, the information is without
21 merit.

22 2. File a letter of concern and dismiss the complaint. The licensee
23 may file a written response with the board within thirty days after the
24 licensee receives the letter of concern.

25 3. Issue a decree of censure. A decree of censure is an official
26 action against the licensee's license and may include a requirement for
27 restitution of fees to a client resulting from violations of this chapter or
28 rules adopted pursuant to this chapter.

29 4. Fix a period and terms of probation best adapted to protect the
30 public health and safety and rehabilitate or educate the licensee concerned.
31 Probation may include temporary suspension not to exceed twelve months,
32 restriction of the licensee's license to practice behavioral health, a
33 requirement for restitution of fees to a client or education or
34 rehabilitation at the licensee's own expense. If a licensee fails to comply
35 with the terms of probation, the board shall serve the licensee with a
36 written notice that states that the licensee is subject to a formal hearing
37 based on the information considered by the board at the formal interview and
38 any other acts or conduct alleged to be in violation of this chapter or rules
39 adopted by the board pursuant to this chapter, including noncompliance with
40 the terms of probation or a consent agreement.

41 5. Issue a nondisciplinary order requiring the licensee to complete a
42 prescribed number of hours of continuing education in an area or areas
43 prescribed by the board to provide the licensee with the necessary
44 understanding of current developments, skills, procedures or treatment.

1 I. If the board finds that the information provided in subsection A or
2 G of this section warrants suspension or revocation of a license issued under
3 this chapter, the board shall initiate formal proceedings pursuant to title
4 41, chapter 6, article 10.

5 J. In a formal interview pursuant to subsection G of this section or
6 in a hearing pursuant to subsection I of this section, the board in addition
7 to any other action may impose a civil penalty not to exceed one thousand
8 dollars for each violation of this chapter or a rule adopted under this
9 chapter.

10 K. A letter of concern is a public document.

11 L. A licensee who after a formal hearing is found by the board to be
12 guilty of unprofessional conduct, to be mentally or physically unable to
13 safely engage in the practice of behavioral health or to be professionally
14 incompetent is subject to censure, probation as provided in this section,
15 suspension of license or revocation of license or any combination of these,
16 including a stay of action, and for a period of time or permanently and under
17 conditions as the board deems appropriate for the protection of the public
18 health and safety and just in the circumstance. The board may charge all
19 costs incurred in the course of the investigation and formal hearing to the
20 licensee it finds is in violation of this chapter. The board shall deposit,
21 pursuant to sections 35-146 and 35-147, monies collected pursuant to this
22 subsection in the board of behavioral health examiners fund established by
23 section 32-3254.

24 M. If the board during the course of any investigation determines that
25 a criminal violation may have occurred involving the delivery of behavioral
26 health services, the board shall make the evidence of violations available to
27 the appropriate criminal justice agency for its consideration.

28 N. The board shall deposit, pursuant to sections 35-146 and 35-147,
29 all monies collected from civil penalties paid pursuant to this chapter in
30 the state general fund.

31 O. Notice of a complaint and hearing is effective by a true copy of
32 the notice being sent by certified mail to the licensee's last known address
33 of record in the board's files. Notice of the complaint and hearing is
34 complete on the date of its deposit in the mail.

35 P. In determining the appropriate disciplinary action under this
36 section, the board shall consider all previous nondisciplinary and
37 disciplinary actions against a licensee.

38 Q. The board may defer action with regard to an impaired licensee who
39 voluntarily signs an agreement, in a form satisfactory to the board, agreeing
40 to practice restrictions and treatment and monitoring programs deemed
41 necessary by the board to protect the public health and safety. A licensee
42 who is impaired and who does not agree to enter into an agreement with the
43 board is subject to other action as provided pursuant to this chapter.

44 R. Subject to an order duly entered by the board, a person whose
45 license to practice behavioral health has been suspended or restricted

1 pursuant to this chapter, whether voluntarily or by action of the board, may
2 at reasonable intervals apply to the board for reinstatement of the license.
3 The person shall submit the application in writing and in the form prescribed
4 by the board. After conducting an investigation and hearing, the board may
5 grant or deny the application or modify the original finding to reflect any
6 circumstances that have changed sufficiently to warrant modification. The
7 board may require the applicant to pass an examination or complete board
8 imposed continuing education requirements or may impose any other sanctions
9 the board deems appropriate for reentry into the practice of behavioral
10 health.

