

REFERENCE TITLE: podiatry board; licensure; fingerprinting; fees

State of Arizona  
Senate  
Fifty-fourth Legislature  
Second Regular Session  
2020

## **SB 1087**

Introduced by  
Senator Brophy McGee

### **AN ACT**

AMENDING SECTIONS 32-801, 32-823, 32-826, 32-830, 32-854.01 AND 32-855,  
ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF PODIATRY  
EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-801, Arizona Revised Statutes, is amended to read:

32-801. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the state board of podiatry examiners.
2. "Electrical treatment" means ~~the use of~~ USING electricity in ~~the diagnosis~~ DIAGNOSING or ~~treatment of~~ TREATING an ailment of the foot or leg by electrodes, lights, rays, vibrators or a machine run by electricity.
3. "Leg" means that part of the lower limb between the knee and the foot.
4. "Letter of concern" means an advisory letter to notify a podiatrist that while there is insufficient evidence to support a disciplinary action the board believes the podiatrist should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the board may result in action against the podiatrist's license.
5. "License" means a license to practice podiatry.
6. "Manipulative treatment" means ~~the use of~~ USING the hand or machinery in ~~treatment of~~ TREATING the foot or leg.
7. "Mechanical treatment" means ~~application of~~ APPLYING a mechanical appliance of whatever material to the foot or leg, or to the shoe or other footgear.
8. "Medical treatment" means ~~the recommendation, prescription~~ RECOMMENDING, PRESCRIBING or ~~local application of~~ LOCALLY APPLYING a therapeutic agent for relief of a foot or leg ailment.
9. "Podiatrist" is synonymous with podiatric physician and surgeon and means a person who, within the ~~limitations~~ LIMITS of this chapter, is registered and licensed to practice podiatry by means of ~~the diagnosis~~ PERFORMING FULL BODY PHYSICAL EXAMINATIONS AND DIAGNOSING or ~~medical, surgical, mechanical, manipulative or electrical treatment of~~ MEDICALLY, SURGICALLY, MECHANICALLY, MANIPULATIVELY OR ELECTRICALLY TREATING ailments of the human foot and leg, but ~~does not include amputation of~~ AMPUTATING the leg or entire foot or ~~administration of~~ ADMINISTERING an anesthetic other than local.
10. "Podiatry" is synonymous with chiropody and means ~~the diagnosis~~ DIAGNOSING or ~~medical, surgical, mechanical, manipulative or electrical treatment of~~ MEDICALLY, SURGICALLY, MECHANICALLY, MANIPULATIVELY OR ELECTRICALLY TREATING ailments of the human foot and leg, but ~~does not include amputation of~~ AMPUTATING the leg or entire foot or ~~administration of~~ ADMINISTERING an anesthetic other than local.
11. "Surgical treatment" means ~~the use of~~ USING a cutting instrument to treat an ailment of the foot or leg.

1           Sec. 2. Section 32-823, Arizona Revised Statutes, is amended to  
2 read:

3           32-823. Qualifications of applicant

4           A. An applicant shall prove to the board that the applicant:

5           1. Is of good moral character.

6           2. Is a graduate of an accredited podiatry school whose standards  
7 are recognized by the American podiatry medical association.

8           3. Has the physical and mental capability to engage safely in the  
9 practice of podiatry.

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

14          5. Has a professional record that indicates that the applicant has  
15 not had a license to practice podiatry refused, revoked, suspended or  
16 restricted in any way by any other state, federal jurisdiction or country  
17 for reasons that relate to the ability to competently and safely practice  
18 podiatry if the applicant has previously engaged in the practice of  
19 podiatry.

20          6. Has passed a national board written examination.

21          B. The board may require ~~the submission of~~ AN APPLICANT TO SUBMIT  
22 such credentials or other evidence, written and oral, and ~~make such~~  
23 ~~investigation~~ MAY INVESTIGATE as it deems necessary to adequately inform  
24 itself with respect to ~~an~~ THE applicant's ability to meet the requirements  
25 prescribed by this section, including a requirement that the applicant for  
26 licensure undergo a physical examination, a mental evaluation or an oral  
27 competence examination and interview, or any combination thereof, as the  
28 board deems proper.

