

REFERENCE TITLE: behavioral health board

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

# **SB 1246**

Introduced by  
Senators Barto: Bradley, Brophy McGee

AN ACT

AMENDING SECTIONS 32-3251, 32-3253, 32-3256, 32-3272, 32-3273, 32-3274, 32-3275, 32-3276, 32-3279, 32-3280, 32-3281 AND 32-3321, ARIZONA REVISED STATUTES; 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  
11 applicant's professional practice level of psychotherapy that includes  
12 diagnosis, assessment and treatment and that may include psychoeducation  
13 for mental, emotional and behavioral disorders based primarily on verbal  
14 or nonverbal communications and intervention with, and in the presence of,  
15 one or more 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  
21 for whom direct client contact functions are also performed, including  
22 case consultation and receipt of clinical supervision. Indirect client  
23 service does not include the provision of psychoeducation.

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

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

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

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

39 (a) Assessment, appraisal and diagnosis.

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

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

- 1 (a) Facilitate human development and adjustment throughout the  
2 human life span.
- 3 (b) Assess and facilitate career development.
- 4 (c) Treat interpersonal relationship issues and nervous, mental and  
5 emotional disorders that are cognitive, affective or behavioral.
- 6 (d) Manage symptoms of mental illness.
- 7 (e) Assess, appraise, evaluate, diagnose and treat individuals,  
8 couples, families and groups through the use of psychotherapy.
- 9 11. "Practice of social work" means the professional application of  
10 social work theories, principles, methods and techniques to:
- 11 (a) Treat mental, behavioral and emotional disorders.
- 12 (b) Assist individuals, families, groups and communities to enhance  
13 or restore the ability to function physically, socially, emotionally,  
14 mentally and economically.
- 15 (c) Assess, appraise, diagnose, evaluate and treat individuals,  
16 couples, families and groups through the use of psychotherapy.
- 17 12. "Practice of substance abuse counseling" means the professional  
18 application of general counseling theories, principles and techniques as  
19 specifically adapted, based on research and clinical experience, to the  
20 specialized needs and characteristics of persons who are experiencing  
21 substance abuse, chemical dependency and related problems and to the  
22 families of those persons. The practice of substance abuse counseling  
23 includes the following as they relate to substance abuse and chemical  
24 dependency issues:
- 25 (a) Assessment, appraisal and diagnosis.
- 26 (b) The use of psychotherapy for the purpose of evaluation,  
27 diagnosis and treatment of individuals, couples, families and groups.
- 28 13. "Psychoeducation" means the education of a client as part of a  
29 treatment process that provides the client with information regarding  
30 mental health, emotional disorders or behavioral health.
- 31 14. "Psychotherapy" means a variety of treatment methods developing  
32 out of generally accepted theories about human behavior and development.
- 33 15. "Telepractice" means providing behavioral health services  
34 through interactive audio, video or electronic communication that occurs  
35 between the behavioral health professional and the client, including any  
36 electronic communication for evaluation, diagnosis and treatment,  
37 including distance counseling, in a secure platform, and that meets the  
38 requirements of telemedicine pursuant to section 36-3602.
- 39 16. "Unprofessional conduct" includes the following, whether  
40 occurring in this state or elsewhere:
- 41 (a) ~~Conviction~~ BEING CONVICTED of a felony. Conviction by a court  
42 of competent jurisdiction or a plea of no contest is conclusive evidence  
43 of the conviction.

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

1 (p) Failing to conform to minimum practice standards as developed  
2 by the board.

3 (q) Failing or refusing to maintain adequate records of behavioral  
4 health services provided to a client.

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

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

11 (t) Disclosing a professional confidence or privileged  
12 communication except as may otherwise be required by law or permitted by a  
13 LEGALLY valid ~~written~~ release.

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

18 (v) ENGAGING IN any sexual conduct between a licensee and a client  
19 or former client.

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

22 (x) Exploiting a client, former client or supervisee. For the  
23 purposes of this subdivision, "exploiting" means taking advantage of a  
24 professional relationship with a client, former client or supervisee for  
25 the benefit or profit of the licensee.

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

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

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

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

43 (cc) Failing to take reasonable steps to inform potential victims  
44 and appropriate authorities if the licensee becomes aware during the  
45 course of providing or supervising behavioral health services that a

1 client's condition indicates a clear and imminent danger to the client or  
2 others.

