

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1405

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

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

1 the supervision of a doctor of chiropractic and who performs delegated
2 duties commensurate with the chiropractic assistant's education and
3 training but who does not evaluate, interpret, design or modify established
4 treatment programs of chiropractic care or violate any statute.

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

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

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

10 8. "PATIENT SAFETY":

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

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

16 ~~7.~~ 9. "Physical medicine modalities" means any physical agent
17 applied to produce therapeutic change to biologic tissues, including
18 thermal, acoustic, noninvasive light, mechanical or electric energy, hot or
19 cold packs, ultrasound, galvanism, microwave, diathermy and electrical
20 stimulation.

21 ~~8.~~ 10. "Therapeutic procedures" means the application of clinical
22 skills and services, including therapeutic exercise, therapeutic
23 activities, manual therapy techniques, massage and structural supports, to
24 improve a patient's neuromusculoskeletal condition.

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

27 32-900.01. Unprofessional conduct

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

31 1. FAILING TO DISCLOSE, IN WRITING, TO A PATIENT OR A THIRD-PARTY
32 PAYOR THAT THE LICENSEE HAS A FINANCIAL INTEREST IN A DIAGNOSTIC OR

1 TREATMENT FACILITY, TEST, GOOD OR SERVICE WHEN REFERRING A PATIENT FOR A
2 PRESCRIBED DIAGNOSTIC TEST, TREATMENT, GOOD OR SERVICE AND THAT THE
3 DIAGNOSTIC TEST, TREATMENT, GOOD OR SERVICE IS AVAILABLE ON A COMPETITIVE
4 BASIS FROM ANOTHER HEALTH CARE PROVIDER. THIS PARAGRAPH DOES NOT APPLY TO
5 A REFERRAL BY ONE LICENSEE TO ANOTHER WITHIN A GROUP OF LICENSEES WHO
6 PRACTICE TOGETHER. THIS PARAGRAPH APPLIES REGARDLESS OF WHETHER THE
7 REFERRED SERVICE IS PROVIDED AT THE LICENSEE'S PLACE OF PRACTICE OR AT
8 ANOTHER LOCATION.

9 2. KNOWINGLY MAKING A FALSE OR MISLEADING STATEMENT TO A PATIENT OR
10 A THIRD-PARTY PAYOR.

11 3. KNOWINGLY MAKING A FALSE OR MISLEADING STATEMENT, PROVIDING FALSE
12 OR MISLEADING INFORMATION OR OMITTING MATERIAL INFORMATION IN ANY ORAL OR
13 WRITTEN COMMUNICATION, INCLUDING ATTACHMENTS, TO THE BOARD, BOARD STAFF OR
14 A BOARD REPRESENTATIVE OR ON ANY FORM REQUIRED BY THE BOARD.

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

17 5. FAILING TO CREATE AN ADEQUATE PATIENT RECORD THAT INCLUDES THE
18 PATIENT'S HEALTH HISTORY, A CLINICAL IMPRESSION, EXAMINATION FINDINGS,
19 DIAGNOSTIC RESULTS, X-RAY FILMS OR DIGITAL IMAGING IF TAKEN, X-RAY OR
20 DIGITAL IMAGING REPORTS, A TREATMENT PLAN, NOTES FOR EACH PATIENT VISIT AND
21 A BILLING RECORD. THE NOTES FOR EACH PATIENT VISIT SHALL INCLUDE THE
22 PATIENT'S NAME, THE DATE OF SERVICE, THE DOCTOR OF CHIROPRACTIC'S FINDINGS,
23 ALL SERVICES RENDERED AND THE NAME OR INITIALS OF THE DOCTOR OF
24 CHIROPRACTIC WHO PROVIDED SERVICES TO THE PATIENT.

