

REFERENCE TITLE: homeopathic board; licensure; regulation

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

# **SB 1214**

Introduced by  
Senator Barto

AN ACT

AMENDING SECTIONS 32-2901, 32-2912, 32-2915, 32-2934, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 29, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-2942 AND 32-2943; RELATING TO THE BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2901, Arizona Revised Statutes, is amended to  
3 read:

4 32-2901. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Acupuncture" means a medical therapy in which ailments are  
7 diagnosed and treated by the specific application of needles, heat or  
8 physical and electromagnetic impulses or currents to specific anatomic points  
9 on the body through any of the following:

10 (a) The diagnosis and treatment of ailments according to the  
11 systematic principles of traditional Asian medicine.

12 (b) The diagnosis and treatment of pain, neuromuscular disorders and  
13 other ailments based on the body's biophysics and neuroanatomic structure.

14 (c) The use of devices to determine the biologic electrical response  
15 pattern of acupuncture points as a guide to diagnose bodily ailments and to  
16 guide the prescription of homeopathic substances, orthomolecular therapy or  
17 pharmaceutical medicine.

18 2. "Adequate records" means legible medical records that contain at a  
19 minimum sufficient information to identify the patient, support the  
20 diagnosis, document the treatment, accurately describe the results, indicate  
21 advice, cautionary warnings and informed consent discussions with the patient  
22 and provide sufficient information for another licensed health care  
23 practitioner to assume continuity of the patient's care and to continue or  
24 modify the treatment plan.

25 3. "Approved internship" means that the applicant has completed  
26 training in a hospital that was approved for internship, fellowship or  
27 residency training by the council on medical education in hospitals of the  
28 American medical association, the association of American medical colleges,  
29 the royal college of physicians and surgeons of Canada, the American  
30 osteopathic association or any board approved similar body in the United  
31 States or Canada that approves hospitals for internship, fellowship or  
32 residency training.

33 4. "Approved school of medicine":

34 (a) As it relates to a person who is seeking licensure pursuant to  
35 section 32-2912, subsection A, means a school or college that offers a course  
36 of study that on successful conclusion results in a degree of doctor of  
37 medicine or doctor of osteopathy and that offers a course of study that is  
38 approved or accredited by the association of American medical colleges, the  
39 association of Canadian medical colleges, the American medical association,  
40 the American osteopathic association or any board-approved similar body in  
41 the United States or Canada that accredits this course of study.

42 (b) As it relates to a person who is seeking licensure pursuant to  
43 section 32-2912, subsection B, means a school or college that on successful  
44 completion results in a degree of doctor of homeopathy and that is approved  
45 or accredited by the ~~council on homeopathic education~~ ACCREDITATION

1 COMMISSION FOR HOMEOPATHIC EDUCATION IN NORTH AMERICA or any board-approved  
2 similar body ~~in the United States or Canada~~ that accredits this course of  
3 study.

4 5. "Board" means the board of homeopathic and integrated medicine  
5 examiners.

6 6. "Chelation therapy" means an experimental medical therapy to  
7 restore cellular homeostasis through the use of intravenous, metal-binding  
8 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation  
9 therapy is not an experimental therapy if it is used to treat heavy metal  
10 poisoning.

11 7. "Controlled substance" means a drug or substance or a drug's or  
12 substance's immediate precursor that is defined or listed in title 36,  
13 chapter 27, article 2.

14 8. "Drug" means a medication or substance that is any of the  
15 following:

16 (a) Recognized in the official compendia or for which standards or  
17 specifications are prescribed in the official compendia.

18 (b) Intended for use in the diagnosis, cure, mitigation, treatment or  
19 prevention of human diseases.

20 (c) Articles other than food that are intended to affect the structure  
21 or function of the human body.

22 9. "Homeopathic medication" means a substance of animal, vegetable or  
23 mineral origin that is prepared according to homeopathic pharmacology and  
24 that is given usually in a homeopathic microdosage.

25 10. "Homeopathic microdosage" means a substance prepared so that it is  
26 diluted from ten to the minus one to ten to the minus ten thousandth or  
27 higher of its original concentration.