3 (dd) Failing to comply with the laws of the appropriate licensing  
4 or credentialing authority to provide behavioral health services by  
5 electronic means in all governmental jurisdictions where the client  
6 receiving these services resides.

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

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

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

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

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

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

29 (kk) Failing to make client records in the licensee's possession  
30 promptly available to the client, a minor client's parent, the client's  
31 legal guardian or the client's authorized representative on receipt of  
32 proper authorization to do so from the client, a minor client's parent,  
33 the client's legal guardian or the client's authorized representative.

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

43 (mm) **ENGAGING IN** any conduct that results in a sanction imposed by  
44 an agency of the federal government that involves restricting, suspending,

1 limiting or removing the licensee's ability to obtain financial  
2 remuneration for behavioral health services.

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

4 (oo) ~~The use of~~ USING fraud or deceit in connection with taking or  
5 assisting another person in taking a licensure examination.

6 Sec. 2. Section 32-3253, Arizona Revised Statutes, is amended to  
7 read:

8 32-3253. Powers and duties

9 A. The board shall:

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

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

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

19 4. Establish ~~a licensure fee schedule annually, by a formal vote at~~  
20 ~~a regular board meeting~~ FEES BY RULE.

21 5. Collect fees and spend monies.

22 6. Keep a record of all persons WHO ARE licensed pursuant to this  
23 chapter, actions taken on all applications for licensure, actions  
24 involving renewal, suspension, revocation or denial of a license or  
25 probation of licensees and the receipt and disbursal of monies.

26 7. Adopt an official seal for attestation of licensure and other  
27 official papers and documents.

28 8. Conduct investigations and determine on its own motion ~~if~~  
29 WHETHER a licensee or an applicant has engaged in unprofessional conduct,  
30 is incompetent or is mentally or physically unable to engage in the  
31 practice of behavioral health.

32 9. Conduct disciplinary actions pursuant to this chapter and board  
33 rules.

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

36 11. Establish and enforce compliance with professional standards  
37 and rules of conduct for licensees.

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

41 13. Subject to section 35-149, accept, expend and account for  
42 gifts, grants, devises and other contributions, money or property from any  
43 public or private source, including the federal government. Monies  
44 received under this paragraph shall be deposited, pursuant to sections  
45 35-146 and 35-147, in special funds for the purpose specified, which are

1 exempt from the provisions of section 35-190 relating to lapsing of  
2 appropriations.

3 14. Adopt rules regarding the application for and approval of  
4 educational curricula of regionally accredited colleges or universities  
5 with a program not otherwise accredited by an organization or entity  
6 recognized by the board that are consistent with the requirements of this  
7 chapter and maintain a list of those programs. Approvals ~~shall be~~ ARE  
8 valid for a period of five years if no changes of curricula are made that  
9 are inconsistent with the requirements of this chapter or board rule.

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

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

17 17. Recognize not more than four hundred hours of psychoeducation  
18 for work experience required pursuant to sections 32-3293, 32-3301,  
19 32-3311 and 32-3321.

20 18. Adopt rules regarding the use of telepractice ~~beginning on~~  
21 ~~November 1, 2015~~.

22 B. The board may join professional organizations and associations  
23 organized exclusively to promote the improvement of the standards of the  
24 practice of behavioral health, protect the health and welfare of the  
25 public or assist and facilitate the work of the board.

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

35 1. The licensee voluntarily agrees to participate in the  
36 confidential program.

37 2. The licensee complies with all treatment requirements or  
38 recommendations, including participation in approved programs.

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

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

44 5. The licensee's professional employer is notified of the  
45 licensee's chemical dependency or medical, psychiatric, psychological or



1 behavioral health disorders and participation in the confidential program  
2 and is provided a copy of the stipulated agreement.

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

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

17 Sec. 3. Section 32-3256, Arizona Revised Statutes, is amended to  
18 read:

19 32-3256. Executive director; complaints; dismissal; review

20 A. If delegated by the board, the executive director may dismiss a  
21 complaint if the investigative staff's review indicates that the complaint  
22 is without merit and that dismissal is appropriate.

23 B. At each regularly scheduled board meeting, the executive  
24 director shall provide to the board a list of each complaint the executive  
25 director dismissed pursuant to subsection A of this section since the last  
26 board meeting.

