

House Engrossed

health profession regulatory boards

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2686

AN ACT

AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 32-3224.01; RELATING TO HEALTH PROFESSIONALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 32, chapter 32, article 1, Arizona Revised
3 Statutes, is amended by adding section 32-3224.01, to read:

4 32-3224.01. Investigation of complaints; time limitations;
5 definition

6 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE:

7 1. EXCEPT AS SET FORTH IN PARAGRAPH 3 OF THIS SUBSECTION, A HEALTH
8 PROFESSION REGULATORY BOARD SHALL REQUIRE COMPLAINANTS TO IDENTIFY
9 THEMSELVES IN THE COMPLAINT AND MAKE THEMSELVES AVAILABLE FOR AN
10 EVIDENTIARY INTERVIEW. COMPLAINANTS MAY REQUEST THAT THEIR IDENTITY
11 REMAIN CONFIDENTIAL DURING THE INVESTIGATORY PROCESS. IF THE
12 INVESTIGATORY PROCESS RESULTS IN A DETERMINATION THAT A VIOLATION OF LAW
13 MAY HAVE OCCURRED, THE RESPONDENT IS ENTITLED TO REVIEW THE COMPLETE
14 INVESTIGATORY FILE, INCLUDING THE IDENTITY OF THE COMPLAINANT EXCEPT AS
15 PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION.

16 2. A HEALTH PROFESSION REGULATORY BOARD MAY CONTINUE TO MAINTAIN
17 THE COMPLAINANT'S CONFIDENTIALITY FROM THE LICENSEE UNTIL THE CONCLUSION
18 OF THE ADMINISTRATIVE PROCESS. THE HEALTH PROFESSION REGULATORY BOARD MAY
19 CONDUCT A CLOSED EVIDENTIARY HEARING IF THE COMPLAINANT REQUESTS THE
20 COMPLAINANT'S IDENTITY REMAIN PRIVATE AND THE BOARD HAS A REASONABLE BASIS
21 TO CONDUCT THE HEARING.

22 3. A HEALTH PROFESSION REGULATORY BOARD MAY TAKE ACTION ON A
23 COMPLAINT IF THE COMPLAINANT REFUSES TO IDENTIFY HIMSELF OR HERSELF ONLY
24 IF THE HEALTH PROFESSION REGULATORY BOARD HAS SUFFICIENT INFORMATION THAT
25 A VIOLATION MAY HAVE OCCURRED WITHIN ITS JURISDICTION THAT DIRECTLY
26 IMPACTS THE SAFETY OF PATIENTS.

27 4. A HEALTH PROFESSION REGULATORY BOARD SHALL LIMIT AN
28 INVESTIGATION OF A COMPLAINT TO THOSE INVESTIGATIVE SUBJECTS AND ACTIONS
29 THAT ARE RELEVANT AND MATERIAL TO THE ISSUES RAISED IN THE COMPLAINT AND
30 THAT WOULD REASONABLY BE TAKEN TO INVESTIGATE THE ISSUES IN THE COMPLAINT.
31 THIS PARAGRAPH DOES NOT PROHIBIT A HEALTH PROFESSION REGULATORY BOARD FROM
32 INVESTIGATING ANY ISSUE OR EVIDENCE OF UNPROFESSIONAL CONDUCT THAT IS
33 DISCOVERED OR BROUGHT TO THE ATTENTION OF THE HEALTH PROFESSION REGULATORY
34 BOARD DURING THE INVESTIGATION OF THE ORIGINAL COMPLAINT.

35 5. IF ON REASONABLE BELIEF THAT A CRIME HAS BEEN COMMITTED, A
36 HEALTH PROFESSION REGULATORY BOARD SHALL SEEK LEGAL ADVICE FROM ITS
37 ASSIGNED LEGAL COUNSEL ON WHETHER THE HEALTH PROFESSION REGULATORY BOARD
38 SHOULD REPORT THE ALLEGED CRIMINAL CONDUCT TO THE APPROPRIATE CRIMINAL
39 JUSTICE AGENCY, INCLUDING WHETHER ANY STATUTORY REPORTING REQUIREMENTS
40 EXIST. IF THE HEALTH PROFESSION REGULATORY BOARD HAS A REASONABLE BELIEF
41 THAT CONDUCT BY A LICENSED, PERMITTED OR CERTIFICATED INDIVIDUAL OR OTHER
42 ENTITY OVER WHICH THE HEALTH PROFESSION REGULATORY BOARD DOES NOT HAVE
43 JURISDICTION MAY VIOLATE THE LAW OR CODES OF CONDUCT, THE HEALTH
44 PROFESSION REGULATORY BOARD SHALL REPORT THE CONDUCT TO THE APPROPRIATE
45 STATE REGULATORY BOARD OR STATE AGENCY THAT THE HEALTH PROFESSION

1 REGULATORY BOARD REASONABLY BELIEVES HAS JURISDICTION OVER THE LICENSEE,
2 PERMITTEE OR CERTIFICATE HOLDER OR OTHER ENTITY.