28 11. "Homeopathy" means a system of medicine that employs homeopathic  
29 medication in accordance with the principle that a substance that produces  
30 symptoms in a healthy person can cure those symptoms in an ill person.

31 12. "Immediate family" means a person's spouse, natural or adopted  
32 children, parents and siblings and the natural or adopted children, parents  
33 and siblings of the person's spouse.

34 13. "Letter of concern" means an advisory letter to notify a licensee  
35 that, while there is insufficient evidence to support disciplinary action,  
36 the board believes the licensee should modify or eliminate certain practices.

37 14. "Licensee" means a person who is licensed pursuant to this chapter.

38 15. "Medical assistant" means an unlicensed person who has completed an  
39 educational program approved by the board, who assists in a homeopathic  
40 practice under the supervision of a doctor of homeopathy and who performs  
41 delegated procedures commensurate with the assistant's education and training  
42 but who does not diagnose, interpret, design or modify established treatment  
43 programs or violate any statute.

44 16. "Medical incompetence" means the lack of sufficient medical  
45 knowledge or skill by a licensee to a degree that is likely to endanger a

1 patient's health. Medical incompetence includes the range of knowledge  
2 expected for basic licensure pursuant to this chapter or as a medical or  
3 osteopathic physician in any professional regulatory jurisdiction of the  
4 United States and additional knowledge of homeopathic treatments and  
5 modalities expected of persons who are licensed pursuant to this chapter.

6 17. "Minor surgery" means surgical procedures that are conducted by a  
7 licensee who is licensed pursuant to section 32-2912, subsection A in an  
8 outpatient setting and that involve the removal or repair of lesions or  
9 injuries to the skin, mucous membranes and subcutaneous tissues, the use of  
10 topical, local or regional anesthetic agents, the treatment by stabilizing or  
11 casting nondisplaced and uncomplicated fractures of the extremities and  
12 diagnostic endoscopies of the intestinal tract, nasopharynx and vagina.  
13 Minor surgery also includes diagnostic aspiration of joints and subcutaneous  
14 cysts, therapeutic injections of muscular trigger points, tendons, ligaments  
15 and scars and the subcutaneous implantation of medical therapeutic agents.  
16 Minor surgery does not include the use of general, spinal or epidural  
17 anesthesia, the opening of body cavities, the repair of blood vessels and  
18 nerves or the biopsy by incision, excision or needle aspiration of internal  
19 organs, the breast or the prostate.

20 18. "Neuromuscular integration" means musculoskeletal therapy that uses  
21 any combination of manual methods, physical agents and physical medicine  
22 procedures and devices to improve physiological function by normalizing body  
23 structure.

24 19. "Nutrition" means the recommendation by a licensee of therapeutic  
25 or preventative dietary measures, food factor concentrates, fasting and  
26 cleansing regimens and the rebalancing by a licensee of digestive system  
27 function to correct diseases of malnutrition, to resolve conditions of  
28 metabolic imbalance and to support optimal vitality.

29 20. "Orthomolecular therapy" means therapy to provide the optimum  
30 concentration of substances normally present in the human body such as  
31 vitamins, minerals, amino acids and enzymes. Orthomolecular therapy includes  
32 the diagnosis of ailments or physiologic stresses that occur as a result of  
33 genetic or environmental influences as well as acquired or inherited allergy  
34 and hypersensitivity responses.

35 21. "Pharmaceutical medicine" means a drug therapy that uses  
36 prescription-only and nonprescription pharmaceutical agents as well as  
37 medicinal agents of botanical, biological or mineral origin and that is based  
38 on current scientific indications or traditional or historical usage  
39 indications.

40 22. "Practice of homeopathic medicine":

41 (a) For the purposes of a person who is licensed pursuant to section  
42 32-2912, subsection A, means the practice of medicine in which a person  
43 purports to diagnose, treat or correct real or imagined human diseases,  
44 injuries, ailments, infirmities and deformities of a physical or mental  
45 origin and includes acupuncture, chelation therapy, homeopathy, minor

1 surgery, neuromuscular integration, nutrition, orthomolecular therapy and  
2 pharmaceutical medicine.