27 C. A person who is aggrieved by an action taken by the executive  
28 director pursuant to subsection A of this section may ~~file a written~~  
29 request that the board review that action. The request must be filed  
30 within ~~thirty~~ THIRTY-FIVE days after that person is ~~notified~~ PROVIDED  
31 WRITTEN NOTIFICATION of the executive director's action ~~by personal~~  
32 ~~delivery or, if the notification is mailed to that person's last known~~  
33 ~~residence or place of business, within thirty-five days after the date on~~  
34 ~~the notification.~~ At the next regular board meeting, the board shall  
35 review the executive director's action and, on review, shall approve,  
36 modify or reject the executive director's action.

37 Sec. 4. Section 32-3272, Arizona Revised Statutes, is amended to  
38 read:

39 32-3272. Fees

40 A. For issuance of a license pursuant to this chapter, including  
41 application fees, the board shall establish and charge reasonable fees not  
42 to exceed five hundred dollars.

43 B. For renewal of a license pursuant to this chapter, the board  
44 shall establish and charge reasonable fees not to exceed five hundred

1 dollars. The board shall not increase fees pursuant to this subsection  
2 more than twenty-five dollars each year.

3 C. The board by rule may adopt a fee for applications for approval  
4 of educational curricula pursuant to section 32-3253, subsection A,  
5 paragraph ~~15~~ 14.

6 D. The board shall establish fees to produce monies that  
7 approximate the cost of maintaining the board.

8 Sec. 5. Section 32-3273, Arizona Revised Statutes, is amended to  
9 read:

10 32-3273. License renewal; continuing education

11 A. Except as provided in section 32-4301, a license issued pursuant  
12 to this chapter is renewable every two years by paying the renewal fee  
13 prescribed by the board and submitting documentation prescribed by the  
14 board by rule of completion of relevant continuing education experience as  
15 determined by the board during the previous ~~twenty-four month~~  
16 TWENTY-FOUR-MONTH period.

17 B. The board shall send notice ~~in writing~~ of required relevant  
18 continuing education experience to each licensee at least ninety days  
19 before the renewal date.

20 C. A licensee must satisfy the continuing education requirements  
21 that are prescribed by the board by rule and that are designed to provide  
22 the necessary understanding of ethics, cultural competency, current  
23 developments, skills, procedures and treatments related to behavioral  
24 health and to ensure the continuing competence of licensees. The board  
25 shall adopt rules to prescribe the manner of documenting compliance with  
26 this subsection.

27 D. At the request of a licensee who has been issued two or more  
28 licenses, the board shall establish the same renewal dates for those  
29 licenses. The board may prorate any fees due as necessary to synchronize  
30 the dates.

31 Sec. 6. Section 32-3274, Arizona Revised Statutes, is amended to  
32 read:

33 32-3274. Licensure by endorsement

34 A. The board may issue a license by endorsement to a person in that  
35 person's ~~particular~~ behavioral health ~~profession~~ DISCIPLINE if the person  
36 is licensed or certified by the regulatory agency of one or more other  
37 states OR FEDERAL JURISDICTIONS at ~~an~~ A SUBSTANTIALLY equivalent or higher  
38 practice level as determined by the board, pays the fee prescribed by the  
39 board and meets all of the following requirements:

40 1. The person is currently licensed or certified in behavioral  
41 health by the regulatory agency of one or more other states OR FEDERAL  
42 JURISDICTIONS and each license or certification is current and in good  
43 standing.

1           2. The person has been licensed or certified **FOR AT LEAST THREE**  
2 **YEARS IN ONE OR MORE JURISDICTIONS** in the discipline ~~applied for and at~~  
3 ~~the same~~ **AND** practice level **FOR WHICH AN APPLICATION IS SUBMITTED. THE**  
4 **PRACTICE LEVEL OF THE JURISDICTIONS MUST BE SUBSTANTIALLY EQUIVALENT**, as  
5 determined by the board, ~~for a minimum of three years~~ **TO THE PRACTICE**  
6 **LEVEL FOR WHICH THE APPLICATION IS SUBMITTED.**