25 6. FAILING TO MAINTAIN THE INFORMATION REQUIRED BY PARAGRAPH 5 OF
26 THIS SUBSECTION FOR A PATIENT FOR AT LEAST SIX YEARS AFTER THE LAST
27 TREATMENT DATE OR, FOR A MINOR, SIX YEARS AFTER THE MINOR'S EIGHTEENTH
28 BIRTHDAY OR FAILING TO PROVIDE WRITTEN NOTICE TO THE BOARD ABOUT HOW TO
29 ACCESS THE PATIENT RECORDS OF A CHIROPRACTIC PRACTICE THAT IS CLOSED BY
30 PROVIDING, AT A MINIMUM, THE PHYSICAL ADDRESS, TELEPHONE NUMBER AND FULL
31 NAME OF A PERSON WHO CAN BE CONTACTED REGARDING WHERE THE RECORDS ARE

1 MAINTAINED FOR AT LEAST SIX YEARS AFTER EACH PATIENT'S LAST TREATMENT DATE
2 OR THE MINOR PATIENT'S EIGHTEENTH BIRTHDAY.

3 7. FAILING TO DO ANY OF THE FOLLOWING:

4 (a) RELEASE A COPY OF ALL REQUESTED PATIENT RECORDS AS PRESCRIBED IN
5 PARAGRAPH 5 OF THIS SUBSECTION, INCLUDING THE ORIGINAL OR A DIAGNOSTIC
6 QUALITY RADIOGRAPHIC COPY OF X-RAYS OR DIGITAL IMAGING, TO ANOTHER LICENSED
7 PHYSICIAN, THE PATIENT OR THE PATIENT'S AUTHORIZED AGENT WITHIN TEN
8 BUSINESS DAYS AFTER THE RECEIPT OF A WRITTEN REQUEST TO DO SO. THIS
9 SUBDIVISION DOES NOT REQUIRE THE RELEASE OF A PATIENT'S BILLING RECORD TO
10 ANOTHER LICENSED PHYSICIAN.

11 (b) RELEASE A COPY OF ANY SPECIFIED PORTION OR ALL OF A PATIENT'S
12 BILLING RECORD TO THE PATIENT OR THE PATIENT'S AUTHORIZED AGENT WITHIN TEN
13 BUSINESS DAYS AFTER THE RECEIPT OF A WRITTEN REQUEST TO DO SO.

14 (c) IN THE CASE OF A PATIENT OR A PATIENT'S AUTHORIZED AGENT WHO HAS
15 VERBALLY REQUESTED THE PATIENT RECORD, PROVIDE THE PATIENT RECORD.

16 (d) RETURN ORIGINAL X-RAYS OR DIGITAL IMAGING TO A LICENSED
17 PHYSICIAN WITHIN TEN BUSINESS DAYS AFTER A WRITTEN REQUEST TO DO SO.

18 (e) PROVIDE COPIES OF PATIENT RECORDS TO ANOTHER LICENSED PHYSICIAN,
19 THE PATIENT OR THE PATIENT'S AUTHORIZED AGENT FREE OF CHARGE IN VIOLATION
20 OF TITLE 12, CHAPTER 13, ARTICLE 7.1.

21 8. REPRESENTING THAT THE LICENSEE HAS CERTIFICATION IN A SPECIALTY
22 AREA IN WHICH THE LICENSEE DOES NOT HAVE CERTIFICATION OR HAS ACADEMIC OR
23 PROFESSIONAL CREDENTIALS THAT THE LICENSEE DOES NOT HAVE.

24 9. FAILING TO PROVIDE TO A PATIENT ON REQUEST DOCUMENTATION OF BEING
25 CERTIFIED BY THE BOARD IN A SPECIALTY AREA OR THE LICENSEE'S ACADEMIC
26 CERTIFICATION, DEGREE OR PROFESSIONAL CREDENTIALS.

27 10. PRACTICING OR BILLING FOR SERVICES UNDER ANY NAME OTHER THAN THE
28 NAME BY WHICH THE DOCTOR OF CHIROPRACTIC IS LICENSED BY THE BOARD,
29 INCLUDING CORPORATE, BUSINESS OR OTHER LICENSED HEALTH CARE PROVIDERS'
30 NAMES WITHOUT FIRST NOTIFYING THE BOARD IN WRITING.