3 (b) For the purposes of a person who is licensed pursuant to section  
4 32-2912, subsection B, means the practice of medicine in which a person  
5 purports to diagnose, treat or correct real or imagined human diseases,  
6 injuries, ailments, infirmities and deformities of a physical or mental  
7 origin by means of homeopathy or nutrition.

8 23. "Preceptorship" means an extended period of individual study with  
9 one or more experienced homeopathic physicians or institutions.

10 24. "Prescription-only drug" does not include a controlled substance  
11 but does include:

12 (a) A drug that is generally regarded by medical experts to be unsafe  
13 if its use and dosage are not supervised by a medical practitioner.

14 (b) A drug that is approved for use under the supervision of a medical  
15 practitioner pursuant to the federal new drug application law or section  
16 32-1962.

17 (c) A potentially harmful drug if its labeling does not contain full  
18 directions for its use by the patient.

19 (d) A drug that is required by federal law to bear on its label the  
20 following words: "Caution: Federal law prohibits dispensing without  
21 prescription."

22 25. "Professional negligence" means any of the following:

23 (a) That a licensee administers treatment to a patient in a manner  
24 that is contrary to accepted practices and that harms the patient if it can  
25 be shown to the board's satisfaction that accepted practices are inherently  
26 less hazardous.

27 (b) That a licensee commits an act of unprofessional conduct or  
28 displays an unreasonable lack of professional skill or fidelity.

29 (c) That a licensee's negligence, carelessness or disregard of  
30 established principles or practice results in a patient's injury, unnecessary  
31 suffering or death.

32 26. "Special purpose licensing examination" means an examination  
33 developed by the national board of medical examiners on behalf of the  
34 federation of state medical boards for use by state licensing boards to test  
35 the basic medical competence of physicians who are applying for licensure and  
36 who have been in practice in another jurisdiction of the United States and to  
37 determine the competence of a physician under investigation by a state  
38 licensing board.

39 Sec. 2. Section 32-2912, Arizona Revised Statutes, is amended to read:

40 32-2912. Qualifications of applicant; applications; scope of  
41 practice

42 A. The board shall grant a license to practice pursuant to this  
43 chapter to an applicant who meets all of the following requirements:

44 1. Is a person of good moral character.

1           2. Holds a degree from an approved school of medicine or has received  
2 a medical education that the board determines is of equivalent quality.

3           3. Holds a license in good standing to practice medicine or  
4 osteopathic medicine that is issued under chapter 13 or 17 of this title or  
5 by another state, district or territory of the United States.

6           4. Has a professional record that indicates that the applicant has not  
7 had a license to practice medicine refused, revoked, suspended or restricted  
8 in any way by any state, territory, district or country for reasons that  
9 relate to the applicant's ability to competently and safely practice  
10 medicine.

11           5. Has a professional record that indicates that the applicant has not  
12 committed any act or engaged in any conduct that would constitute grounds for  
13 disciplinary action against a licensee under this chapter.

14           6. Has the physical and mental capacity to safely engage in the  
15 practice of medicine.

16           7. Pays all fees and costs required by the board.

17           8. Completes the application required by the board.

18           B. Notwithstanding subsection A, paragraphs 2 and 3 of this section,  
19 the board shall issue a license pursuant to this chapter to an applicant who  
20 meets the requirements of subsection A, paragraphs 1, 4, 5, 6, 7 and 8 of  
21 this section and who holds a degree from an approved school of medicine.

22           C. The board may require an applicant to submit additional written or  
23 oral information and may conduct additional investigations if it determines  
24 that this is necessary to adequately inform itself of the applicant's ability  
25 to meet the requirements of this chapter. If an applicant has had a license  
26 revoked by or has surrendered a license to another jurisdiction, the  
27 applicant may attempt to demonstrate to the board's satisfaction that the  
28 applicant is completely rehabilitated with respect to the conduct that was  
29 the basis for the revocation or surrender of the license.

30           D. The board shall vacate its previous order to deny **OR REVOKE** a  
31 license if that denial **OR REVOCATION** was based on the applicant's conviction  
32 of a felony or an offense involving moral turpitude and that conviction has  
33 been reversed on appeal. The applicant may resubmit an application for  
34 licensure as soon as the court enters the reversal.