29          C. BEGINNING SEPTEMBER 1, 2020, AN APPLICANT SHALL SUBMIT A FULL  
30 SET OF FINGERPRINTS TO THE BOARD FOR THE PURPOSE OF OBTAINING A STATE AND  
31 FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW  
32 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT  
33 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

34       Sec. 3. Section 32-826, Arizona Revised Statutes, is amended to  
35 read:

36       32-826. Issuance of license

37       A. The board shall issue a license to practice podiatry to every  
38 person who pays the required fee and furnishes satisfactory proof of  
39 ~~successful completion of~~ SUCCESSFULLY COMPLETING a THIRTY-SIX-MONTH  
40 residency program.

41       B. Each license shall be signed by the president and secretary of  
42 the board and bear the seal of the board.

C. The board shall deny a license to an applicant who satisfies all of the licensing requirements of this article if that applicant does not submit the license issuance fee within twelve months after the date of application. An applicant who fails to submit the fee within this time shall reapply for licensure pursuant to this article.

Sec. 4. Section 32-830, Arizona Revised Statutes, is amended to read:

32-830. Fees

A. The board shall establish and collect fees not to exceed:

1. For initial application for licensure, ~~one thousand dollars~~ WHICH INCLUDES THE INITIAL REGISTRATION TO DISPENSE DRUGS AND DEVICES, \$1,000.

2. For application for a license pursuant to section 32-827 by a podiatrist from another state or country, ~~five hundred dollars~~ WHICH INCLUDES THE INITIAL REGISTRATION TO DISPENSE DRUGS AND DEVICES, \$500.

3. For issuing a license, ~~five hundred dollars~~ \$500.

4. For annual renewal of a license, ~~five hundred dollars~~ WHICH INCLUDES THE ANNUAL RENEWAL OF REGISTRATION TO DISPENSE DRUGS AND DEVICES, \$500.

5. For certifying a licensed podiatrist to authorities of another state or country, ~~fifty dollars~~ \$50.

6. For late renewal of a license after July 30 through August 31, ~~one hundred fifty dollars~~ \$150.

~~7. For initial registration to dispense drugs and devices, two hundred dollars.~~

~~8. For annual renewal of registration to dispense drugs and devices, one hundred dollars.~~

B. THE BOARD MAY ESTABLISH AND COLLECT FEES FOR THE FOLLOWING:

1. A DUPLICATE WALLET CARD.

2. A DUPLICATE WALL CERTIFICATE.

3. COPYING RECORDS, DOCUMENTS, LETTERS, MINUTES, APPLICATIONS, FILES AND POLICY STATEMENTS.

4. A LICENSEE LIST.

5. AUDIO FILES.

Sec. 5. Section 32-854.01, Arizona Revised Statutes, is amended to read:

32-854.01. Unprofessional conduct

Unprofessional conduct includes the following conduct, whether it occurs in this state or elsewhere:

1. Requesting, listing, accepting or receiving any rebate or commission for prescribing or recommending any footwear, drug, medicine, or other article to the licensee's patients.

2. Prescribing, dispensing or pretending to use, in treating any patient, any secret remedial agent, or manifesting or promoting its use in

1 any way, or guaranteeing or implying to guarantee any treatment, therapy  
2 or remedy.

3 3. Representing that a disease or infirmity can be permanently  
4 cured, or that any disease, ailment or infirmity can be cured by a secret  
5 method, procedure, treatment, medicine or device, if this is not true.

6 4. Practicing podiatry under a trade name, under the name of  
7 another podiatrist, under any other name than that which appears on the  
8 practitioner's license, or under any title that misrepresents the practice  
9 of podiatry.

10 5. Advertising in a false, deceptive or misleading manner or  
11 advertising the quality of podiatric service.

12 6. Employing a solicitor to obtain business.

13 7. Fee splitting under any guise whatsoever.

14 8. Failing to report as required in section 32-852.01,  
15 subsection A.

16 9. Failing to obtain written informed consent from a patient before  
17 the licensee performs any surgical procedure on the patient.

18 10. Committing a felony, whether or not involving moral turpitude,  
19 or a misdemeanor involving moral turpitude. In either case, conviction by  
20 any court of competent jurisdiction is conclusive evidence that the  
21 licensee committed the crime.

22 11. Failing or refusing to maintain adequate records on:

23 (a) A patient WHO IS EIGHTEEN YEARS OF AGE OR OLDER for at least  
24 ~~seven~~ SIX years. ~~or~~

25 (b) A PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE FOR THE LATER OF  
26 EITHER:

27 (i) THREE YEARS AFTER THE PERSON'S EIGHTEENTH BIRTHDAY.