31 11. SUGGESTING OR HAVING SEXUAL CONTACT, AS DEFINED IN SECTION
32 13-1401, IN THE COURSE OF PATIENT TREATMENT OR WITHIN THREE MONTHS AFTER

1 THE LAST CHIROPRACTIC EXAMINATION, TREATMENT OR CONSULTATION WITH AN
2 INDIVIDUAL WITH WHOM A CONSENSUAL SEXUAL RELATIONSHIP DID NOT EXIST BEFORE
3 THE CHIROPRACTIC PATIENT RELATIONSHIP WAS ESTABLISHED.

4 12. INTENTIONALLY VIEWING A COMPLETELY OR PARTIALLY DISROBED PATIENT
5 IN THE COURSE OF AN EXAMINATION OR TREATMENT IF THE VIEWING IS NOT RELATED
6 TO THE PATIENT'S COMPLAINT, DIAGNOSES OR TREATMENT UNDER CURRENT PRACTICE
7 STANDARDS.

8 13. INTENTIONALLY MISREPRESENTING THE EFFECTIVENESS OF A TREATMENT,
9 DIAGNOSTIC TEST OR DEVICE.

10 14. PENETRATING A PATIENT'S RECTUM BY A RECTAL PROBE OR DEVICE FOR
11 THE ADMINISTRATION OF ULTRASOUND, DIATHERMY OR OTHER MODALITIES.

12 15. USING IONIZING RADIATION IN VIOLATION OF SECTION 32-2811.

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

15 (a) OBTAINING WRITTEN INFORMED CONSENT FROM THE PATIENT BEFORE THE
16 DIAGNOSTIC TEST OR TREATMENT, INCLUDING DISCLOSING TO THE PATIENT RESEARCH
17 PROTOCOLS, CONTRACTS THE LICENSEE HAS WITH RESEARCHERS, IF APPLICABLE, AND
18 INFORMATION ON THE INSTITUTIONAL REVIEW COMMITTEE USED TO ESTABLISH PATIENT
19 PROTECTION.

20 (b) CONFORMING TO GENERALLY ACCEPTED RESEARCH OR EXPERIMENTAL
21 CRITERIA, INCLUDING FOLLOWING PROTOCOLS, MAINTAINING DETAILED RECORDS,
22 PERIODIC ANALYSIS OF RESULTS AND PERIODIC REVIEW BY A PEER REVIEW
23 COMMITTEE.

24 17. HAVING A PROFESSIONAL CONNECTION WITH AN ILLEGAL PRACTITIONER OF
25 CHIROPRACTIC, MISREPRESENTING ONESELF AS A CURRENT OR PAST BOARD MEMBER, A
26 BOARD STAFF MEMBER OR A BOARD CHIROPRACTIC CONSULTANT OR CLAIMING
27 PROFESSIONAL SUPERIORITY IN THE PRACTICE OF CHIROPRACTIC UNDER SECTION
28 32-925.

29 18. VIOLATING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
30 ACT.

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

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

6 21. HAVING AN ACTION TAKEN AGAINST A PROFESSIONAL LICENSE IN ANOTHER
7 JURISDICTION, HAVING ANY LIMITATION OR RESTRICTION PLACED ON THE LICENSE,
8 HAVING THE LICENSE PLACED ON PROBATION OR SUSPENSION OR BEING REVOKED OR
9 SURRENDERED AS A DISCIPLINARY MEASURE OR HAVING A LICENSE APPLICATION OR
10 LICENSE RENEWAL DENIED FOR A REASON RELATED TO UNPROFESSIONAL CONDUCT.