35           E. If the board finds that an applicant has committed an act or  
36 engaged in conduct that would constitute grounds for disciplinary action, the  
37 board shall determine to its satisfaction that the conduct has been  
38 corrected, monitored and resolved. If the matter has not been resolved,  
39 before it issues a license the board shall determine to its satisfaction that  
40 mitigating circumstances exist that prevent its resolution.

41           F. Except as provided in subsection D of this section, a person shall  
42 not submit an application for reinstatement or a new application within five  
43 years after the person has completely corrected the conduct and made full  
44 legal restitution to the board's satisfaction.

1 G. An applicant shall submit a verified completed application to the  
2 board in a form and within a period of time prescribed by the board. The  
3 application shall include:

4 1. The application fee.

5 2. Affidavits from three persons who are actively licensed to practice  
6 allopathic, osteopathic or homeopathic medicine in any state or district of  
7 the United States and who are able to attest to the applicant's good moral  
8 character and fitness to practice pursuant to this chapter.

9 3. A diploma or certificate issued by a homeopathic college or any  
10 other educational institution approved by the board or documentation of the  
11 applicant's successful completion of preceptorships or formal postgraduate  
12 courses approved by the board.

13 4. If the person is applying for licensure pursuant to subsection A of  
14 this section, proof that the applicant has served a board-approved  
15 internship.

16 5. The applicant's oath that:

17 (a) All of the information contained in the application and the  
18 accompanying evidence or other credentials is correct.

19 (b) The applicant submitted the credentials without fraud or  
20 misrepresentation and that the applicant is the lawful holder of the  
21 credentials.

22 (c) The applicant authorizes the release to the board of any  
23 information from any source that the board determines is necessary for it to  
24 act on the application.

25 H. The board shall promptly inform an applicant in writing of any  
26 deficiency in the application that prevents the board from acting on it.

27 I. The board shall consider an application withdrawn if any of the  
28 following is true:

29 1. The applicant submits a written request to withdraw the  
30 application.

31 2. The applicant without good cause fails to appear for a board  
32 interview.

33 3. The applicant fails to submit information to the board within one  
34 year of the board's request for that information.

35 4. The applicant fails to complete the required examination or  
36 personal interview within one year of submitting the application.

37 J. A person who is issued a license pursuant to subsection B of this  
38 section shall practice only within the scope of practice as prescribed by  
39 this chapter. A licensee who acts outside that scope of practice commits an  
40 act of unprofessional conduct. In addition to all other available remedies,  
41 the board may seek injunctive relieve pursuant to section 32-2940.

1           Sec. 3. Section 32-2915, Arizona Revised Statutes, is amended to read:  
2           32-2915. Licensure; issuance; duplicate licenses; renewal;  
3                                   continuing education; expiration; cancellation

4           A. The board shall issue a license to practice homeopathic medicine in  
5 this state if the applicant meets all board requirements for licensure and  
6 pays the licensure fee.

7           B. The board may issue a duplicate license to a person who holds a  
8 license under this chapter on payment of the duplicate license fee.

9           ~~C. Until January 1, 2009, by December 1 of each year the executive~~  
10 ~~director shall notify each licensee of the renewal date and provide the~~  
11 ~~current renewal form. The executive director shall send this notice by first~~  
12 ~~class mail to the address the licensee most recently provided to the board.~~

13           ~~D. Except as provided in section 32-4301, until January 1, 2009, a~~  
14 ~~licensee shall renew the license on or before January 1 of each year by~~  
15 ~~submitting a completed renewal form and the renewal fee. A licensee who~~  
16 ~~fails to do this by February 1 shall also submit the late fee prescribed in~~  
17 ~~this article. A license expires if it is not renewed as prescribed by this~~  
18 ~~subsection on or before May 1.~~

19           ~~E. C. Beginning January 1, 2009,~~ At least thirty days before the  
20 first day of the month in which a license was initially issued, the executive  
21 director shall notify the licensee of the renewal date and provide a renewal  
22 form. The executive director shall send this notice by first class mail to  
23 the address the licensee most recently provided to the board.