3 6. IT IS AN ACT OF UNPROFESSIONAL CONDUCT FOR ANY LICENSEE,
4 PERMITTEE OR CERTIFICATE HOLDER OF ANY HEALTH PROFESSION REGULATORY BOARD
5 TO FILE A FALSE OR FRAUDULENT COMPLAINT OR REPORT WITH A HEALTH PROFESSION
6 REGULATORY BOARD.

7 7. EACH HEALTH PROFESSION REGULATORY BOARD SHALL IMPLEMENT A POLICY
8 PRIORITIZING COMPLAINTS BASED ON THE HARM TO A PATIENT OR POTENTIALLY TO
9 THE PUBLIC. THE HEALTH PROFESSION REGULATORY BOARD SHALL ASSIGN HIGH
10 PRIORITY STATUS TO COMPLAINTS ALLEGING SEXUAL CONDUCT WITH A PATIENT,
11 CRIMINAL ASSAULT OR THEFT OR PROVIDING SERVICES WHILE UNDER THE INFLUENCE
12 OF ANY ILLEGAL OR LEGAL SUBSTANCE THAT IMPAIRS THE HEALTH PROFESSIONAL.

13 8. WITHIN ONE HUNDRED EIGHTY DAYS AFTER RECEIPT OF A COMPLAINT BY
14 ANY HEALTH PROFESSION REGULATORY BOARD AGAINST A LICENSEE, PERMITTEE OR
15 CERTIFICATE HOLDER, THE HEALTH PROFESSION REGULATORY BOARD SHALL DO ONE OF
16 THE FOLLOWING:

17 (a) SUBMIT THE INVESTIGATION FOR REVIEW.

18 (b) REPORT THE NUMBER OF INVESTIGATIONS THAT CANNOT BE REASONABLY
19 COMPLETED WITHIN ONE HUNDRED EIGHTY DAYS DUE TO THE COMPLEXITY OF THE
20 MATTER OR THAT THE RESPONDENT HAS REQUESTED ADDITIONAL TIME TO RESPOND OR
21 HAS CAUSED DELAYS IN THE INVESTIGATION. IF THIS DETERMINATION IS MADE,
22 THE HEALTH PROFESSION REGULATORY BOARD MAY CONTINUE THE INVESTIGATION TO
23 ITS CONCLUSION AND CONTINUE TO REPORT AT EACH REGULARLY SCHEDULED MEETING
24 THE STATUS OF EVERY CASE OPENED OVER THE PREVIOUS ONE HUNDRED EIGHTY DAYS.
25 THE REPORT SHALL INDICATE THE NUMBER OF DAYS THAT THE INVESTIGATION HAS
26 BEEN OPENED AND WHETHER THERE IS A PRACTICE RESTRICTION OR EVALUATION
27 PURSUANT TO PARAGRAPH 10 OF THIS SUBSECTION. THE HEALTH PROFESSION
28 REGULATORY BOARD MAY CONTINUE THE INVESTIGATION FOR AN ADDITIONAL ONE
29 HUNDRED DAYS TO COMPLETE ITS INVESTIGATION AND PROCEED WITH THE
30 ADMINISTRATIVE PROCEDURE TO SUBMIT THE COMPLAINT FOR HEALTH PROFESSION
31 REGULATORY BOARD REVIEW.

32 (c) ADMINISTRATIVELY DISMISS THE COMPLAINT WITHOUT PREJUDICE. IF
33 THE HEALTH PROFESSION REGULATORY BOARD ADMINISTRATIVELY DISMISSES A
34 COMPLAINT WITHOUT PREJUDICE, THE HEALTH PROFESSION REGULATORY BOARD MAY
35 REOPEN THE INVESTIGATION IF IT HAS ADDITIONAL EVIDENCE, INFORMATION OR
36 TESTIMONY TO CONCLUDE THE INVESTIGATION WITH THE AVAILABLE OPTIONS
37 PRESCRIBED FOR EACH HEALTH PROFESSION REGULATORY BOARD.

