

Senate Engrossed

chiropractic care; licensure; complaint investigations

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1233

AN ACT

AMENDING SECTION 32-900, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-900.01; AMENDING SECTIONS 32-905, 32-921, 32-923, 32-924, 32-929 AND 32-934, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF CHIROPRACTIC EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-900, Arizona Revised Statutes, is amended to
3 read:

4 32-900. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Advisory letter" means a nondisciplinary letter to notify a
7 licensee that either:

8 (a) While there is insufficient evidence to support disciplinary
9 action, the board believes that continuation of the activities that led to
10 the investigation may result in further board action against the licensee.

11 (b) The violation is a minor or technical violation that is not of
12 sufficient merit to warrant disciplinary action.

13 (c) The violation is a minor or technical violation, and while the
14 licensee has demonstrated substantial compliance through rehabilitation or
15 remediation that has mitigated the need for disciplinary action, the board
16 believes that repetition of the activities that led to the investigation
17 may result in further board action against the licensee.

18 2. "Board" means the state board of chiropractic examiners.

19 3. "Certification" means that a doctor of chiropractic has been
20 certified by the board in a specialty of chiropractic as provided by law.

21 4. "Chiropractic assistant" means an unlicensed person who has
22 completed an educational training program approved by the board, who
23 assists in basic health care duties in the practice of chiropractic under
24 the supervision of a doctor of chiropractic and who performs delegated
25 duties commensurate with the chiropractic assistant's education and
26 training but who does not evaluate, interpret, design or modify
27 established treatment programs of chiropractic care or violate any
28 statute.

29 5. "Doctor of chiropractic" means a natural person who holds a
30 license to practice chiropractic pursuant to this chapter.

31 6. "License" means a license to practice chiropractic.

32 7. "MEMBER" INCLUDES A CHIROPRACTOR WHO IS EMPLOYED WITH,
33 CONTRACTED WITH OR OTHERWISE AFFILIATED WITH ANOTHER LICENSEE.

34 8. "PATIENT SAFETY":

35 (a) MEANS THE PREVENTION OF ERRORS AND ADVERSE EFFECTS TO PATIENTS
36 ASSOCIATED WITH CHIROPRACTIC CARE.

37 (b) DOES NOT INCLUDE BUSINESS MATTERS, BILLING ISSUES, CONTINUING
38 EDUCATION OR OTHER ADMINISTRATIVE MATTERS, WHETHER OR NOT SUCH MATTERS
39 CONSTITUTE ACTS OF UNPROFESSIONAL CONDUCT.

40 ~~7.~~ 9. "Physical medicine modalities" means any physical agent
41 applied to produce therapeutic change to biologic tissues, including
42 thermal, acoustic, noninvasive light, mechanical or electric energy, hot
43 or cold packs, ultrasound, galvanism, microwave, diathermy and electrical
44 stimulation.

1 ~~8-~~ 10. "Therapeutic procedures" means the application of clinical
2 skills and services, including therapeutic exercise, therapeutic
3 activities, manual therapy techniques, massage and structural supports, to
4 improve a patient's neuromusculoskeletal condition.

5 Sec. 2. Title 32, chapter 8, article 1, Arizona Revised Statutes,
6 is amended by adding section 32-900.01, to read:

7 32-900.01. Unprofessional conduct

8 A. IN THIS CHAPTER, FOR THE PURPOSES OF DISCIPLINING A DOCTOR OF
9 CHIROPRACTIC, ANY OF THE FOLLOWING WHETHER OCCURRING IN THIS STATE OR
10 ELSEWHERE CONSTITUTES UNPROFESSIONAL CONDUCT:

11 1. FAILING TO DISCLOSE, IN WRITING, TO A PATIENT OR A THIRD-PARTY
12 PAYOR THAT THE LICENSEE HAS A FINANCIAL INTEREST IN A DIAGNOSTIC OR
13 TREATMENT FACILITY, TEST, GOOD OR SERVICE WHEN REFERRING A PATIENT FOR A
14 PRESCRIBED DIAGNOSTIC TEST, TREATMENT, GOOD OR SERVICE AND THAT THE
15 DIAGNOSTIC TEST, TREATMENT, GOOD OR SERVICE IS AVAILABLE ON A COMPETITIVE
16 BASIS FROM ANOTHER HEALTH CARE PROVIDER. THIS PARAGRAPH DOES NOT APPLY TO
17 A REFERRAL BY ONE LICENSEE TO ANOTHER WITHIN A GROUP OF LICENSEES WHO
18 PRACTICE TOGETHER. THIS PARAGRAPH APPLIES REGARDLESS OF WHETHER THE
19 REFERRED SERVICE IS PROVIDED AT THE LICENSEE'S PLACE OF PRACTICE OR AT
20 ANOTHER LOCATION.

21 2. KNOWINGLY MAKING A FALSE OR MISLEADING STATEMENT TO A PATIENT OR
22 A THIRD-PARTY PAYOR.

23 3. KNOWINGLY MAKING A FALSE OR MISLEADING STATEMENT, PROVIDING
24 FALSE OR MISLEADING INFORMATION OR OMITTING MATERIAL INFORMATION IN ANY
25 ORAL OR WRITTEN COMMUNICATION, INCLUDING ATTACHMENTS, TO THE BOARD, BOARD
26 STAFF OR A BOARD REPRESENTATIVE OR ON ANY FORM REQUIRED BY THE BOARD.

27 4. KNOWINGLY FILING WITH THE BOARD AN APPLICATION OR OTHER DOCUMENT
28 THAT CONTAINS FALSE OR MISLEADING INFORMATION.

29 5. FAILING TO CREATE AN ADEQUATE PATIENT RECORD THAT INCLUDES THE
30 PATIENT'S HEALTH HISTORY, A CLINICAL IMPRESSION, EXAMINATION FINDINGS,
31 DIAGNOSTIC RESULTS, X-RAY FILMS OR DIGITAL IMAGING IF TAKEN, X-RAY OR
32 DIGITAL IMAGING REPORTS, A TREATMENT PLAN, NOTES FOR EACH PATIENT VISIT
33 AND A BILLING RECORD. THE NOTES FOR EACH PATIENT VISIT SHALL INCLUDE THE
34 PATIENT'S NAME, THE DATE OF SERVICE, THE DOCTOR OF CHIROPRACTIC'S
35 FINDINGS, ALL SERVICES RENDERED AND THE NAME OR INITIALS OF THE DOCTOR OF
36 CHIROPRACTIC WHO PROVIDED SERVICES TO THE PATIENT.