24           ~~F. D. Beginning January 1, 2010,~~ Each licensee shall include with the  
25 renewal form a statement that the licensee has completed at least twenty  
26 hours of board-approved continuing education in the preceding year. The  
27 board shall not renew a license if the licensee does not fully document  
28 compliance with this subsection. The board may waive the continuing  
29 education requirements of this subsection for a period prescribed by the  
30 board if the licensee's noncompliance was due to disability, military  
31 service, absence from the United States or circumstances beyond the control  
32 of the licensee. If a licensee fails to complete the continuing education  
33 requirements of this subsection for any other reason, the board may grant an  
34 extension of not more than sixty days. A licensee who fails to comply with  
35 the continuing education requirements of this subsection and who has not been  
36 granted a waiver pursuant to this subsection commits an act of unprofessional  
37 conduct and is subject to probation or licensure suspension or revocation.

38           ~~G. E. Beginning January 1, 2009,~~ A licensee shall submit a completed  
39 application for license renewal and the renewal fee each year on or before  
40 the last day of the month in which the license was initially issued. A  
41 license expires if it is not renewed within sixty days. A licensee who fails  
42 to do this by the first day of the following month must also submit a late  
43 fee as prescribed by the board. A person who practices homeopathic medicine  
44 after a license has expired is in violation of this chapter.

1 ~~H.~~ F. The board may issue a license to a person whose license has  
2 expired only if that person applies for a license as prescribed in sections  
3 32-2912 and 32-2913.

4 ~~I.~~ G. With each application for licensure renewal, the licensee shall  
5 include a report of disciplinary actions, restriction and any other action  
6 placed on or against the license or practice by any other state regulatory  
7 board or agency of the federal government, including the denial of a license  
8 for failing a special purpose licensing examination. The report shall  
9 include the name and address of the sanctioning agency, the nature of the  
10 action taken and a general statement of the charges leading to the action  
11 taken.

12 ~~J.~~ H. On request of a licensee, the board shall cancel that person's  
13 license to practice homeopathic medicine if the licensee is not the subject  
14 of a board investigation or disciplinary proceeding. The board may cancel  
15 the license of a person under investigation for violating this chapter or  
16 board rules if the licensee admits to the violations in writing and on the  
17 board record.

18 Sec. 4. Section 32-2934, Arizona Revised Statutes, is amended to read:  
19 32-2934. Grounds for suspension or revocation of license; duty  
20 to report; unprofessional conduct hearing; decision  
21 of board

22 A. The board on its own motion may investigate any evidence that  
23 appears to show that a licensee is or may be medically incompetent, guilty of  
24 unprofessional conduct or mentally or physically unable to engage safely in  
25 the practice of homeopathic medicine. Any licensee, the Arizona homeopathic  
26 and integrative medical association or any health care institution as defined  
27 in section 36-401 shall, and any other person may, report to the board any  
28 information the person may have that appears to show that a licensee is or  
29 may be medically incompetent, guilty of unprofessional conduct or mentally or  
30 physically unable to engage safely in the practice of homeopathic medicine.  
31 The board shall notify the licensee about whom information is received as to  
32 the content of the information within one hundred twenty days after receipt  
33 of the information. Any person who reports or provides information to the  
34 board in good faith is not subject to an action for civil damages as a result  
35 of reporting or providing the information. ~~and THE BOARD MAY NOT OPEN AN~~  
36 ~~INVESTIGATION IF IDENTIFYING INFORMATION REGARDING THE COMPLAINANT IS NOT~~  
37 ~~PROVIDED TO THE BOARD. The person's name shall not be disclosed unless the~~  
38 ~~person's testimony is essential to the disciplinary proceedings conducted~~  
39 ~~pursuant to this section.~~ It is an act of unprofessional conduct for any  
40 licensee to fail to report as required by this section. Any health care  
41 institution that fails to report as required by this section shall be  
42 reported by the board to the institution's licensing agency.