11 S. A person whose license is revoked, suspended or not renewed must
12 return the license to the offices of the board within ten days after notice
13 of that action.

14 T. The board may enforce a civil penalty imposed pursuant to this
15 section in the superior court in Maricopa county.

16 U. For complaints being brought before the full board, the information
17 released to the public regarding an ongoing investigation must clearly
18 indicate that the investigation is a pending complaint and must include the
19 following statement:

20 Pending complaints represent unproven allegations. On
21 investigation, many complaints are found to be without merit or
22 not of sufficient seriousness to merit disciplinary action
23 against the licensee and are dismissed.

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

28 W. The board shall not open an investigation if identifying
29 information regarding the complainant is not provided.

30 X. Except for disciplinary matters ~~brought pursuant to~~ PRESCRIBED BY
31 section 32-3251, paragraph ~~15~~ 16, subdivision (v), the board has the burden
32 of proof by clear and convincing evidence for disciplinary matters brought
33 pursuant to this chapter.

34 Sec. 8. Section 32-3311, Arizona Revised Statutes, as amended by Laws
35 2013, chapter 242, section 20, is amended to read:

36 32-3311. Licensed marriage and family therapist; licensure;
37 qualifications

38 A. A person who wishes to be licensed by the board to engage in the
39 practice of marriage and family therapy as a licensed marriage and family
40 therapist shall furnish documentation as prescribed by the board by rule that
41 the person has:

42 1. Earned a master's or doctorate degree in behavioral science,
43 including, but not limited to, marriage and family therapy, psychology,
44 sociology, counseling and social work, granted by a regionally accredited
45 college or university in a program accredited by the commission on

1 accreditation for marriage and family therapy education or a degree based on
2 a program of study that the board determines is substantially equivalent.

3 2. Completed three thousand two hundred hours of post-master's degree
4 experience **IN NOT LESS THAN TWENTY-FOUR MONTHS** in the practice of marriage
5 and family therapy under supervision that meets the requirements prescribed
6 by the board by rule, including at least one thousand hours of clinical
7 experience with couples and families, at least one thousand six hundred hours
8 of direct client contact and not more than one thousand six hundred hours of
9 indirect client service. For the direct client contact hours, not more than
10 four hundred hours may be in psychoeducation. The board by rule may
11 prescribe the number of hours required for functions related to direct client
12 contact and indirect client service.

13 3. Passed an examination approved by the board.

14 B. The curriculum for the master's or doctorate degree in behavioral
15 science accepted by the board pursuant to subsection A, paragraph 1 of this
16 section shall include a specified number of graduate courses as prescribed by
17 the board by rule and shall be consistent with national standards of marriage
18 and family therapy. Part of this course of study may be taken in a
19 post-master's degree program as approved by the board.

20 C. The one thousand hours of clinical experience required by
21 subsection A, paragraph 2 of this section shall include a combination of ~~two~~
22 **ONE** hundred hours of group or individual supervision in the practice of
23 marriage and family therapy. The one thousand hours may include one year in
24 an approved marriage and family internship program.

25 Sec. 9. Section 32-3321, Arizona Revised Statutes, as amended by Laws
26 2013, chapter 242, section 21, is amended to read:

27 **32-3321. Licensed substance abuse technician; licensed**
28 **associate substance abuse counselor; licensed**
29 **independent substance abuse counselor; licensure;**
30 **qualifications; supervision**

31 A. A person who wishes to be licensed by the board to engage in the
32 practice of substance abuse counseling as a licensed substance abuse
33 technician shall present documentation as prescribed by the board by rule
34 that the person has:

35 1. Received one of the following:

36 (a) An associate degree in chemical dependency or substance abuse with
37 an emphasis on counseling, that meets the requirements as prescribed by the
38 board by rule, from a regionally accredited college or university.

39 (b) Beginning January 1, 2009, a bachelor's degree in a behavioral
40 science with an emphasis on counseling, that meets the requirements as
41 prescribed by the board by rule, from a regionally accredited college or
42 university.

43 2. Passed an examination approved by the board.