37 6. FAILING TO MAINTAIN THE INFORMATION REQUIRED BY PARAGRAPH 5 OF
38 THIS SUBSECTION FOR A PATIENT FOR AT LEAST SIX YEARS AFTER THE LAST
39 TREATMENT DATE OR, FOR A MINOR, SIX YEARS AFTER THE MINOR'S EIGHTEENTH
40 BIRTHDAY OR FAILING TO PROVIDE WRITTEN NOTICE TO THE BOARD ABOUT HOW TO
41 ACCESS THE PATIENT RECORDS OF A CHIROPRACTIC PRACTICE THAT IS CLOSED BY
42 PROVIDING, AT A MINIMUM, THE PHYSICAL ADDRESS, TELEPHONE NUMBER AND FULL
43 NAME OF A PERSON WHO CAN BE CONTACTED REGARDING WHERE THE RECORDS ARE
44 MAINTAINED FOR AT LEAST SIX YEARS AFTER EACH PATIENT'S LAST TREATMENT DATE
45 OR THE MINOR PATIENT'S EIGHTEENTH BIRTHDAY.

- 1 7. FAILING TO DO ANY OF THE FOLLOWING:
 - 2 (a) RELEASE A COPY OF ALL REQUESTED PATIENT RECORDS AS PRESCRIBED
 - 3 IN PARAGRAPH 5 OF THIS SUBSECTION, INCLUDING THE ORIGINAL OR A DIAGNOSTIC
 - 4 QUALITY RADIOGRAPHIC COPY OF X-RAYS OR DIGITAL IMAGING, TO ANOTHER
 - 5 LICENSED PHYSICIAN, THE PATIENT OR THE PATIENT'S AUTHORIZED AGENT WITHIN
 - 6 TEN BUSINESS DAYS AFTER THE RECEIPT OF A WRITTEN REQUEST TO DO SO. THIS
 - 7 SUBDIVISION DOES NOT REQUIRE THE RELEASE OF A PATIENT'S BILLING RECORD TO
 - 8 ANOTHER LICENSED PHYSICIAN.
 - 9 (b) RELEASE A COPY OF ANY SPECIFIED PORTION OR ALL OF A PATIENT'S
 - 10 BILLING RECORD TO THE PATIENT OR THE PATIENT'S AUTHORIZED AGENT WITHIN TEN
 - 11 BUSINESS DAYS AFTER THE RECEIPT OF A WRITTEN REQUEST TO DO SO.
 - 12 (c) IN THE CASE OF A PATIENT OR A PATIENT'S AUTHORIZED AGENT WHO
 - 13 HAS VERBALLY REQUESTED THE PATIENT RECORD, PROVIDE THE PATIENT RECORD.
 - 14 (d) RETURN ORIGINAL X-RAYS OR DIGITAL IMAGING TO A LICENSED
 - 15 PHYSICIAN WITHIN TEN BUSINESS DAYS AFTER A WRITTEN REQUEST TO DO SO.
 - 16 (e) PROVIDE COPIES OF PATIENT RECORDS TO ANOTHER LICENSED
 - 17 PHYSICIAN, THE PATIENT OR THE PATIENT'S AUTHORIZED AGENT FREE OF CHARGE IN
 - 18 VIOLATION OF TITLE 12, CHAPTER 13, ARTICLE 7.1.
- 19 8. REPRESENTING THAT THE LICENSEE HAS CERTIFICATION IN A SPECIALTY
- 20 AREA IN WHICH THE LICENSEE DOES NOT HAVE CERTIFICATION OR HAS ACADEMIC OR
- 21 PROFESSIONAL CREDENTIALS THAT THE LICENSEE DOES NOT HAVE.
- 22 9. FAILING TO PROVIDE TO A PATIENT ON REQUEST DOCUMENTATION OF
- 23 BEING CERTIFIED BY THE BOARD IN A SPECIALTY AREA OR THE LICENSEE'S
- 24 ACADEMIC CERTIFICATION, DEGREE OR PROFESSIONAL CREDENTIALS.
- 25 10. PRACTICING OR BILLING FOR SERVICES UNDER ANY NAME OTHER THAN
- 26 THE NAME BY WHICH THE DOCTOR OF CHIROPRACTIC IS LICENSED BY THE BOARD,
- 27 INCLUDING CORPORATE, BUSINESS OR OTHER LICENSED HEALTH CARE PROVIDERS'
- 28 NAMES WITHOUT FIRST NOTIFYING THE BOARD IN WRITING.
- 29 11. SUGGESTING OR HAVING SEXUAL CONTACT, AS DEFINED IN SECTION
- 30 13-1401, IN THE COURSE OF PATIENT TREATMENT OR WITHIN THREE MONTHS AFTER
- 31 THE LAST CHIROPRACTIC EXAMINATION, TREATMENT OR CONSULTATION WITH AN
- 32 INDIVIDUAL WITH WHOM A CONSENSUAL SEXUAL RELATIONSHIP DID NOT EXIST BEFORE
- 33 THE CHIROPRACTIC PATIENT RELATIONSHIP WAS ESTABLISHED.
- 34 12. INTENTIONALLY VIEWING A COMPLETELY OR PARTIALLY DISROBED
- 35 PATIENT IN THE COURSE OF AN EXAMINATION OR TREATMENT IF THE VIEWING IS NOT
- 36 RELATED TO THE PATIENT'S COMPLAINT, DIAGNOSES OR TREATMENT UNDER CURRENT
- 37 PRACTICE STANDARDS.
- 38 13. INTENTIONALLY MISREPRESENTING THE EFFECTIVENESS OF A TREATMENT,
- 39 DIAGNOSTIC TEST OR DEVICE.
- 40 14. PENETRATING A PATIENT'S RECTUM BY A RECTAL PROBE OR DEVICE FOR
- 41 THE ADMINISTRATION OF ULTRASOUND, DIATHERMY OR OTHER MODALITIES.
- 42 15. USING IONIZING RADIATION IN VIOLATION OF SECTION 32-2811.