43 B. IF A COMPLAINANT WISHES TO HAVE THE COMPLAINANT'S IDENTIFYING  
44 INFORMATION WITHHELD FROM THE LICENSEE AGAINST WHOM THE ALLEGATION OF  
45 UNPROFESSIONAL CONDUCT IS BEING MADE, THE BOARD SHALL ENTER INTO A WRITTEN

1 AGREEMENT WITH THE COMPLAINANT STATING THAT THE COMPLAINANT'S IDENTIFYING  
2 INFORMATION WILL NOT BE PROVIDED TO THE LICENSEE AGAINST WHOM THE ALLEGATION  
3 OF UNPROFESSIONAL CONDUCT IS BEING MADE TO THE EXTENT CONSISTENT WITH THE  
4 ADMINISTRATIVE APPEALS PROCESS. THE BOARD SHALL POST THIS POLICY ON THE  
5 BOARD'S WEBSITE WHERE A PERSON WOULD SUBMIT A COMPLAINT ONLINE.

6 ~~B-~~ C. A health care institution shall inform the board if the  
7 privileges of a licensee to practice in the health care institution are  
8 denied, revoked, suspended or limited because of actions by the licensee that  
9 jeopardized patient health and welfare or if the licensee resigns during  
10 pending proceedings for revocation, suspension or limitation of privileges.  
11 A report to the board pursuant to this subsection shall contain a general  
12 statement of the reasons the health care institution denied or took action to  
13 revoke, suspend or limit a licensee's privileges.

14 ~~C-~~ D. The board may conduct investigations necessary to fully inform  
15 itself with respect to any evidence filed with the board under subsection A  
16 of this section. As part of this investigation, the board may require the  
17 licensee under investigation to be interviewed by board representatives or,  
18 AT THE LICENSEE'S EXPENSE, to undergo any combination of mental, physical,  
19 oral or written medical competency examinations.

20 ~~D-~~ E. If the information gathered under subsections A and ~~B- C~~ of  
21 this section indicates that the protection of public health requires that the  
22 board take emergency action, it may order the summary suspension of a license  
23 pending the outcome of a formal disciplinary hearing pursuant to title 41,  
24 chapter 6, article 10. The board shall serve the suspended licensee with a  
25 written notice of the specific charges and the time and place of the formal  
26 hearing. The board shall hold this hearing within sixty days after the  
27 suspension unless the board for good reason shown by the licensee grants an  
28 extension on the hearing date.

29 ~~E-~~ F. If, after completing its investigation, the board finds that  
30 the information provided pursuant to subsection A of this section is not of  
31 sufficient seriousness to merit direct action against the license, it may  
32 take any of the following actions:

33 1. Dismiss if, in the opinion of the board, the information is without  
34 merit.

35 2. File a letter of concern.

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

40 ~~F-~~ G. If after completing its initial investigation under subsection  
41 A of this section the board determines that rehabilitative or disciplinary  
42 action can be taken without the presence of the licensee at an informal  
43 interview, the board and the licensee may enter into a stipulated agreement  
44 to limit or restrict the licensee's practice or to rehabilitate the licensee,

1 protect the public and ensure the licensee's ability to safely engage in the  
2 practice of homeopathic medicine.

3 ~~G.~~ H. If after completing its investigation the board believes that  
4 this information is or may be true, the board may request an informal  
5 interview with the licensee. If the licensee refuses the invitation or  
6 accepts the invitation and the results of the interview indicate that  
7 suspension or revocation of the license may be in order, the board shall  
8 issue a formal complaint and conduct a formal hearing pursuant to title 41,  
9 chapter 6, article 10. If after completing the informal interview the board  
10 finds that the information provided under subsection A of this section is not  
11 of sufficient seriousness to merit suspension or revocation of the license,  
12 it may take the following actions:

13 1. Dismiss if, in the opinion of the board, the information is without  
14 merit.

15 2. File a letter of concern.

16 3. Issue a decree of censure. A decree of censure constitutes an  
17 official action against the license and may include a requirement for  
18 restitution of fees to a patient resulting from violations of this chapter or  
19 board rules.