11 22. DIRECTLY OR INDIRECTLY DIVIDING A PROFESSIONAL FEE FOR PATIENT
12 REFERRALS AMONG HEALTH CARE PROVIDERS OR HEALTH CARE INSTITUTIONS OR
13 BETWEEN PROVIDERS AND INSTITUTIONS OR ENTERING INTO A CONTRACTUAL
14 ARRANGEMENT TO THAT EFFECT. THIS PARAGRAPH DOES NOT PROHIBIT THE MEMBERS
15 OF ANY REGULARLY AND PROPERLY ORGANIZED BUSINESS ENTITY RECOGNIZED BY LAW
16 FROM DIVIDING FEES RECEIVED FOR PROFESSIONAL SERVICES AMONG THEMSELVES AS
17 THEY DETERMINE.

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

20 24. FILING AN ANONYMOUS COMPLAINT AGAINST ANOTHER LICENSEE.

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

26 (a) INVOLVEMENT IN A MOTOR VEHICLE ACCIDENT.

27 (b) INVOLVEMENT IN A WORK-RELATED ACCIDENT.

28 (c) INJURY BY, OR AS A RESULT OF ACTIONS OF, ANOTHER PERSON.

29 B. THE BOARD MAY NOT ADOPT RULES THAT ALTER OR AMEND UNPROFESSIONAL
30 CONDUCT AS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

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

3 32-905. Executive director of board; duties; other personnel;
4 immunity

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

8 B. The executive director shall:

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

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

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

13 4. Prepare bills for authorized expenditures of the board and obtain
14 warrants from the director of the department of administration for payment
15 of bills.

16 5. Administer oaths.

17 6. Act as custodian of the seal, books, minutes, records and
18 proceedings of the board.

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

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

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

27 10. PREPARE AND MAINTAIN A DISCIPLINE MATRIX FOR USE BY THE BOARD TO
28 ENSURE THAT ALL LICENSEES ARE TREATED CONSISTENTLY, TO THE BEST OF THE
29 BOARD'S ABILITY, BASED ON THE SPECIFIC ALLEGATIONS AT ISSUE, WHEN THE BOARD
30 CONTEMPLATES IMPOSING ANY FORM OF DISCIPLINE. THE MATRIX SHALL BRIEFLY
31 OUTLINE MATERIAL FACTS OF ALL PAST CASES IN WHICH DISCIPLINE WAS IMPOSED
32 WITHOUT IDENTIFYING ANY SPECIFIC LICENSEE OR COMPLAINANT OTHER THAN BY

1 POTENTIAL FILE NUMBER OR OTHER REFERENCE AND SPECIFY THE LEVEL OF
2 DISCIPLINE IMPOSED. THE MATRIX SHALL BE AVAILABLE TO ANY LICENSEE AGAINST
3 WHOM A COMPLAINT HAS BEEN FILED AND A FORMAL INVESTIGATION HAS BEEN OPENED,
4 INCLUDING THE LICENSEE'S COUNSEL.

5 11. CONSISTENT WITH THIS CHAPTER, CLASSIFY COMPLAINTS ON SUBMISSION
6 TO THE BOARD ACCORDING TO THE POLICIES ADOPTED BY THE BOARD THAT PRIORITIZE
7 THE ALLOCATION OF BOARD RESOURCES AND THE INVESTIGATION AND ADJUDICATION OF
8 COMPLAINTS.

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

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

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

17 32-921. Application for license; qualifications of applicant;
18 fee; background investigations

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

23 B. To be eligible for an examination and licensure, the applicant
24 shall:

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

26 (a) Is accredited by or has status with the council on chiropractic
27 education or is accredited by an accrediting agency recognized by the
28 United States department of education or the council on postsecondary
29 accreditation.

30 (b) Teaches a resident course of four years of not less than nine
31 months each year, or the equivalent of thirty-six months of continuous
32 study, and that comprises not less than four thousand credit hours of

1 resident study required to receive a degree of doctor of chiropractic
2 (D.C.).

3 2. Be physically and mentally able to practice chiropractic
4 skillfully and safely.

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

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

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

12 2. Has had a license to practice chiropractic refused, revoked,
13 suspended or restricted by a regulatory board in this or any other
14 jurisdiction for any act that constitutes unprofessional conduct pursuant
15 to this chapter.