1 16. PROMOTING OR USING DIAGNOSTIC TESTING OR TREATMENT FOR RESEARCH
2 OR EXPERIMENTAL PURPOSES WITHOUT DOING BOTH OF THE FOLLOWING:

3 (a) OBTAINING WRITTEN INFORMED CONSENT FROM THE PATIENT BEFORE THE
4 DIAGNOSTIC TEST OR TREATMENT, INCLUDING DISCLOSING TO THE PATIENT RESEARCH
5 PROTOCOLS, CONTRACTS THE LICENSEE HAS WITH RESEARCHERS, IF APPLICABLE, AND
6 INFORMATION ON THE INSTITUTIONAL REVIEW COMMITTEE USED TO ESTABLISH
7 PATIENT PROTECTION.

8 (b) CONFORMING TO GENERALLY ACCEPTED RESEARCH OR EXPERIMENTAL
9 CRITERIA, INCLUDING FOLLOWING PROTOCOLS, MAINTAINING DETAILED RECORDS,
10 PERIODIC ANALYSIS OF RESULTS AND PERIODIC REVIEW BY A PEER REVIEW
11 COMMITTEE.

12 17. HAVING A PROFESSIONAL CONNECTION WITH AN ILLEGAL PRACTITIONER
13 OF CHIROPRACTIC, MISREPRESENTING ONESELF AS A CURRENT OR PAST BOARD
14 MEMBER, A BOARD STAFF MEMBER OR A BOARD CHIROPRACTIC CONSULTANT OR
15 CLAIMING PROFESSIONAL SUPERIORITY IN THE PRACTICE OF CHIROPRACTIC UNDER
16 SECTION 32-925.

17 18. VIOLATING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
18 ACT.

19 19. HABITUALLY USING OR HAVING HABITUALLY USED ALCOHOL, NARCOTICS
20 OR STIMULANTS TO THE EXTENT OF INCAPACITATING THE LICENSEE IN PERFORMING
21 PROFESSIONAL DUTIES.

22 20. BEING CONVICTED BY A COURT OF COMPETENT JURISDICTION OF CLASS
23 1, 2, 3, 4 OR 5 FELONY.

24 21. HAVING AN ACTION TAKEN AGAINST A PROFESSIONAL LICENSE IN
25 ANOTHER JURISDICTION, HAVING ANY LIMITATION OR RESTRICTION PLACED ON THE
26 LICENSE, HAVING THE LICENSE PLACED ON PROBATION OR SUSPENSION OR BEING
27 REVOKED OR SURRENDERED AS A DISCIPLINARY MEASURE OR HAVING A LICENSE
28 APPLICATION OR LICENSE RENEWAL DENIED FOR A REASON RELATED TO
29 UNPROFESSIONAL CONDUCT.

30 22. DIRECTLY OR INDIRECTLY DIVIDING A PROFESSIONAL FEE FOR PATIENT
31 REFERRALS AMONG HEALTH CARE PROVIDERS OR HEALTH CARE INSTITUTIONS OR
32 BETWEEN PROVIDERS AND INSTITUTIONS OR ENTERING INTO A CONTRACTUAL
33 ARRANGEMENT TO THAT EFFECT. THIS PARAGRAPH DOES NOT PROHIBIT THE MEMBERS
34 OF ANY REGULARLY AND PROPERLY ORGANIZED BUSINESS ENTITY RECOGNIZED BY LAW
35 FROM DIVIDING FEES RECEIVED FOR PROFESSIONAL SERVICES AMONG THEMSELVES AS
36 THEY DETERMINE.

37 23. VIOLATING ANY FEDERAL OR STATE STATUTE OR RULE OR REGULATION
38 APPLICABLE TO THE PRACTICE OF CHIROPRACTIC.

39 24. FILING AN ANONYMOUS COMPLAINT AGAINST ANOTHER LICENSEE.

40 25. SOLICITING OR HAVING THE LICENSEE'S COMPENSATED AGENT SOLICIT
41 ANY PERSON WHO IS NOT PREVIOUSLY KNOWN BY THE LICENSEE OR THE LICENSEE'S
42 AGENT AND WHO AT THE TIME OF THE SOLICITATION IS VULNERABLE TO UNDUE
43 INFLUENCE, INCLUDING ANY PERSON KNOWN TO HAVE EXPERIENCED ANY OF THE
44 FOLLOWING WITHIN THE PREVIOUS FIFTEEN DAYS:

- 1 (a) INVOLVEMENT IN A MOTOR VEHICLE ACCIDENT.
- 2 (b) INVOLVEMENT IN A WORK-RELATED ACCIDENT.
- 3 (c) INJURY BY, OR AS A RESULT OF ACTIONS OF, ANOTHER PERSON.
- 4 B. THE BOARD MAY NOT ADOPT RULES THAT ALTER OR AMEND UNPROFESSIONAL
- 5 CONDUCT AS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

6 Sec. 3. Section 32-905, Arizona Revised Statutes, is amended to
7 read:

8 32-905. Executive director of board; duties; other personnel;
9 immunity

10 A. Subject to title 41, chapter 4, article 4, the board shall
11 appoint an executive director who is not a member of the board and who
12 shall serve at the pleasure of the board.

13 B. The executive director shall:

14 1. Keep a record of the proceedings of the board.

15 2. Collect all monies due and payable to the board.

16 3. Deposit, pursuant to sections 35-146 and 35-147, all monies
17 received by the board in the board of chiropractic examiners fund.

18 4. Prepare bills for authorized expenditures of the board and
19 obtain warrants from the director of the department of administration for
20 payment of bills.

21 5. Administer oaths.

22 6. Act as custodian of the seal, books, minutes, records and
23 proceedings of the board.

24 7. At the request of the board, do and perform any other duty not
25 prescribed for the executive director elsewhere in this chapter.

26 8. ENSURE THAT THE BOARD FOLLOWS ALL APPLICABLE LAWS AND RULES AND
27 COMPLIES WITH ALL REPORTING REQUIREMENTS.

28 9. ADVISE THE BOARD IF ANY CONTEMPLATED ACTIONS ARE BEYOND THE
29 SCOPE OF THE AUTHORITY GRANTED TO THE BOARD PURSUANT TO THIS CHAPTER. THE
30 ADVICE MAY BE PROVIDED IN EXECUTIVE SESSION, BUT IF DISREGARDED BY THE
31 BOARD THE EXECUTIVE DIRECTOR SHALL STATE POTENTIAL CONCERNS IN OPEN
32 SESSION.