20 4. Fix a period and terms of probation best adapted to protect the  
21 public health and safety and rehabilitate or educate the licensee. The  
22 probation, if deemed necessary, may include temporary suspension of the  
23 license for not to exceed twelve months, restriction of the license to  
24 practice homeopathic medicine or a requirement for restitution of fees to a  
25 patient resulting from violations of this chapter or board rules. If a  
26 licensee fails to comply with the terms of probation, the board may file a  
27 summons, complaint and notice of hearing pursuant to title 41, chapter 6,  
28 article 10 based on the information considered by the board at the informal  
29 interview and any other acts or conduct alleged to be in violation of this  
30 chapter or board rules.

31 5. Enter into an agreement with the licensee to restrict or limit the  
32 licensee's practice or medical activities in order to rehabilitate the  
33 licensee, protect the public and ensure the licensee's ability to safely  
34 engage in the practice of homeopathic medicine.

35 6. 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 ~~H.~~ I. In an informal interview or a formal hearing the board, in  
40 addition to any other action that it may take, may impose an administrative  
41 penalty in an amount of not less than five hundred dollars but not to exceed  
42 two thousand dollars on a licensee who violates this chapter or a board rule.  
43 Actions to enforce the collection of these penalties shall be brought in the  
44 name of this state by the attorney general or the county attorney in the  
45 justice court or the superior court in the county in which the violation

1 occurred. Penalties imposed under this section are in addition to and not in  
2 limitation of other penalties imposed pursuant to this chapter.

3 ~~I.~~ J. If in the opinion of the board it appears that the allegations  
4 concerning a licensee are of a magnitude as to warrant suspension or  
5 revocation of the license, the board shall serve on the licensee a summons  
6 and a complaint fully setting forth the conduct or inability concerned and  
7 setting a date, time and place for a hearing pursuant to title 41, chapter 6,  
8 article 10 to be held before the board in not less than sixty days from the  
9 date of the notice.

10 ~~J.~~ K. A licensee who wishes to be present at the hearing in person or  
11 by representation, or both, shall file a verified answer with the board  
12 within twenty days after receiving service of the summons and complaint. The  
13 licensee may present witnesses at this hearing. A LICENSEE WHO HAS BEEN  
14 NOTIFIED OF A COMPLAINT PURSUANT TO THIS SECTION SHALL FILE WITH THE BOARD A  
15 WRITTEN RESPONSE NOT MORE THAN TWENTY DAYS AFTER SERVICE OF THE COMPLAINT AND  
16 THE NOTICE OF HEARING. IF THE LICENSEE FAILS TO FILE AN ANSWER IN WRITING,  
17 IT IS DEEMED AN ADMISSION OF THE ACT OR ACTS CHARGED IN THE COMPLAINT AND  
18 NOTICE OF HEARING AND THE BOARD MAY TAKE DISCIPLINARY ACTION PURSUANT TO THIS  
19 CHAPTER WITHOUT A HEARING.

20 ~~K.~~ L. The board shall issue subpoenas for witnesses as it may need  
21 and for witnesses as the licensee may request. Any person refusing to obey a  
22 subpoena shall be certified by the board to the superior court in the county  
23 in which service was made, and the court may institute proceedings for  
24 contempt of court.

25 ~~L.~~ M. Service of the summons and complaint shall be as required in  
26 civil cases.

27 ~~M.~~ N. Service of subpoenas for witnesses shall be as provided by law  
28 for the service of subpoenas generally.

29 ~~N.~~ O. A licensee who after a hearing is found to be guilty of  
30 unprofessional conduct or is found to be mentally or physically unable to  
31 engage safely in the practice of homeopathic medicine is subject to any  
32 combination of censure, probation or suspension of license or revocation of  
33 the license for a prescribed period of time or permanently and under  
34 conditions that the board deems appropriate for the protection of the public  
35 health and safety and just in the circumstances.

36 ~~O.~~ P. If the board acts to modify any licensee's prescription writing  
37 privileges, it shall immediately notify the Arizona state board of pharmacy  
38 of the modification.

39 ~~P.~~ Q. Notwithstanding section 32-2906, subsection A, the board shall  
40 deposit, pursuant to sections 35-146 and 35-147, all monies collected from  
41 administrative penalties paid pursuant to this section in the state general  
42 fund.

43 ~~Q.~~ R. A letter of concern is a nondisciplinary public document that  
44 the board may use in future disciplinary actions.