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

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

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

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

29 E. In order to determine an applicant's eligibility for examination
30 and licensure, the board ~~may~~ SHALL require the applicant to submit a full
31 set of fingerprints to the board. The board shall submit the fingerprints
32 to the department of public safety for the purpose of obtaining a state and

1 federal criminal records check pursuant to section 41-1750 and Public Law
2 92-544. The department of public safety may exchange this fingerprint data
3 with the federal bureau of investigation. The board shall charge each
4 applicant a fee that is necessary to cover the cost of the
5 investigation. The board shall forward this fee to the department of
6 public safety.

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

9 32-923. Change of address; annual renewal fee; failure to
10 renew; waivers; definition

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

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

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

31 D. The board may reinstate a license if the person completes an
32 application for reinstatement as prescribed by the board, complies with the

1 continuing education requirements for each year that the license was
2 suspended, pays the annual renewal license fee for each year that the
3 license was suspended and pays an additional fee of \$200. An applicant who
4 does not request reinstatement within two years after the date of
5 suspension shall apply for a license as a new candidate pursuant to section
6 32-921 or 32-922.01.

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

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

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

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

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

28 32-924. Investigations; initial review; hearing; time frames;
29 civil penalty; definition

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

32 ~~1. Employment of fraud or deception in securing a license.~~

- 1 ~~2. Practicing chiropractic under a false or assumed name.~~
- 2 ~~3. Impersonating another practitioner.~~
- 3 ~~4. Habitual use of alcohol, narcotics or stimulants to the extent of~~
4 ~~incapacitating the licensee for the performance of professional duties.~~
- 5 ~~5. Unprofessional or dishonorable conduct of a character likely to~~
6 ~~deceive or defraud the public or tending to discredit the profession.~~
- 7 ~~6. Conviction of a misdemeanor involving moral turpitude or of a~~
8 ~~felony.~~
- 9 ~~7. Gross malpractice, repeated malpractice or any malpractice~~
10 ~~resulting in the death of a patient.~~
- 11 ~~8. Representing that a manifestly incurable condition can be~~
12 ~~permanently cured, or that a curable condition can be cured within a stated~~
13 ~~time, if this is not true.~~
- 14 ~~9. Offering, undertaking or agreeing to cure or treat a condition by~~
15 ~~a secret means, method, device or instrumentality.~~
- 16 ~~10. Refusing to divulge to the board on demand the means, method,~~
17 ~~device or instrumentality used in the treatment of a condition.~~
- 18 ~~11. Giving or receiving or aiding or abetting the giving or~~
19 ~~receiving of rebates, either directly or indirectly.~~
- 20 ~~12. Acting or assuming to act as a member of the board if this is~~
21 ~~not true.~~
- 22 ~~13. Advertising in a false, deceptive or misleading manner.~~
- 23 ~~14. Having had a license refused, revoked or suspended by any other~~
24 ~~state or country, unless it can be shown that the action was not taken for~~
25 ~~reasons that relate to the ability to safely and skillfully practice~~
26 ~~chiropractic or to any act of unprofessional conduct.~~
- 27 ~~15. Any conduct or practice contrary to recognized standards in~~
28 ~~chiropractic or any conduct or practice that constitutes a danger to the~~
29 ~~health, welfare or safety of the patient or the public or any conduct,~~
30 ~~practice or condition that impairs the ability of the licensee to safely~~
31 ~~and skillfully practice chiropractic.~~

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

4 ~~17. Failing to sign the physician's name, wherever required, in any~~
5 ~~capacity as "chiropractic doctor", "chiropractic physician" or "doctor of~~
6 ~~chiropractic" or failing to use and affix the initials "D.C." after the~~
7 ~~physician's name.~~

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

11 ~~19. Using physical medicine modalities and therapeutic procedures~~
12 ~~without passing an examination in that subject and without being certified~~
13 ~~in that specialty by the board.~~

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

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

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

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

25 ~~24. Advertising chiropractic services, appliances, tests, equipment,~~
26 ~~x-ray examinations or other procedures for a specified price without also~~
27 ~~specifying the services, procedures or items included in the advertised~~
28 ~~price.~~