33 10. PREPARE AND MAINTAIN A DISCIPLINE MATRIX FOR USE BY THE BOARD
34 TO ENSURE THAT ALL LICENSEES ARE TREATED CONSISTENTLY, TO THE BEST OF THE
35 BOARD'S ABILITY, BASED ON THE SPECIFIC ALLEGATIONS AT ISSUE, WHEN THE
36 BOARD CONTEMPLATES IMPOSING ANY FORM OF DISCIPLINE. THE MATRIX SHALL
37 BRIEFLY OUTLINE MATERIAL FACTS OF ALL PAST CASES IN WHICH DISCIPLINE WAS
38 IMPOSED WITHOUT IDENTIFYING ANY SPECIFIC LICENSEE OR COMPLAINANT OTHER
39 THAN BY POTENTIAL FILE NUMBER OR OTHER REFERENCE AND SPECIFY THE LEVEL OF
40 DISCIPLINE IMPOSED. THE MATRIX SHALL BE AVAILABLE TO ANY LICENSEE AGAINST
41 WHOM A COMPLAINT HAS BEEN FILED AND A FORMAL INVESTIGATION HAS BEEN
42 OPENED, INCLUDING THE LICENSEE'S COUNSEL.

43 11. CONSISTENT WITH THIS CHAPTER, CLASSIFY COMPLAINTS ON SUBMISSION
44 TO THE BOARD ACCORDING TO THE POLICIES ADOPTED BY THE BOARD THAT

1 PRIORITIZE THE ALLOCATION OF BOARD RESOURCES AND THE INVESTIGATION AND
2 ADJUDICATION OF COMPLAINTS.

3 C. Subject to title 41, chapter 4, article 4, the board may employ
4 other personnel as it deems necessary to carry out the purposes of this
5 chapter.

6 D. The executive director and ~~a~~ ANY person acting pursuant to the
7 executive director's direction ~~is~~ ARE personally immune from civil
8 liability for all actions taken in good faith pursuant to this chapter.

9 Sec. 4. Section 32-921, Arizona Revised Statutes, is amended to
10 read:

11 32-921. Application for license; qualifications of applicant;
12 fee; background investigations

13 A. A person who wishes to practice chiropractic in this state shall
14 submit a complete application to the board at least forty-five days before
15 the next scheduled examinations on a form and in the manner prescribed by
16 the board.

17 B. To be eligible for an examination and licensure, the applicant
18 shall:

19 1. Be a graduate of a chiropractic college that both:

20 (a) Is accredited by or has status with the council on chiropractic
21 education or is accredited by an accrediting agency recognized by the
22 United States department of education or the council on postsecondary
23 accreditation.

24 (b) Teaches a resident course of four years of not less than nine
25 months each year, or the equivalent of thirty-six months of continuous
26 study, and that comprises not less than four thousand credit hours of
27 resident study required to receive a degree of doctor of chiropractic
28 (D.C.).

29 2. Be physically and mentally able to practice chiropractic
30 skillfully and safely.

31 3. Have a certificate of attainment for part I and part II and a
32 score of three hundred seventy-five or more on part III or IV of the
33 examination conducted by the national board of chiropractic examiners.

34 C. The board may refuse to give an examination or may deny
35 licensure to an applicant who:

36 1. Fails to qualify for an examination or licensure under
37 subsection B of this section.

38 2. Has had a license to practice chiropractic refused, revoked,
39 suspended or restricted by a regulatory board in this or any other
40 jurisdiction for any act that constitutes unprofessional conduct pursuant
41 to this chapter.

42 3. Is currently under investigation by a regulatory board in this
43 or any other jurisdiction for an act that constitutes unprofessional
44 conduct pursuant to this chapter.

1 4. Has surrendered a license to practice chiropractic in lieu of
2 disciplinary action by a regulatory board in this or any other
3 jurisdiction for an act that constitutes unprofessional conduct pursuant
4 to this chapter.

5 5. Has engaged in any conduct that constitutes grounds for
6 disciplinary action pursuant to section ~~32-924~~ 32-900.01 or board rules.

7 D. On applying, the applicant shall pay to the executive director
8 of the board a nonrefundable fee of not more than \$325 as established by
9 the board. The board shall keep a register of all applicants and the
10 result of each examination.

11 E. In order to determine an applicant's eligibility for examination
12 and licensure, the board ~~may~~ SHALL require the applicant to submit a full
13 set of fingerprints to the board. The board shall submit the fingerprints
14 to the department of public safety for the purpose of obtaining a state
15 and federal criminal records check pursuant to section 41-1750 and Public
16 Law 92-544. The department of public safety may exchange this fingerprint
17 data with the federal bureau of investigation. The board shall charge
18 each applicant a fee that is necessary to cover the cost of the
19 investigation. The board shall forward this fee to the department of
20 public safety.

21 Sec. 5. Section 32-923, Arizona Revised Statutes, is amended to
22 read:

23 32-923. Change of address; annual renewal fee; failure to
24 renew; waivers; definition

25 A. Every person who is licensed pursuant to this chapter shall
26 notify the board in writing of any change in residence or office address
27 and telephone number within thirty days after that change. The board
28 shall impose a penalty of \$50 on a licensee who does not notify the board
29 as required by this subsection.

30 B. Except as provided in section 32-4301, every person who is
31 licensed to practice chiropractic in this state shall annually make a
32 renewal application to the board before the last day of the licensee's
33 birth month after original issuance of a license and shall pay a renewal
34 license fee of not more than \$225 as established by the board. The
35 renewal application shall be made on a form and in a manner prescribed by
36 the board. At least thirty days before the renewal application and
37 renewal fee are due, the board shall send by first class mail a renewal
38 application and notice requiring license renewal and payment of the
39 renewal fee.

40 C. The board shall administratively suspend a license automatically
41 AFTER NINETY DAYS if the licensee does not submit a complete application
42 for renewal and pay the renewal license fee as required by this section.
43 IF THE LICENSEE COMPLETES THE RENEWAL APPLICATION AND PAYS THE RENEWAL
44 LICENSE FEE WITHIN NINETY DAYS AFTER THE DUE DATE, THE LICENSEE'S RENEWAL
45 LICENSE SHALL BE BACKDATED TO THE EXPIRATION DATE OF THE LICENSE.