1           Sec. 5. Title 32, chapter 29, article 3, Arizona Revised Statutes, is  
2 amended by adding sections 32-2942 and 32-2943, to read:

3           32-2942. Mental, behavioral and physical health evaluation and  
4           treatment program; confidential consent agreement;  
5           private contract; immunity; program termination

6           A. THE BOARD MAY ESTABLISH A CONFIDENTIAL PROGRAM FOR THE EVALUATION,  
7 TREATMENT AND MONITORING OF PERSONS WHO ARE LICENSED PURSUANT TO THIS CHAPTER  
8 AND WHO HAVE A MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL OR BEHAVIORAL HEALTH  
9 DISORDER THAT MAY IMPACT THE ABILITY TO SAFELY PRACTICE MEDICINE OR PERFORM  
10 HEALTH CARE TASKS. THE PROGRAM SHALL INCLUDE EDUCATION, INTERVENTION,  
11 THERAPEUTIC TREATMENT AND POSTTREATMENT MONITORING AND SUPPORT.

12           B. A LICENSEE WHO HAS A MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL OR  
13 BEHAVIORAL HEALTH DISORDER DESCRIBED IN SUBSECTION A OF THIS SECTION AND WHO  
14 HAS NOT COMMITTED A VIOLATION OF THIS CHAPTER MAY AGREE TO ENTER INTO A  
15 CONFIDENTIAL CONSENT AGREEMENT WITH THE BOARD FOR PARTICIPATION IN A PROGRAM  
16 ESTABLISHED PURSUANT TO THIS SECTION IF THE LICENSEE EITHER:

17           1. VOLUNTARILY REPORTS THAT DISORDER TO THE BOARD.

18           2. IS REPORTED TO THE BOARD BY A PEER REVIEW COMMITTEE, HOSPITAL  
19 MEDICAL STAFF MEMBER, HEALTH PLAN OR OTHER HEALTH CARE PRACTITIONER OR HEALTH  
20 CARE ENTITY.

21           C. THE BOARD MAY CONTRACT WITH A PRIVATE ORGANIZATION TO OPERATE A  
22 PROGRAM ESTABLISHED PURSUANT TO THIS SECTION. THE CONTRACT SHALL REQUIRE  
23 THAT THE PRIVATE ORGANIZATION DO ALL OF THE FOLLOWING:

24           1. PERIODICALLY REPORT TO THE BOARD REGARDING TREATMENT PROGRAM  
25 ACTIVITY.

26           2. RELEASE ALL TREATMENT RECORDS TO THE BOARD ON DEMAND.

27           3. IMMEDIATELY REPORT TO THE BOARD THE NAME OF A LICENSEE WHO THE  
28 TREATING ORGANIZATION BELIEVES IS INCAPABLE OF SAFELY PRACTICING MEDICINE OR  
29 PERFORMING HEALTH CARE TASKS.

30           D. AN EVALUATOR, TEACHER, SUPERVISOR OR VOLUNTEER IN A PROGRAM  
31 ESTABLISHED PURSUANT TO THIS SECTION WHO ACTS IN GOOD FAITH WITHIN THE SCOPE  
32 OF THAT PROGRAM IS NOT SUBJECT TO CIVIL LIABILITY, INCLUDING MALPRACTICE  
33 LIABILITY, FOR THE ACTIONS OF A LICENSEE WHO IS PARTICIPATING IN THE PROGRAM  
34 PURSUANT TO THIS SECTION.

35           E. THE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION ENDS ON JULY 1,  
36 2025 PURSUANT TO SECTION 41-3102.

37           32-2943. Complaints; statute of limitations

38           THE BOARD MAY NOT ACT ON ANY COMPLAINT IN WHICH AN ALLEGATION OF  
39 UNPROFESSIONAL CONDUCT OR ANY OTHER VIOLATION OF THIS CHAPTER OCCURRED MORE  
40 THAN SEVEN YEARS BEFORE THE COMPLAINT IS RECEIVED BY THE BOARD. THIS TIME  
41 LIMITATION DOES NOT APPLY TO MEDICAL MALPRACTICE SETTLEMENTS OR JUDGMENTS.