STATE OF ARIZONA
Senate
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 23
SENATE BILL 1080

AN ACT
AMENDING SECTIONS 32-3901, 32-3922 AND 32-3924, ARIZONA REVISED STATUTES;
AMENDING TITLE 32, CHAPTER 39, ARTICLE 3, ARIZONA REVISED STATUTES, BY
ADDING SECTION 32-3955; AMENDING SECTIONS 41-619.51, 41-1758 AND
41-1758.01, ARIZONA REVISED STATUTES; RELATING TO THE ACUPUNCTURE BOARD OF
EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-3901, Arizona Revised Statutes, is amended to read:

32-3901. Definitions
In this chapter, unless the context otherwise requires:

1. "Acupuncture":
   (a) Means A SYSTEM OF MEDICINE BASED IN TRADITIONAL PRACTICES AND INFORMED BY CONTEMPORARY SCIENCE.
   (b) INCLUDES THE FOLLOWING:
   (i) Puncturing the skin by thin, solid needles to reach subcutaneous structures.
   (ii) Stimulating the needles to produce EFFECT and a positive therapeutic response.
   (iii) Removing needles.
   (iv) Using AND PRESCRIBING adjunctive therapies.
   (v) USING AND PRESCRIBING HERBAL THERAPIES COMMENSURATE WITH THE ACUPUNCTURIST'S EDUCATION AND TRAINING.
   (vi) USING DECISION-SUPPORT TOOLS, INCLUDING PHYSICAL AND CLINICAL EXAMINATIONS.
   (vii) ORDERING DIAGNOSTIC IMAGING AND CLINICAL LABORATORY PROCEDURES TO DETERMINE THE NATURE OF CARE OR TO FORM A BASIS FOR REFERRAL TO OTHER LICENSED HEALTH CARE PROFESSIONALS, OR BOTH.

2. "ACUPUNCTURE ASSISTANT" MEANS AN UNLICENSED PERSON WHO HAS COMPLETED A TRAINING PROGRAM APPROVED BY THE BOARD, WHO ASSISTS IN BASIC HEALTH CARE DUTIES IN THE PRACTICE OF ACUPUNCTURE UNDER THE SUPERVISION OF A LICENSED ACUPUNCTURIST AND WHO PERFORMS DELEGATED DUTIES COMMENSURATE WITH THE ACUPUNCTURE ASSISTANT'S EDUCATION AND TRAINING, BUT WHO DOES NOT EVALUATE, INTERPRET, DESIGN OR MODIFY ESTABLISHED TREATMENT PROGRAMS OF ACUPUNCTURE CARE.

3. "Adjunctive therapies" means the manual, mechanical, magnetic, thermal, electrical or electromagnetic stimulation of acupuncture points and energy pathways, auricular and detoxification therapy, THE USE OF ion cord devices, electroacupuncture, HERBAL POULTICES, NUTRITIONAL COUNSELING, therapeutic exercise, THE USE OF NONIONIZING LASERS and acupressure.

4. "Board" means the acupuncture board of examiners.

5. "HERBAL THERAPIES" MEANS PRESCRIBING, ADMINISTERING, INJECTING, COMPOUNDING AND DISPENSING HERBAL MEDICINES AND PLANT, ANIMAL, MINERAL AND NATURAL SUBSTANCES.

6. "SUPERVISION" MEANS THAT THE SUPERVISING LICENSED ACUPUNCTURIST IS PRESENT IN THE FACILITY WHERE THE ACUPUNCTURE ASSISTANT IS PERFORMING SERVICES AND IS AVAILABLE FOR CONSULTATION REGARDING PROCEDURES THAT THE LICENSED ACUPUNCTURIST HAS AUTHORIZED AND FOR WHICH THE LICENSED ACUPUNCTURIST REMAINS RESPONSIBLE.
4. "Trauma" means the experience of significant psychological distress following any terrible or life-threatening event.

5. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:
   (a) Wilfully disclosing a professional secret or wilfully violating a privileged communication except as either of these may otherwise be required by law.
   (b) Committing a felony as evidenced by conviction by a court of competent jurisdiction.
   (c) Being habitually intemperate in the use of alcohol or any substance abuse that interferes with the ability to safely practice acupuncture.
   (d) Committing conduct that the board determines is gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient.
   (e) Impersonating another acupuncturist or any other practitioner of the healing arts.
   (f) Falsely acting or assuming to act as a member, an employee or an authorized agent of the board.
   (g) Procuring or attempting to procure a license pursuant to this chapter by fraud or misrepresentation.
   (h) Refusing to divulge to the board on demand the acupuncture method used in the treatment of a patient.
   (i) Giving or receiving or aiding or abetting the giving or receiving of rebates, either directly or indirectly.
   (j) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of acupuncture.
   (k) Having a license refused, revoked or suspended by any other state, district or territory of the United States or any other country, unless the action was not taken for reasons relating to the person's ability to safely and skillfully practice acupuncture or relating to an act of unprofessional conduct.
   (l) Committing conduct that is contrary to the recognized standards or ethics of the acupuncture profession or that may constitute a danger to the health, welfare or safety of the patient or the public.
   (m) Committing any conduct or having any condition that may impair the ability to safely and skillfully practice acupuncture.
   (n) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of or conspiring to violate this chapter or board rules.
   (o) Advertising in a false, deceptive or misleading manner.
   (p) Failing or refusing to maintain adequate patient health records or failing or refusing to make health records promptly available to the patient or to another health practitioner or provider on request and receipt of proper authorization.
(q) Deriving direct or indirect compensation from referring a patient without disclosing to the patient in writing the extent of the compensation.

(r) Deriving a financial interest in products the acupuncturist endorses or recommends to the patient without disclosing to the patient in writing the extent of the financial interest.

(s) Having sexual intimacies with a patient in the practice of acupuncture.

(t) Failing to appropriately exercise control over or supervise an acupuncture student employed by or assigned to the practitioner in the practice of acupuncture.

(u) Failing to furnish information in a timely manner to the board or its investigators or representatives if the information is legally requested by the board.

(v) Supervising or engaging in a clinical training program in acupuncture without being approved and registered by the board for that program.

(w) Knowingly making a false, fraudulent or misleading statement, written or oral, to the board.

(x) Failing to exercise proper care for a patient by abandoning or neglecting a patient in need of immediate care without making reasonable arrangements for the continuation of care or by failing to refer the patient to another appropriate health care provider when necessary.

(y) Failing to use needles that have been sterilized according to clean needle technique principles approved by the board.

(z) FAILING TO DEMONSTRATE PROFESSIONAL STANDARDS OF CARE AND TRAINING AND EDUCATION QUALIFICATIONS, AS ESTABLISHED BY THE BOARD IN RULE, FOR PERFORMING A THERAPEUTIC MODALITY.

(aa) PRESCRIBING OR ADMINISTERING MEDICINE OR DRUGS, EXCEPT AS ALLOWED PURSUANT TO THIS CHAPTER.

Sec. 2. Section 32-3922, Arizona Revised Statutes, is amended to read:

32-3922. Acupuncture detoxification specialist for chemical dependency or trauma; certificate; requirements; fingerprint clearance card; informed consent; definition

A. The board may issue an acupuncture detoxification specialist certificate to a person who practices auricular acupuncture for the purpose of treating alcoholism, substance abuse, trauma or chemical dependency if the person does all of the following:

1. Provides documentation of successfully completing a board-approved training program in acupuncture for treating alcoholism, substance abuse, trauma or chemical dependency that meets or exceeds standards of training established by the national acupuncture detoxification association or a board-approved group.
2. Provides documentation satisfactory to the board of successfully completing a board-approved clean needle technique course.

3. Submits an application as prescribed by the board and a fee prescribed by section 32-3927.

4. Submits a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

5. Discloses in an application for initial certification or recertification all other active and past professional health care licenses and certificates issued to the applicant in this state or by another state, district or territory of the United States.

B. BEGINNING JANUARY 1, 2023, AN APPLICANT FOR INITIAL CERTIFICATION OR RECERTIFICATION PURSUANT TO THIS SECTION SHALL POSSESS A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

C. A certificate issued pursuant to this section allows the certificate holder to practice auricular acupuncture under the supervision of a person who is licensed pursuant to this chapter.

D. A certificate issued pursuant to this section is valid for one year. The certificate may be renewed by the board if the certificate holder submits an application as prescribed by the board and a fee prescribed by section 32-3927 before the certificate expires.