1 D. The board may reinstate a license if the person completes an
2 application for reinstatement as prescribed by the board, complies with
3 the continuing education requirements for each year that the license was
4 suspended, pays the annual renewal license fee for each year that the
5 license was suspended and pays an additional fee of \$200. An applicant
6 who does not request reinstatement within two years after the date of
7 suspension shall apply for a license as a new candidate pursuant to
8 section 32-921 or 32-922.01.

9 E. The board may waive the annual renewal license fee if a licensee
10 presents evidence satisfactory to the board that the licensee has
11 permanently retired from the practice of chiropractic and has paid all
12 fees required by this chapter before the waiver.

13 F. During the period of waiver the retired licensee shall not
14 engage in the practice of chiropractic. A violation of this subsection
15 subjects the retired licensee to the same penalties as are imposed in this
16 chapter on a person who practices chiropractic without a license.

17 G. The board may reinstate a retired licensee to active practice on
18 payment of the annual renewal license fee and presentation of evidence
19 satisfactory to the board that the retired licensee is professionally able
20 to engage in the practice of chiropractic and still possesses the
21 professional knowledge required. After a hearing, the board may refuse to
22 reinstate a retired licensee to active practice under this subsection on
23 any of the grounds prescribed in section ~~32-924~~ 32-900.01.

24 H. For the purposes of this section, "administratively suspend"
25 means a nondisciplinary action that is imposed for failure to renew a
26 license and that requires the licensee to suspend practice until renewal
27 requirements are met.

28 Sec. 6. Section 32-924, Arizona Revised Statutes, is amended to
29 read:

30 32-924. Investigations; initial review; hearing; time
31 frames; civil penalty; definition

32 ~~A. The following are grounds for disciplinary action, regardless of~~
33 ~~where they occur:~~

- 34 ~~1. Employment of fraud or deception in securing a license.~~
- 35 ~~2. Practicing chiropractic under a false or assumed name.~~
- 36 ~~3. Impersonating another practitioner.~~
- 37 ~~4. Habitual use of alcohol, narcotics or stimulants to the extent~~
38 ~~of incapacitating the licensee for the performance of professional duties.~~
- 39 ~~5. Unprofessional or dishonorable conduct of a character likely to~~
40 ~~deceive or defraud the public or tending to discredit the profession.~~
- 41 ~~6. Conviction of a misdemeanor involving moral turpitude or of a~~
42 ~~felony.~~
- 43 ~~7. Gross malpractice, repeated malpractice or any malpractice~~
44 ~~resulting in the death of a patient.~~

1 ~~8. Representing that a manifestly incurable condition can be~~
2 ~~permanently cured, or that a curable condition can be cured within a~~
3 ~~stated time, if this is not true.~~

4 ~~9. Offering, undertaking or agreeing to cure or treat a condition~~
5 ~~by a secret means, method, device or instrumentality.~~

6 ~~10. Refusing to divulge to the board on demand the means, method,~~
7 ~~device or instrumentality used in the treatment of a condition.~~

8 ~~11. Giving or receiving or aiding or abetting the giving or~~
9 ~~receiving of rebates, either directly or indirectly.~~

10 ~~12. Acting or assuming to act as a member of the board if this is~~
11 ~~not true.~~

12 ~~13. Advertising in a false, deceptive or misleading manner.~~

13 ~~14. Having had a license refused, revoked or suspended by any other~~
14 ~~state or country, unless it can be shown that the action was not taken for~~
15 ~~reasons that relate to the ability to safely and skillfully practice~~
16 ~~chiropractic or to any act of unprofessional conduct.~~

17 ~~15. Any conduct or practice contrary to recognized standards in~~
18 ~~chiropractic or any conduct or practice that constitutes a danger to the~~
19 ~~health, welfare or safety of the patient or the public or any conduct,~~
20 ~~practice or condition that impairs the ability of the licensee to safely~~
21 ~~and skillfully practice chiropractic.~~

22 ~~16. Violating or attempting to violate, directly or indirectly, or~~
23 ~~assisting in or abetting the violation of or conspiring to violate any of~~
24 ~~the provisions of this chapter or any board order.~~

25 ~~17. Failing to sign the physician's name, wherever required, in any~~
26 ~~capacity as "chiropractic doctor", "chiropractic physician" or "doctor of~~
27 ~~chiropractic" or failing to use and affix the initials "D.C." after the~~
28 ~~physician's name.~~

29 ~~18. Failing to place or cause to be placed the word or words~~
30 ~~"chiropractic", "chiropractor", "chiropractic doctor" or "chiropractic~~
31 ~~physician" in any sign or advertising media.~~

32 ~~19. Using physical medicine modalities and therapeutic procedures~~
33 ~~without passing an examination in that subject and without being certified~~
34 ~~in that specialty by the board.~~

35 ~~20. Using acupuncture without passing an examination in that subject~~
36 ~~and without being certified in that specialty by the board.~~

37 ~~21. Engaging in sexual intercourse or oral sexual contact with a~~
38 ~~patient in the course of treatment.~~

39 ~~22. Billing or otherwise charging a patient or third-party payor for~~
40 ~~services, appliances, tests, equipment, an x-ray examination or other~~
41 ~~procedures not actually provided.~~

42 ~~23. Intentionally misrepresenting to or omitting a material fact~~
43 ~~from the patient or third-party payor concerning charges, services,~~
44 ~~appliances, tests, equipment, an x-ray examination or other procedures~~
45 ~~offered or provided.~~

1 ~~24. Advertising chiropractic services, appliances, tests, equipment,~~
2 ~~x-ray examinations or other procedures for a specified price without also~~
3 ~~specifying the services, procedures or items included in the advertised~~
4 ~~price.~~

5 ~~25. Advertising chiropractic services, appliances, tests, equipment,~~
6 ~~x-ray examinations or other procedures as free without also disclosing~~
7 ~~what services or items are included in the advertised service or item.~~

8 ~~26. Billing or charging a patient or third-party payor a higher~~
9 ~~price than the advertised price in effect at the time the services,~~
10 ~~appliances, tests, equipment, x-ray examinations or other procedures were~~
11 ~~provided.~~