28 (ii) SIX YEARS AFTER THE LAST DATE THE PERSON RECEIVED MEDICAL OR  
29 HEALTH CARE SERVICES FROM THE LICENSEE.

30 12. Failing or refusing to make ~~the~~ A PATIENT'S records available  
31 to a physician or another podiatrist within twenty-one days after A  
32 request and THE receipt of proper authorization.

33 ~~12.~~ 13. Habitual intemperance in the use of alcohol or habitual  
34 substance abuse.

35 ~~13.~~ 14. Using controlled substances or prescription-only drugs  
36 except if provided by a physician for use during a prescribed lawful  
37 course of treatment.

38 ~~14.~~ 15. Prescribing controlled substances to members of the  
39 podiatrist's immediate family.

40 ~~15.~~ 16. Providing any controlled substance or prescription-only  
41 drug for other than accepted therapeutic purposes.

42 ~~16.~~ 17. Dispensing a schedule II controlled substance that is an  
43 opioid.

44 ~~17.~~ 18. Committing gross malpractice, repeated malpractice or any  
45 malpractice resulting in the death of a patient.

~~18.~~ 19. Refusing to divulge to the board on demand the means, method, procedure, modality of treatment or medicine used in ~~the treatment~~ ~~of~~ TREATING a disease, injury, ailment or infirmity.

~~19.~~ 20. Violating any federal or state law applicable to the practice of podiatry.

~~20.~~ 21. Having the licensee's license refused, revoked or suspended by any other licensing jurisdiction for inability to safely and skillfully practice podiatry or for unprofessional conduct as defined by that jurisdiction that directly or indirectly corresponds to any act of unprofessional conduct as prescribed by this section or any act under section 32-852.

~~21.~~ 22. Committing any conduct or practice that is or might be harmful or dangerous to the health of ~~the~~ A patient.

~~22.~~ 23. Violating any formal order, probation or stipulation issued by the board pursuant to this chapter.

~~23.~~ 24. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision of this chapter.

~~24.~~ 25. Charging or collecting a clearly excessive fee. In determining the reasonableness of a fee, the fee customarily charged in the locality for similar services shall be considered in light of modifying factors, such as the time required, the complexity of the service and the skill requisite to perform the service properly. This paragraph does not apply if there is a clear written contract for a fixed fee between the podiatrist and the patient that has been entered into before the licensee provides the service.

~~25.~~ 26. Obtaining a fee by fraud, deceit or misrepresentation.

~~26.~~ 27. Charging a fee for services not rendered.

~~27.~~ 28. Failing to dispense drugs and devices in compliance with article 4 of this chapter.

29. IMPAIRING THE PHYSICAL OR PSYCHOLOGICAL HEALTH OF PERSONS WITH WHOM THE PODIATRIST INTERACTS ON A PROFESSIONAL BASIS.

30. ENGAGING IN ANY DELIBERATE ACT OF EMOTIONAL ABUSE, PHYSICAL ABUSE, SEXUAL MISCONDUCT OR SEXUAL EXPLOITATION RELATED TO THE PODIATRIST'S POSITION AS AN EMPLOYER, EMPLOYEE, PARTNER OR ASSOCIATE.

31. DISCRIMINATING AGAINST ANY EMPLOYEE, PARTNER OR ASSOCIATE BECAUSE OF THE PERSON'S RACE, RELIGION, ETHNICITY, GENDER, SEXUAL ORIENTATION, DISABILITY, SOCIOECONOMIC STATUS OR HEALTH STATUS.

Sec. 6. Section 32-855, Arizona Revised Statutes, is amended to read:

32-855. Violations; classification; injunctive relief

A. A person is guilty of a class ~~2-misdemeanor~~ 5 FELONY who:

1. Practices or advertises or holds himself out as practicing or entitled to practice podiatry, or who in a sign or advertisement uses the term "chiropracist", "foot specialist", "podiatrist", ~~OR~~ "practapedist" or

1 ANY other term or letter indicating or implying that ~~he~~ THE PERSON  
2 practices podiatry or foot correction, without having at the time a valid  
3 unrevoked license to practice podiatry.  
4 2. Otherwise violates this chapter.  
5 B. The superior court is vested with jurisdiction to restrain any  
6 actual or threatened violation of this chapter by an action filed by the  
7 board in the county where the cause of action arises.