E. Before treating a patient, an auricular acupuncturist shall obtain from the patient a signed informed consent that has been approved by the board.

F. For the purposes of this section, "auricular acupuncture" means applying acupuncture needles to the pinna, lobe or auditory meatus to treat alcoholism, substance abuse, trauma or chemical dependency.

Sec. 3. Section 32-3924, Arizona Revised Statutes, is amended to read:

32-3924. Qualifications for licensure; fingerprint clearance card

A. To receive a license to practice acupuncture pursuant to this chapter, a person shall submit an application as prescribed by the board. The applicant shall disclose in an application for initial licensure all other active and past professional health care licenses and certificates issued to the applicant in this state or by another state, district or territory of the United States. The application shall document to the board's satisfaction that the applicant has successfully completed a clean needle technique course approved by the board and meets BOTH of the following:
1. Has either:
   (a) Been certified in acupuncture by the national certification commission for acupuncture and oriental medicine, or its successor organization, or another certifying body or examination that is recognized by the board.
   (b) Passed the point location module, foundations of oriental medicine module, biomedicine module and acupuncture module offered by the national certification commission for acupuncture and oriental medicine.
   (c) Been licensed by another state with substantially similar standards and has not had certification or licensure revoked.

2. Has graduated from or completed training in a board-approved program of acupuncture with a minimum of one thousand eight hundred fifty hours of training that includes at least eight hundred hours of board-approved clinical training.

3. Beginning July 1, 2016, has submitted a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

B. BEGINNING JANUARY 1, 2023, AN APPLICANT FOR INITIAL LICENSURE OR LICENSE RENEWAL PURSUANT TO THIS ARTICLE SHALL POSSESS A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

Sec. 4. Title 32, chapter 39, article 3, Arizona Revised Statutes, is amended by adding section 32-3955, to read:

32-3955. Acupuncture assistants; scope of duties; registration required; use of title

A. THIS CHAPTER DOES NOT PROHIBIT AN ACUPUNCTURE ASSISTANT FROM ASSISTING A LICENSED ACUPUNCTURIST PURSUANT TO RULES ADOPTED BY THE BOARD, CONSISTENT WITH THE FOLLOWING:

1. AN ACUPUNCTURE ASSISTANT MAY:
   (a) REMOVE ACUPUNCTURE NEEDLES.
   (b) MONITOR ACUPUNCTURE PROCEDURES SUCH AS THE APPLICATION OF HEAT OR MOXIBUSTION.
   (c) PERFORM NONCRITICAL FUNCTIONS SUCH AS GATHERING BASIC PATIENT INFORMATION, TAKING BLOOD PRESSURE AND ATTENDING TO PATIENT TREATMENT ROOMS.

2. AN ACUPUNCTURE ASSISTANT MAY NOT INSERT ACUPUNCTURE NEEDLES OR EVALUATE, INTERPRET, DESIGN OR MODIFY ESTABLISHED TREATMENT PROGRAMS OF ACUPUNCTURE CARE.

3. AN ACUPUNCTURE ASSISTANT SHALL REGISTER WITH THE BOARD ON A FORM PRESCRIBED BY THE BOARD. THE BOARD MAY SUSPEND OR REVOKE THE REGISTRATION OF AN ACUPUNCTURE ASSISTANT WHO VIOLATES ANY PROVISION OF THIS CHAPTER RELATED TO THE PRACTICE OF ACUPUNCTURE OR WHO INDULGES IN CONDUCT OR A PRACTICE THAT IS DETRIMENTAL TO THE HEALTH OR SAFETY OF THE PUBLIC.
B. IT IS UNLAWFUL FOR A PERSON TO DO EITHER OF THE FOLLOWING:

1. WORK AS AN ACUPUNCTURE ASSISTANT EXCEPT UNDER THE SUPERVISION OF A LICENSED ACUPUNCTURIST PURSUANT TO THIS CHAPTER AND THE RULES ADOPTED BY THE BOARD.

2. USE THE ABBREVIATION "A.A." OR THE TERM "ACUPUNCTURE ASSISTANT" UNLESS THE PERSON IS WORKING UNDER THE SUPERVISION OF A LICENSED ACUPUNCTURIST PURSUANT TO THIS CHAPTER AND THE RULES ADOPTED BY THE BOARD.