12 ~~27. Advertising a specialty or procedure that requires a separate~~
13 ~~examination or certificate of specialty, unless the licensee has satisfied~~
14 ~~the applicable requirements of this chapter.~~

15 ~~28. Solicitation by the licensee or by the licensee's compensated~~
16 ~~agent of any person who is not previously known by the licensee or the~~
17 ~~licensee's agent, and who at the time of the solicitation is vulnerable to~~
18 ~~undue influence, including any person known to have experienced any of the~~
19 ~~following within the last fifteen days:~~

20 ~~(a) Involvement in a motor vehicle accident.~~

21 ~~(b) Involvement in a work-related accident.~~

22 ~~(c) Injury by, or as the result of actions of, another person.~~

23 ~~B.~~ A. The board on its own motion or on receipt of a complaint may
24 investigate any information that appears to show that a doctor of
25 chiropractic is or may be in violation of this chapter or board rules or
26 is or may be mentally or physically unable to safely engage in the
27 practice of chiropractic. The board shall notify the licensee as to the
28 content of the complaint as soon as is reasonable. Any person who reports
29 or provides information to the board in good faith is not subject to civil
30 damages as a result of that action.

31 ~~C.~~ B. The board may require a licensee WHO IS under investigation
32 pursuant to this section to be interviewed by the board or its
33 representatives. The board may require a licensee who is under
34 investigation pursuant to this section to undergo, at the licensee's
35 expense, any combination of medical, physical or mental examinations that
36 the board finds necessary to determine the licensee's competence.

37 ~~D.~~ C. If the board finds based on the information it receives
38 under subsections ~~B~~ A and ~~C~~ B of this section that the public health,
39 safety or welfare imperatively requires emergency action, and
40 incorporates a finding to that effect in its order, the board may order a
41 summary suspension of a license pending proceedings for revocation or
42 other action. If the board takes this action, ~~it~~ THE BOARD shall also
43 serve the licensee with a written notice that states the charges and that
44 the licensee is entitled to a formal hearing within sixty days.

1 D. IF THE BOARD RECEIVES A COMPLAINT FROM A PATIENT RELATING TO THE
2 IMPROPER SEXUAL CONDUCT OF A LICENSEE, THE BOARD SHALL COMPLETE ITS
3 INVESTIGATION AND INITIAL REVIEW WITHIN SIXTY DAYS AFTER THE COMPLAINT IS
4 FILED. IF THE BOARD DETERMINES A FORMAL HEARING IS REQUIRED, A FINAL
5 DECISION SHALL BE MADE WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE COMPLAINT
6 IS FILED.

7 E. If, after completing its investigation, the board finds that the
8 information provided pursuant to this section is not of sufficient
9 seriousness to merit disciplinary action against the licensee, ~~††~~ THE
10 BOARD may take any of the following actions:

11 1. Dismiss the complaint if in the board's opinion the information
12 is without merit or does not warrant sanction of the licensee.

13 2. Issue an advisory letter. An advisory letter is a
14 nondisciplinary action and is a public document.

15 3. Issue a nondisciplinary order requiring the licensee to complete
16 a prescribed number of hours of continuing education in an area or areas
17 prescribed by the board to provide the licensee with the necessary
18 understanding of current developments, skills, procedures or treatment.
19 ~~Failure to complete a nondisciplinary order requiring continuing education~~
20 ~~is a violation of subsection A, paragraph 16 of this section.~~

21 F. The board may request a formal interview with the licensee
22 concerned. At a formal interview the board may receive and consider
23 pertinent documents and sworn statements of persons who may be called as
24 witnesses in a formal hearing. THE BOARD MAY NOT SUBPOENA INFORMATION
25 RELATED TO A LICENSEE'S PERSONAL FINANCES. Legal counsel may be present
26 and participate in the formal interview. If the licensee refuses the
27 request or if the licensee accepts the request and the results of the
28 interview indicate suspension or revocation of the license may be in
29 order, the board shall issue a complaint and order that a hearing be held
30 pursuant to title 41, chapter 6, article 10. If, after the formal
31 interview, the board finds that the information provided pursuant to this
32 section is true but is not of sufficient seriousness to merit suspension
33 or revocation of the license, ~~††~~ THE BOARD may take any of the following
34 actions:

35 1. Dismiss the complaint if in the board's opinion the information
36 is without merit or does not warrant sanction of the licensee.

37 2. Issue an advisory letter. An advisory letter is a
38 nondisciplinary action and is a public document.

39 3. Issue an order to cease and desist.

40 4. Issue a letter of concern.

41 5. Issue an order of censure. An order of censure is an official
42 action against the licensee and may include a requirement for restitution
43 of fees to a patient resulting from a violation of this chapter or board
44 rules.

1 6. Fix a period and terms of probation best adapted to protect the
2 public health and safety and to rehabilitate or educate the licensee. Any
3 costs incidental to the terms of probation are at the licensee's own
4 expense. Probation may include restrictions on the licensee's license to
5 practice chiropractic.

6 7. Impose a civil penalty of not more than ~~one thousand dollars~~
7 \$1,000 for each violation of this chapter.

8 8. Refuse to renew a license.

9 9. Issue a disciplinary or nondisciplinary order requiring the
10 licensee to complete a prescribed number of hours of continuing education
11 in an area or areas prescribed by the board to provide the licensee with
12 the necessary understanding of current developments, skills, procedures or
13 treatment.

14 G. THE BOARD MAY REQUEST AN EXTENSION OF TIME TO INVESTIGATE A
15 LICENSEE IF EITHER OF THE FOLLOWING APPLIES:

16 1. THE COMPLAINT RELATES TO THE IMPROPER SEXUAL CONDUCT OF A
17 LICENSEE.

18 2. BOTH OF THE FOLLOWING APPLY:

19 (a) THE LICENSEE AGREES TO THE PROPOSED EXTENSION.

20 (b) THE BOARD HAS DILIGENTLY PURSUED AN INVESTIGATION WITHIN THE
21 TIME FRAME PURSUANT TO THIS CHAPTER FOR COMPLAINTS INVOLVING ALLEGATIONS
22 OR VIOLATIONS OF UNPROFESSIONAL CONDUCT OR MALPRACTICE THAT IMPLICATES
23 PATIENT SAFETY.