44 B. A licensed substance abuse technician shall only practice under
45 direct supervision as prescribed by the board.

1 C. The board may waive the education requirement for an applicant
2 requesting licensure as a substance abuse technician if the applicant
3 provides services pursuant to contracts or grants with the federal government
4 under the authority of Public Law 93-638 (25 United States Code sections 450
5 through 450(n)) or Public Law 94-437 (25 United States Code sections 1601
6 through 1683). A person who becomes licensed as a substance abuse technician
7 pursuant to this subsection shall only provide substance abuse services to
8 those persons who are eligible for services pursuant to Public Law 93-638 (25
9 United States Code sections 450 through 450(n)) or Public Law 94-437 (25
10 United States Code section 1601 through 1683).

11 D. A person who wishes to be licensed by the board to engage in the
12 practice of substance abuse counseling as a licensed associate substance
13 abuse counselor shall present evidence as prescribed by the board by rule
14 that the person has:

15 1. Received one of the following:

16 (a) A bachelor's degree in a behavioral science with an emphasis on
17 counseling, that meets the requirements as prescribed by the board by rule,
18 from a regionally accredited college or university and present documentation
19 as prescribed by the board by rule that the applicant has received at least
20 three thousand two hundred hours of work experience **IN NOT LESS THAN**
21 **TWENTY-FOUR MONTHS** in substance abuse counseling under supervision that meets
22 the requirements prescribed by the board by rule. The three thousand two
23 hundred hours must include a minimum of one thousand six hundred hours of
24 direct client contact and not more than one thousand six hundred hours of
25 indirect client service. For the direct client contact hours, not more than
26 four hundred hours may be in psychoeducation. The board by rule may
27 prescribe the number of hours required for functions related to direct client
28 contact and indirect client service.

29 (b) A master's degree or a higher degree in a behavioral science with
30 an emphasis on counseling, as prescribed by the board by rule, from a
31 regionally accredited college or university.

32 2. Passed an examination approved by the board.

33 E. A licensed associate substance abuse counselor shall only practice
34 under direct supervision as prescribed by the board.

35 F. A person who wishes to be licensed by the board to engage in the
36 practice of substance abuse counseling as a licensed independent substance
37 abuse counselor shall:

38 1. Have received a master's degree or higher degree in a behavioral
39 science with an emphasis on counseling, in a program that is approved by the
40 board pursuant to section 32-3253 or that meets the requirements as
41 prescribed by the board by rule, from a regionally accredited college or
42 university.

43 2. Present documentation as prescribed by the board by rule that the
44 applicant has received at least three thousand two hundred hours of work
45 experience **IN NOT LESS THAN TWENTY-FOUR MONTHS** in substance abuse counseling

1 under supervision that meets the requirements as prescribed by the board by
2 rule. The three thousand two hundred hours must include at least one
3 thousand six hundred hours of direct client contact and not more than one
4 thousand six hundred hours of indirect client service. For the direct client
5 contact hours, not more than four hundred hours may be in psychoeducation.
6 The board by rule may prescribe the number of hours required for functions
7 related to direct client contact and indirect client service.

8 3. Pass an examination approved by the board.

9 Sec. 10. Rulemaking exemption; hearings; public comment

10 A. For the purposes of implementing this act, the board of behavioral
11 health examiners is exempt from the rulemaking requirements of title 41,
12 chapter 6, Arizona Revised Statutes, until November 1, 2016.

13 B. Notwithstanding subsection A of this section, the board shall allow
14 interested parties to provide to the board written comments or testimony on
15 proposed rules as provided in section 41-1023, Arizona Revised Statutes, and
16 shall adequately address those comments as provided in section 41-1052,
17 subsection D, Arizona Revised Statutes, including comments or testimony
18 concerning the information contained in the economic, small business and
19 consumer impact statement. The board shall prepare a mailing list of persons
20 who wish to be notified of hearings relating to proposed rule changes. The
21 board shall hold at least two public hearings on its proposed rules before
22 adoption and shall testify before the joint legislative budget committee
23 regarding the proposed rules.

24 Sec. 11. Effective date

25 The following sections, as amended by this act, are effective from and
26 after October 31, 2015:

27 1. Section 32-3253, Arizona Revised Statutes, as amended by Laws 2013,
28 chapter 242, section 3.

29 2. Section 32-3261, Arizona Revised Statutes, as added by Laws 2013,
30 chapter 242, section 7.

31 3. Section 32-3311, Arizona Revised Statutes, as amended by Laws 2013,
32 chapter 242, section 20.

33 4. Section 32-3321, Arizona Revised Statutes, as amended by Laws 2013,
34 chapter 242, section 21.