7           ~~3. The person was engaged in the practice of behavioral health in~~  
8 ~~one or more states issuing the license or certification used by the person~~  
9 ~~to qualify for a license by endorsement pursuant to this section for a~~  
10 ~~minimum of three thousand six hundred hours in a period of not more than~~  
11 ~~five years prior to applying for licensure by endorsement. The three~~  
12 ~~thousand six hundred hours must be in the discipline and at least in the~~  
13 ~~practice level for which the person is applying. A person who was engaged~~  
14 ~~in the practice of behavioral health while appointed under 38 United~~  
15 ~~States Code section 7402(b)(9), (10) or (11) or a person who meets the~~  
16 ~~licensure requirements of 10 United States Code section 1094 and performs~~  
17 ~~authorized duties for the United States department of defense may submit~~  
18 ~~behavioral health practice outside the state or states issuing the license~~  
19 ~~or certification.~~

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

22           ~~5.~~ 3. The person meets the basic requirements for licensure  
23 prescribed by section 32-3275.

24           ~~6.~~ 4. The person submits to the board **ALL OF THE FOLLOWING:**

25           (a) A ~~notarized affidavit~~ listing **OF** every jurisdiction in the  
26 United States in which the person has been licensed or certified in the  
27 practice of behavioral health and any disciplinary action taken by any  
28 regulatory agency or any instance in which a license has been surrendered  
29 in lieu of discipline. ~~and~~

30           (b) Verification of licensure or certification from every ~~state~~  
31 **JURISDICTION** in which the person is licensed or certified for the  
32 ~~particular health profession~~ **DISCIPLINE AND PRACTICE LEVEL** for which the  
33 person applies.

34           (c) **ANY OTHER PROCEDURAL APPLICATION REQUIREMENTS ADOPTED BY THE**  
35 **BOARD IN RULE.**

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

- 40           1. Licensed clinical social worker.
- 41           2. Licensed professional counselor.
- 42           3. Licensed marriage and family therapist.
- 43           4. Licensed independent substance abuse counselor.

44           C. Except for licenses by endorsement issued in the practice levels  
45 prescribed in subsection B of this section, a person issued a license

1 pursuant to this section shall practice behavioral health only under the  
2 direct supervision of a licensee.

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

5 Sec. 7. Section 32-3275, Arizona Revised Statutes, is amended to  
6 read:

7 32-3275. Requirements for licensure; withdrawal of  
8 application

9 A. An applicant for licensure must meet all of the following  
10 requirements:

11 1. Submit an application as prescribed by the board.

12 2. Be at least twenty-one years of age.

13 3. Be of good moral character. The board's standard to determine  
14 good moral character shall not violate federal discrimination laws.

15 4. Pay all applicable fees prescribed by the board.

16 5. Have the physical and mental capability to safely and  
17 competently engage in the practice of behavioral health.

18 6. Not have committed any act or engaged in any conduct that would  
19 constitute grounds for disciplinary action against a licensee pursuant to  
20 this chapter.

21 7. Not have had a professional license or certificate refused,  
22 revoked, suspended or restricted by this state or any other regulatory  
23 jurisdiction in the United States or any other country for reasons that  
24 relate to unprofessional conduct.

25 8. Not have voluntarily surrendered a professional license or  
26 certificate in this state or another regulatory jurisdiction in the United  
27 States or any other country while under investigation for conduct that  
28 relates to unprofessional conduct.

29 9. Not have a complaint, allegation or investigation pending before  
30 the board or another regulatory jurisdiction in the United States or  
31 another country that relates to unprofessional conduct. If an applicant  
32 has any such complaint, allegation or investigation pending, the board  
33 shall suspend the application process and may not issue or deny a license  
34 to the applicant until the complaint, allegation or investigation is  
35 resolved.

36 B. BEFORE THE BOARD CONSIDERS DENIAL OF A LICENSE BASED ON A  
37 DEFICIENCY PURSUANT TO SUBSECTION A, PARAGRAPH 5, 6, 7 OR 8 OF THIS  
38 SECTION, THE APPLICANT SHALL BE GIVEN THIRTY-FIVE DAYS' NOTICE OF THE TIME  
39 AND PLACE OF THE MEETING. AT THE TIME OF THE MEETING, THE APPLICANT MAY  
40 PROVIDE IN PERSON, BY COUNSEL OR IN WRITTEN FORM INFORMATION AND EVIDENCE  
41 RELATED TO ANY DEFICIENCY RELATING TO SUBSECTION A, PARAGRAPH 5, 6, 7 OR 8  
42 OF THIS SECTION, INCLUDING ANY EVIDENCE THAT THE DEFICIENCY HAS BEEN  
43 CORRECTED OR MONITORED OR THAT A MITIGATING CIRCUMSTANCE EXISTS. IN ANY  
44 NOTICE OF DENIAL, THE BOARD SHALL PROVIDE NOTICE OF THE APPLICANT'S RIGHT  
45 TO A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.