24 H. UNLESS THE BOARD IS GRANTED AN EXTENSION OF TIME PURSUANT TO
25 THIS SECTION, FOR COMPLAINTS THAT ARE NOT RELATED TO THE IMPROPER SEXUAL
26 CONDUCT OF A LICENSEE, AN INVESTIGATION AND INITIAL REVIEW OF A COMPLAINT
27 SHALL BE COMPLETED WITHIN NINETY DAYS AFTER THE COMPLAINT IS FILED. IF THE
28 BOARD DETERMINES A FORMAL HEARING IS REQUIRED, A FINAL DECISION SHALL BE
29 MADE WITHIN TWO HUNDRED TWENTY DAYS AFTER THE COMPLAINT IS FILED.

30 ~~G.~~ I. If the board believes the charge is of such magnitude as to
31 warrant suspension or revocation of the license, the board shall
32 immediately initiate formal revocation or suspension proceedings pursuant
33 to title 41, chapter 6, article 10. The board shall notify a licensee of
34 a complaint and hearing by certified mail addressed to the licensee's last
35 known address on record in the board's files. The notice of a complaint
36 and hearing is effective on the date of its deposit in the mail. The
37 board shall hold a formal hearing within one hundred eighty days after
38 that date.

39 ~~H.~~ J. If the licensee wishes to be present at the formal hearing
40 in person or by representation, or both, the licensee shall file with the
41 board a written answer to the charges in the complaint. A licensee who
42 has been notified of a complaint pursuant to this section shall file with
43 the board a written response not more than twenty days after service of
44 the complaint and the notice of hearing. If the licensee fails to file an
45 answer in writing, it is deemed an admission of the act or acts charged in

1 the complaint and notice of hearing and the board may take disciplinary
2 action pursuant to this chapter without a hearing.

3 ~~F.~~ K. Any licensee who, after a hearing, is found to be in
4 violation of this chapter or board rules or is found to be mentally or
5 physically unable to safely engage in the practice of chiropractic is
6 subject to any combination of those disciplinary actions identified in
7 subsection F of this section or suspension or revocation of the license.
8 In addition, the board may order the licensee to pay restitution or all
9 costs incurred in the course of the investigation and formal hearing in
10 the matter, or both.

11 L. IF THE BOARD IS FOUND TO HAVE ACTED CAPRICIOUSLY AGAINST A
12 LICENSEE WITHOUT MERIT AND IN VIOLATION OF THIS CHAPTER, THE RULES ADOPTED
13 PURSUANT TO THIS CHAPTER OR THE BOARD'S POLICIES OR PROCEDURES, THE
14 LICENSEE IS ENTITLED TO RESTITUTION FOR ALL COSTS INCURRED RELATING TO THE
15 MATTER IN THE COURSE OF THE INVESTIGATION AND FORMAL HEARING PROCESS, OR
16 BOTH.

17 ~~G.~~ M. The board shall report allegations of evidence of criminal
18 wrongdoing to the appropriate criminal justice agency IMMEDIATELY AFTER
19 REVIEWING THE COMPLAINT.

20 ~~H.~~ N. The board may accept the surrender of an active license from
21 a licensee who admits in writing to having violated this chapter or board
22 rules.

23 ~~I.~~ O. For the purposes of this section, "solicitation" includes
24 contact in person, by telephone, ~~telegraph~~ or ~~telefacsimile~~ FAX or by
25 other communication directed to a specific recipient and includes any
26 written form of communication directed to a specific recipient.

27 Sec. 7. Section 32-929, Arizona Revised Statutes, is amended to
28 read:

29 32-929. Right to examine and copy evidence; summoning
30 witnesses and documents; taking testimony; right to
31 counsel; court orders; confidentiality

32 A. EXCEPT AS PROVIDED IN SECTION 32-924, SUBSECTION F, in
33 connection with an investigation by the board on its own motion, the board
34 or its duly authorized agents or employees shall at all reasonable times
35 have access to, for the purpose of examination, and the right to copy any
36 documents, reports, records or any other physical evidence of any person
37 being investigated, or the reports, records and any other documents
38 maintained by and in possession of any hospital, clinic, physician's
39 office, laboratory, pharmacy or any other public or private agency, and
40 any health care institution as defined in section 36-401, if such
41 documents, reports, records or evidence relate to chiropractic competence,
42 unprofessional conduct or the mental or physical ability of a doctor of
43 chiropractic to safely practice chiropractic.

1 B. For the purpose of all investigations and proceedings conducted
2 by the board:

3 1. EXCEPT AS PROVIDED IN SECTION 32-924, SUBSECTION F, the board on
4 its own initiative, or ~~upon~~ ON application of any person involved in the
5 investigation, may issue subpoenas compelling the attendance and testimony
6 of witnesses, ~~or~~ demanding the production for examination or copying of
7 documents or any other physical evidence if such evidence relates to
8 chiropractic competence, unprofessional conduct or the mental or physical
9 ability of a doctor of chiropractic to safely practice chiropractic.
10 Within five days after the service of a subpoena on any person requiring
11 the production of any evidence in ~~his~~ THE PERSON'S possession or under ~~his~~
12 THE PERSON'S control, ~~such~~ THE person may petition the board to revoke,
13 limit or modify the subpoena. The board shall revoke, limit or modify
14 such A subpoena if in its opinion the evidence required does not relate to
15 unlawful practices covered by this chapter, is not relevant to the charge
16 ~~which~~ THAT is the subject matter of the hearing or investigation or does
17 not describe with sufficient particularity the physical evidence whose
18 production is required.

19 2. Any person appearing before the board may be represented by
20 counsel.

21 3. The superior court, ~~upon~~ ON application by the board or by the
22 person subpoenaed, shall have jurisdiction to issue an order either:

23 (a) Requiring ~~such~~ THE person to appear before the board or the
24 duly authorized agent to produce evidence relating to the matter under
25 investigation.

26 (b) Revoking, limiting or modifying the subpoena if in the court's
27 opinion the evidence demanded does not relate to unlawful practices
28 covered by this chapter, is not relevant to the grounds for censure,
29 suspension, revocation, fines or refusal to issue a license pursuant to
30 section 32-924 ~~which~~ THAT is the subject matter of the hearing or
31 investigation, or does not describe with sufficient particularity the
32 evidence whose production is required. Any failure to obey such AN order
33 of the court may be punished by ~~such~~ THE court as contempt.