Sec. 5. Section 41-619.51, Arizona Revised Statutes, is amended to read:

41-619.51. Definitions
In this article, unless the context otherwise requires:
1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of public safety, the department of transportation, the state real estate department, the department of insurance and financial institutions, the Arizona game and fish department, the Arizona department of agriculture, the board of examiners of nursing care institution administrators and assisted living facility managers, the state board of dental examiners, the Arizona state board of pharmacy, the board of physical therapy, the state board of psychologist examiners, the board of athletic training, the board of occupational therapy examiners, the state board of podiatry examiners, THE ACUPUNCTURE BOARD OF EXAMINERS or the state board of technical registration.
2. "Board" means the board of fingerprinting.
3. "Central registry exception" means notification to the department of economic security, the department of child safety or the department of health services, as appropriate, pursuant to section 41-619.57 that the person is not disqualified because of a central registry check conducted pursuant to section 8-804.
4. "Expedited review" means an examination, in accordance with board rule, of the documents an applicant submits by the board or its hearing officer without the applicant being present.
5. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.
6. "Person" means a person who is required to be fingerprinted pursuant to this article or who is subject to a central registry check and any of the following:
   (a) Section 3-314.
   (b) Section 8-105.
   (c) Section 8-322.
   (d) Section 8-463.
   (e) Section 8-509.
   (f) Section 8-802.
| (g) | Section 8-804. |
| (h) | Section 15-183. |
| (i) | Section 15-503. |
| (j) | Section 15-512. |
| (k) | Section 15-534. |
| (l) | Section 15-763.01. |
| (m) | Section 15-782.02. |
| (n) | Section 15-1330. |
| (o) | Section 15-1881. |
| (p) | Section 17-215. |
| (q) | Section 28-3228. |
| (r) | Section 28-3413. |
| (s) | Section 32-122.02. |
| (t) | Section 32-122.05. |
| (u) | Section 32-122.06. |
| (v) | Section 32-823. |
| (w) | Section 32-1232. |
| (x) | Section 32-1276.01. |
| (y) | Section 32-1284. |
| (z) | Section 32-1297.01. |
| (aa) | Section 32-1904. |
| (bb) | Section 32-1941. |
| (cc) | Section 32-1982. |
| (dd) | Section 32-2022. |
| (ee) | Section 32-2063. |
| (ff) | Section 32-2108.01. |
| (gg) | Section 32-2123. |
| (hh) | Section 32-2371. |
| (ii) | Section 32-3430. |
| (jj) | Section 32-3620. |
| (kk) | Section 32-3668. |
| (ll) | Section 32-3669. |
| (mm) | SECTION 32-3922. |
| (nn) | SECTION 32-3924. |
| (oo) | Section 32-4128. |
| (pp) | Section 36-113. |
| (qq) | Section 36-207. |
| (rr) | Section 36-411. |
| (ss) | Section 36-425.03. |
| (tt) | Section 36-446.04. |
| (uu) | Section 36-594.01. |
| (vv) | Section 36-594.02. |
| (ww) | Section 36-766.01. |
| (xx) | Section 36-882. |
| (yy) | Section 36-883.02. |
1. "Agency" means the supreme court, the department of economic
security, the department of child safety, the department of education, the
department of health services, the department of juvenile corrections, the
department of emergency and military affairs, the department of public
safety, the department of transportation, the state real estate
department, the department of insurance and financial institutions, the
board of fingerprinting, the Arizona game and fish department, the Arizona
department of agriculture, the board of examiners of nursing care
institution administrators and assisted living facility managers, the
state board of dental examiners, the Arizona state board of pharmacy, the
board of physical therapy, the state board of psychologist examiners, the
board of athletic training, the board of occupational therapy examiners,
the state board of podiatry examiners, THE ACUPUNCTURE BOARD OF EXAMINERS
or the state board of technical registration.

2. "Division" means the fingerprinting division in the department
of public safety.

3. "Electronic or internet-based fingerprinting services" means a
secure system for digitizing applicant fingerprints and transmitting the
applicant data and fingerprints of a person or entity submitting
fingerprints to the department of public safety for any authorized purpose
under this title. For the purposes of this paragraph, "secure system"
means a system that complies with the information technology security
policy approved by the department of public safety.