1 change in ~~residence address and telephone number and office address and~~  
2 ~~telephone number~~ THIS INFORMATION.

3 B. The board may assess the costs ~~incurred by the board~~ IT INCURS  
4 in locating a licensee and impose a penalty of not to exceed one hundred  
5 dollars against a licensee who does not notify the board pursuant to  
6 subsection A OF THIS SECTION within thirty days after the change of  
7 address or telephone number.

8 Sec. 9. Section 32-3279, Arizona Revised Statutes, is amended to  
9 read:

10 32-3279. Probationary and temporary licenses

11 A. If an applicant does not meet the basic requirements for  
12 licensure prescribed in section 32-3275, the board may issue a  
13 probationary license that is subject to any of the following:

- 14 1. A requirement that the licensee's practice be supervised.
- 15 2. A restriction on the licensee's practice.
- 16 3. A requirement that the licensee begin or continue medical or  
17 psychiatric treatment.
- 18 4. A requirement that the licensee participate in a specified  
19 rehabilitation program.
- 20 5. A requirement that the licensee abstain from alcohol and other  
21 drugs.

22 B. If the board offers a probationary license, the board shall  
23 notify the applicant ~~in writing~~ of the:

- 24 1. Applicant's specific deficiencies.
- 25 2. Probationary period.
- 26 3. Applicant's right to reject the terms of probation.
- 27 4. Applicant's right to a hearing on the board's denial of the  
28 application.

29 C. The board by rule may prescribe a procedure to issue temporary  
30 licenses. At a minimum, these rules must include the following  
31 provisions:

- 32 1. A person issued a temporary license may practice behavioral  
33 health only under the direct supervision of a licensee.
- 34 2. A temporary license expires on the date specified by the board  
35 and not more than one year after the date of issuance.
- 36 3. A temporary license may contain restrictions as to time, place  
37 and supervision that the board deems appropriate.
- 38 4. The board may summarily revoke a temporary license without a  
39 hearing.
- 40 5. The board's denial of a licensure application terminates a  
41 temporary license.



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

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

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

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

32 1. Dismiss the complaint if, in the opinion of the board, the  
33 complaint is without merit.

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

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

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



1 F. If after completing its investigation the board believes that  
2 the information is or may be true, the board may enter into a consent  
3 agreement with the licensee to limit or restrict the licensee's practice  
4 or to rehabilitate the licensee, protect the public and ensure the  
5 licensee's ability to safely engage in the practice of behavioral health.  
6 A consent agreement may also require the licensee to successfully complete  
7 a board approved rehabilitative, retraining or assessment program.

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

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

23 1. Dismiss if, in the opinion of the board, the information is  
24 without merit.

25 2. File a letter of concern and dismiss the complaint. The  
26 licensee may file a ~~written~~ response with the board within thirty days  
27 after the licensee receives the letter of concern.

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

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

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

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

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

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

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

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

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

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

40           P. In determining the appropriate disciplinary action under this  
41 section, the board shall consider all previous nondisciplinary and  
42 disciplinary actions against a licensee.

43           Q. The board may defer action with regard to an impaired licensee  
44 who voluntarily signs an agreement, in a form satisfactory to the board,  
45 agreeing to practice restrictions and treatment and monitoring programs

1 deemed necessary by the board to protect the public health and safety. A  
2 licensee who is impaired and who does not agree to enter into an agreement  
3 with the board is subject to other action as provided pursuant to this  
4 chapter.

5 R. Subject to an order duly entered by the board, a person whose  
6 license to practice behavioral health has been suspended or restricted  
7 pursuant to this chapter, whether voluntarily or by action of the board,  
8 may at reasonable intervals apply to the board for reinstatement of the  
9 license. The person shall submit the application ~~in writing and~~ in the  
10 form prescribed by the board. After conducting an investigation and  
11 hearing, the board may grant or deny the application or modify the  
12 original finding to reflect any circumstances that have changed  
13 sufficiently to warrant modification. The board may require the applicant  
14 to pass an examination or complete board imposed continuing education  
15 requirements or may impose any other sanctions the board deems appropriate  
16 for reentry into the practice of behavioral health.