38 9. ON NOTIFICATION OF AN OPEN INVESTIGATION AND BEFORE AN
39 INVESTIGATIONAL INTERVIEW OF ANY RESPONDENT, A HEALTH PROFESSION
40 REGULATORY BOARD SHALL PROVIDE THE RESPONDENT WITH A WRITTEN NOTICE THAT
41 THE RESPONDENT HAS THE RIGHT TO BE REPRESENTED BY LEGAL COUNSEL AND SHALL
42 BE PROVIDED WITH A REASONABLE PERIOD OF TIME OF AT LEAST TEN BUSINESS DAYS
43 AFTER RECEIVING THE WRITTEN NOTICE TO RETAIN LEGAL COUNSEL OR PROVIDE A
44 RESPONSE WITHOUT THE ASSISTANCE OF COUNSEL BEFORE ANSWERING ANY QUESTIONS.
45 THE WRITTEN NOTICE SHALL ALSO INFORM THE RESPONDENT THAT ANY STATEMENTS

1 MADE DURING AN INTERVIEW MAY BE USED AGAINST THE RESPONDENT BY THE HEALTH
2 PROFESSION REGULATORY BOARD.

3 10. IF A HEALTH PROFESSION REGULATORY BOARD DETERMINES THAT A
4 PSYCHOLOGICAL, PSYCHIATRIC OR OTHER MEDICAL EVALUATION OF THE LICENSEE,
5 PERMITTEE OR CERTIFICATE HOLDER IS ESSENTIAL FOR THE HEALTH PROFESSION
6 REGULATORY BOARD TO MAKE A DECISION REGARDING THE COMPLAINT AND ORDERS THE
7 LICENSEE, PERMITTEE OR CERTIFICATE HOLDER TO OBTAIN AN EVALUATION, AND THE
8 LICENSEE REQUESTS THAT THE EVALUATION BE MADE BY A PROFESSIONAL OTHER THAN
9 THE PROFESSIONALS RECOMMENDED BY THE HEALTH PROFESSION REGULATORY BOARD,
10 THE HEALTH PROFESSION REGULATORY BOARD OR ITS DESIGNEE SHALL APPROVE AN
11 EVALUATION FROM A PROFESSIONAL WHO HAS THE CREDENTIALS, TRAINING AND
12 EXPERTISE TO ADDRESS THE ISSUES THE HEALTH PROFESSION REGULATORY BOARD HAS
13 REQUESTED IN ITS ORDER.

14 11. A HEALTH PROFESSION REGULATORY BOARD SHALL POST ALL WRITTEN
15 SUBSTANTIVE POLICIES IN A CLEARLY IDENTIFIABLE SECTION ON ITS WEBSITE.

16 12. A HEALTH PROFESSION REGULATORY BOARD MAY NOT INCLUDE ANY
17 QUESTIONS ON A LICENSE, PERMIT OR CERTIFICATE OR AN ENDORSEMENT
18 APPLICATION THAT REQUESTS INFORMATION ABOUT WHETHER THE APPLICANT HAS
19 SOUGHT MENTAL HEALTH ASSISTANCE OR RECEIVED A MENTAL HEALTH DIAGNOSIS OR
20 TREATMENT. THE HEALTH PROFESSION REGULATORY BOARD MAY ASK IF THE LICENSEE
21 IS CURRENTLY UNDER A REGULATORY ENTITY'S ORDER IN ANOTHER STATE FOR THE
22 MONITORING OF A HEALTH CONDITION, INCLUDING SUBSTANCE ABUSE.

23 13. A HEALTH PROFESSION REGULATORY BOARD MAY ADMINISTRATIVELY
24 SUSPEND A LICENSE, PERMIT OR CERTIFICATE IF THE LICENSEE, PERMITTEE OR
25 CERTIFICATE HOLDER DOES NOT SUBMIT A COMPLETE APPLICATION AND PAYMENT FOR
26 LICENSE, PERMIT OR CERTIFICATE RENEWAL WITHIN SIXTY DAYS AFTER THE RENEWAL
27 DEADLINE AND MAY ASSESS A CIVIL PENALTY FOR THE RENEWAL DELAY FROM THE
28 DATE THE RENEWAL WAS DUE UNTIL COMPLETED AND PAID. THE HEALTH PROFESSION
29 REGULATORY BOARD MAY NOT REVOKE A LICENSE, PERMIT OR CERTIFICATE SOLELY
30 FOR FAILURE TO RENEW THE LICENSE, PERMIT OR CERTIFICATE.

31 B. FOR THE PURPOSES OF THIS SECTION, "WITHOUT PREJUDICE" MEANS A
32 HEALTH PROFESSION REGULATORY BOARD MAY OPEN ANOTHER COMPLAINT BASED ON THE
33 SAME SET OF FACTS OF A COMPLAINT THAT HAS BEEN DISMISSED IF ADDITIONAL
34 EVIDENCE OR INFORMATION BECOMES AVAILABLE TO SUBSTANTIATE THE COMPLAINT.