4. "Good cause exception" means the issuance of a fingerprint
clearance card to an applicant pursuant to section 41-619.55.

5. "Person" means a person who is required to be fingerprinted
pursuant to any of the following:
   (a) Section 3-314.
   (b) Section 8-105.
   (c) Section 8-322.
(d) Section 8-463.
(e) Section 8-509.
(f) Section 8-802.
(g) Section 15-183.
(h) Section 15-503.
(i) Section 15-512.
(j) Section 15-534.
(k) Section 15-763.01.
(l) Section 15-782.02.
(m) Section 15-1330.
(n) Section 15-1881.
(o) Section 17-215.
(p) Section 28-3228.
(q) Section 28-3413.
(r) Section 32-122.02.
(s) Section 32-122.05.
(t) Section 32-122.06.
(u) Section 32-823.
(v) Section 32-1232.
(w) Section 32-1276.01.
(x) Section 32-1284.
(y) Section 32-1297.01.
(z) Section 32-1904.
(aa) Section 32-1941.
(bb) Section 32-1982.
(cc) Section 32-2022.
(dd) Section 32-2063.
(ee) Section 32-2108.01.
(ff) Section 32-2123.
(gg) Section 32-2371.
(hh) Section 32-3430.
(ii) Section 32-3620.
(jj) Section 32-3668.
(kk) Section 32-3669.
(ll) SECTION 32-3922.
(mm) SECTION 32-3924.
(nn) Section 32-4128.
(oo) Section 36-113.
(pp) Section 36-207.
(qq) Section 36-411.
(rr) Section 36-425.03.
(ss) Section 36-446.04.
(tt) Section 36-594.01.
(uu) Section 36-594.02.
(vv) Section 36-766.01.
6. "Vulnerable adult" has the same meaning prescribed in section 13-3623.

Sec. 7. Section 41-1758.01, Arizona Revised Statutes, is amended to read:

41-1758.01. Fingerprinting division; powers and duties
A. The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-823, 32-1232, 32-1276.01, 32-1284, 32-1297.01, 32-1904, 32-1941, 32-1982, 32-2022, 32-2063, 32-2108.01, 32-2123, 32-2371, 32-3430, 32-3620, 32-3668, 32-3669, 32-3922, 32-3924, 32-4128, 36-113, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-766.01, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A or B.

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the right to petition the board of fingerprinting for a good cause exception pursuant to section 41-1758.03, 41-1758.04 or 41-1758.07.
5. If after conducting a state and federal criminal history records check the division determines that it is not authorized to issue a fingerprint clearance card to a person, inform the person in writing that the division is not authorized to issue a fingerprint clearance card. The notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

6. Notify the person in writing if the division suspends, revokes or places a driving restriction notation on a fingerprint clearance card pursuant to section 41-1758.04. The notice shall include the criminal history information on which the suspension, revocation or placement of the driving restriction notation was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

7. Administer and enforce this article.

B. The fingerprinting division may contract for electronic or internet-based fingerprinting services through an entity or entities for the acquisition and transmission of applicant fingerprint and data submissions to the department, including identity verified fingerprints pursuant to section 15-106. The entity or entities contracted by the department of public safety may charge the applicant a fee for services provided pursuant to this article. The entity or entities contracted by the department of public safety shall comply with:

1. All information privacy and security measures and submission standards established by the department of public safety.

2. The information technology security policy approved by the department of public safety.

Sec. 8. Rulemaking; acupuncture assistants

A. On or before January 1, 2024, for the purposes of this act, the acupuncture board of examiners shall adopt rules pursuant to title 41, chapter 6, Arizona Revised Statutes.

B. Until the acupuncture board of examiners adopts rules and approves training programs for acupuncture assistants, a licensed acupuncturist may supervise an unlicensed person who has completed a training program for acupuncture assistants that includes removing needles and assisting in basic health care duties in the practice of acupuncture.

Sec. 9. Effective date

Sections 32-3922, 32-3924, 41-619.51, 41-1758 and 41-1758.01, Arizona Revised Statutes, as amended by this act, are effective from and after December 31, 2022.

APPROVED BY THE GOVERNOR MARCH 22, 2022.