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

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

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

26 Pending complaints represent unproven allegations. On  
27 investigation, many complaints are found to be without merit  
28 or not of sufficient seriousness to merit disciplinary action  
29 against the licensee and are dismissed.

30 V. The board shall not act on its own motion or on any complaint  
31 received by the board in which an allegation of unprofessional conduct or  
32 any other violation of this chapter against a professional who holds an  
33 Arizona license occurred more than four years before the complaint is  
34 received by the board. The time limitation does not apply to:

35 1. Malpractice settlements or judgments, ~~or~~ allegations of sexual  
36 misconduct or ~~if~~ an incident or occurrence ~~that~~ involved a felony,  
37 diversion of a controlled substance or impairment while practicing by the  
38 licensee.

39 2. ~~A~~ ~~THE~~ board's consideration of the specific unprofessional  
40 conduct related to ~~a~~ ~~THE~~ licensee's failure to disclose conduct or a  
41 violation as required by law.

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

1 X. Except for disciplinary matters prescribed by section 32-3251,  
2 paragraph 16, subdivision (v), the board has the burden of proof by clear  
3 and convincing evidence for disciplinary matters brought pursuant to this  
4 chapter.

5 Sec. 12. Section 32-3321, Arizona Revised Statutes, is amended to  
6 read:

7 32-3321. Licensed substance abuse technician; licensed  
8 associate substance abuse counselor; licensed  
9 independent substance abuse counselor;  
10 qualifications; supervision

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

15 1. Received one of the following:

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

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

23 2. Passed an examination approved by the board.

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

26 C. The board may waive the education requirement for an applicant  
27 requesting licensure as a substance abuse technician if the applicant  
28 provides services pursuant to contracts or grants with the federal  
29 government under the authority of Public Law 93-638 (25 United States Code  
30 sections 450 through 450(n)) or Public Law 94-437 (25 United States Code  
31 sections 1601 through 1683). A person who becomes licensed as a substance  
32 abuse technician pursuant to this subsection shall only provide substance  
33 abuse services to those persons who are eligible for services pursuant to  
34 Public Law 93-638 (25 United States Code sections 450 through 450(n)) or  
35 Public Law 94-437 (25 United States Code section 1601 through 1683).

36 D. A person who wishes to be licensed by the board to engage in the  
37 practice of substance abuse counseling as a licensed associate substance  
38 abuse counselor shall present evidence as prescribed by the board by rule  
39 that the person has:

40 1. Received one of the following:

41 (a) A bachelor's degree in a behavioral science with an emphasis on  
42 counseling, that meets the requirements as prescribed by the board by  
43 rule, from a regionally accredited college or university and present  
44 documentation as prescribed by the board by rule that the applicant has  
45 received at least three thousand two hundred hours of work experience in

1 not less than twenty-four months in substance abuse counseling under  
2 supervision that meets the requirements prescribed by the board by rule.  
3 The three thousand two hundred hours must include a minimum of one  
4 thousand six hundred hours of direct client contact and not more than one  
5 thousand six hundred hours of indirect client service. For the direct  
6 client contact hours, not more than four hundred hours may be in  
7 psychoeducation. The board by rule may prescribe the number of hours  
8 required for functions related to direct client contact and indirect  
9 client service.

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

13 2. Passed an examination approved by the board.

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

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

19 1. Have received a master's ~~degree~~ or higher degree in a behavioral  
20 science with an emphasis on counseling, in a program that is approved by  
21 the board pursuant to section 32-3253 or that meets the requirements as  
22 prescribed by the board by rule, from a regionally accredited college or  
23 university.

24 2. Present documentation as prescribed by the board by rule that  
25 the applicant has received at least three thousand two hundred hours of  
26 work experience in not less than twenty-four months in substance abuse  
27 counseling under supervision that meets the requirements as prescribed by  
28 the board by rule. The three thousand two hundred hours must include at  
29 least one thousand six hundred hours of direct client contact and not more  
30 than one thousand six hundred hours of indirect client service. For the  
31 direct client contact hours, not more than four hundred hours may be in  
32 psychoeducation. The board by rule may prescribe the number of hours  
33 required for functions related to direct client contact and indirect  
34 client service.

35 3. Pass an examination approved by the board.