34 C. Patient records, including clinical records, medical reports,
35 laboratory statements and reports, any file, film, any other report or
36 oral statement relating to examinations, findings or treatment of
37 patients, any information from which a patient or ~~his~~ THE PATIENT'S family
38 might be identified or information received and records kept by the board
39 as a result of the investigation procedure outlined in this chapter are
40 not available to the public.

41 D. ~~Nothing in~~ This section ~~or~~ AND any other provision of law making
42 THAT MAKES communications between a DOCTOR OF chiropractic ~~physician~~ and
43 ~~his~~ THE DOCTOR OF CHIROPRACTIC'S patient a privileged communication
44 ~~applies~~ DO NOT APPLY to investigations or proceedings conducted pursuant
45 to this chapter. The board and its employees, agents and representatives

1 shall keep in confidence the names of any patients whose records are
2 reviewed during the course of investigations and proceedings pursuant to
3 this chapter.

4 Sec. 8. Section 32-934, Arizona Revised Statutes, is amended to
5 read:

6 32-934. Business entities; registration; fees; medical
7 records protocol; civil penalty; exemptions;
8 violation; classification

9 A. A business entity may not offer chiropractic services pursuant
10 to this chapter unless:

11 1. The entity is registered with the board pursuant to this section
12 and rules adopted pursuant to this chapter.

13 2. The services are conducted by a doctor of chiropractic ~~who is~~
14 ~~licensed pursuant to this chapter.~~

15 B. The business entity must file a registration application and pay
16 a fee as prescribed by the board by rule.

17 C. Registration expires on June 1 of each year. A business entity
18 that wishes to renew a registration must submit an application for renewal
19 as prescribed by the board on an annual basis before the expiration date
20 and pay a renewal fee as prescribed by the board by rule. The board shall
21 prorate the renewal fee for the first year registration renewal based on
22 the first day of the month that the business entity was registered with
23 the board. An entity that fails to renew the registration before the
24 expiration date is subject to a late fee as prescribed by the board by
25 rule.

26 D. A business entity must notify the board in writing within thirty
27 days after any change:

28 1. In the entity's name, address or telephone number.

29 2. In the entity's officers or directors.

30 3. In the name of any doctor of chiropractic who is authorized to
31 provide and who is responsible for providing or supervising the provision
32 of chiropractic services in any facility.

33 E. The board shall impose a civil penalty as prescribed by the
34 board by rule on a business entity that does not notify the board as
35 required by subsection D of this section.

36 F. A business entity must comply with this chapter and board rules.

37 G. A business entity must establish a written protocol for the
38 secure storage, transfer and access of the medical records of the business
39 entity's patients. This protocol must include, at a minimum, procedures
40 for:

41 1. Notifying patients of the future locations of their records if
42 the business entity terminates or sells the practice.

43 2. Disposing of unclaimed medical records.

44 3. The timely response to requests by patients or their
45 representatives for copies of their records.

1 H. A business entity must notify the board within thirty days after
2 the entity's dissolution or the closing or relocation of any facility and
3 must disclose to the board the entity's procedure by which its patients
4 may obtain their records.

5 I. The board may impose discipline consistent with this chapter if
6 an entity violates any statute or board rule.

7 J. The board shall deposit, pursuant to sections 35-146 and 35-147,
8 civil penalties collected pursuant to this section in the state general
9 fund.

10 K. This section does not apply to:

11 1. A facility OR BUSINESS ENTITY, PARTNERSHIP OR OTHER FORM OF
12 BUSINESS, THE MAJORITY OWNERSHIP OF WHICH IS owned by a person who is
13 licensed pursuant to this chapter.

14 2. A sole proprietorship or partnership that consists of persons
15 who are licensed pursuant to this chapter.

16 3. A professional corporation or professional limited liability
17 company, the shares of which are owned by persons who are licensed
18 pursuant to this chapter.

19 4. An administrator or executor of the estate of a deceased doctor
20 of chiropractic or a person who is legally authorized to act for a doctor
21 of chiropractic who has been adjudicated to be mentally incompetent for
22 not more than one year after the date of the doctor of chiropractic's
23 death or incapacitation.

24 5. A health care institution that is licensed pursuant to title 36.

25 6. A health professional who is not licensed pursuant to this
26 chapter but who acts within the scope of practice as prescribed by the
27 health professional's regulatory board.

28 L. A BUSINESS ENTITY THAT IS EXEMPT PURSUANT TO SUBSECTION K OF
29 THIS SECTION MAY SUBMIT BILLS UNDER THE CONTROLLING LICENSEE'S INDIVIDUAL
30 NAME OR THE BUSINESS ENTITY'S NAME WITHOUT NOTIFICATION TO THE BOARD.

31 ~~L.~~ M. A business entity that offers chiropractic services pursuant
32 to this chapter without complying with the registration requirements of
33 this section is guilty of a class 6 felony.

34 Sec. 9. Legislative intent

35 A. The legislature intends to correct the state board of
36 chiropractic examiners' failure to protect the health, welfare and safety
37 of the public through the enforcement of the laws governing the practice
38 of chiropractic prescribed by this legislative body.

39 B. The legislature intends for the state board of chiropractic
40 examiners to serve one purpose and one purpose only – to protect the
41 public from harm. All other issues beyond that one purpose can and should
42 be handled by the private sector or the appropriate state agency of which
43 has been prescribed that authority.

- 1 C. The legislature intends to further the following policies with
2 this act:
- 3 1. Recognize the existence of overlapping functions between the
4 statutes directing the state board of chiropractic examiners on how to
5 conduct public business and that of other state agencies.
 - 6 2. Restore the original legislative purpose for creating the state
7 board of chiropractic examiners.
 - 8 3. Eliminate arbitrary investigations that are not within the scope
9 or authority of the state board of chiropractic examiners.
 - 10 4. Eliminate the abuse of power and misuse of public monies by the
11 state board of chiropractic examiners.
 - 12 5. Reassert that policies and procedures must be followed that
13 require any allegations of evidence of criminal wrongdoing be reported to
14 the appropriate criminal justice agency.