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

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

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

8 ~~28. Solicitation by the licensee or by the licensee's compensated~~
9 ~~agent of any person who is not previously known by the licensee or the~~
10 ~~licensee's agent, and who at the time of the solicitation is vulnerable to~~
11 ~~undue influence, including any person known to have experienced any of the~~
12 ~~following within the last fifteen days:~~

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

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

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

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

24 ~~C.~~ B. The board may require a licensee WHO IS under investigation
25 pursuant to this section to be interviewed by the board or its
26 representatives. The board may require a licensee who is under
27 investigation pursuant to this section to undergo, at the licensee's
28 expense, any combination of medical, physical or mental examinations that
29 the board finds necessary to determine the licensee's competence.

30 ~~D.~~ C. If the board finds based on the information it receives under
31 subsections ~~B~~ A and ~~C~~ B of this section that the public health, safety or
32 welfare imperatively requires emergency action, and incorporates a finding

1 to that effect in its order, the board may order a summary suspension of a
2 license pending proceedings for revocation or other action. If the board
3 takes this action, ~~it~~ THE BOARD shall also serve the licensee with a
4 written notice that states the charges and that the licensee is entitled to
5 a formal hearing within sixty days.

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

12 E. If, after completing its investigation, the board finds that the
13 information provided pursuant to this section is not of sufficient
14 seriousness to merit disciplinary action against the licensee, ~~it~~ THE BOARD
15 may take any of the following actions:

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

18 2. Issue an advisory letter. An advisory letter is a
19 nondisciplinary action and is a public document.

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

24 ~~Failure to complete a nondisciplinary order requiring continuing education~~
25 ~~is a violation of subsection A, paragraph 16 of this section.~~

26 F. The board may request a formal interview with the licensee
27 concerned. At a formal interview the board may receive and consider
28 pertinent documents and sworn statements of persons who may be called as
29 witnesses in a formal hearing. THE BOARD MAY NOT SUBPOENA INFORMATION
30 RELATED TO A LICENSEE'S PERSONAL FINANCES. Legal counsel may be present and
31 participate in the formal interview. If the licensee refuses the request
32 or if the licensee accepts the request and the results of the interview

1 indicate suspension or revocation of the license may be in order, the board
2 shall issue a complaint and order that a hearing be held pursuant to title
3 41, chapter 6, article 10. If, after the formal interview, the board finds
4 that the information provided pursuant to this section is true but is not
5 of sufficient seriousness to merit suspension or revocation of the license,

6 ~~it~~ THE BOARD may take any of the following actions:

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

9 2. Issue an advisory letter. An advisory letter is a
10 nondisciplinary action and is a public document.

11 3. Issue an order to cease and desist.

12 4. Issue a letter of concern.

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

17 6. Fix a period and terms of probation best adapted to protect the
18 public health and safety and to rehabilitate or educate the licensee. Any
19 costs incidental to the terms of probation are at the licensee's own
20 expense. Probation may include restrictions on the licensee's license to
21 practice chiropractic.

22 7. Impose a civil penalty of not more than ~~one thousand dollars~~
23 \$1,000 for each violation of this chapter.

24 8. Refuse to renew a license.

25 9. Issue a disciplinary or nondisciplinary order requiring the
26 licensee to complete a prescribed number of hours of continuing education
27 in an area or areas prescribed by the board to provide the licensee with
28 the necessary understanding of current developments, skills, procedures or
29 treatment.

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

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

3 2. BOTH OF THE FOLLOWING APPLY:

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

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

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

15 ~~G.~~ I. If the board believes the charge is of such magnitude as to
16 warrant suspension or revocation of the license, the board shall
17 immediately initiate formal revocation or suspension proceedings pursuant
18 to title 41, chapter 6, article 10. The board shall notify a licensee of a
19 complaint and hearing by certified mail addressed to the licensee's last
20 known address on record in the board's files. The notice of a complaint
21 and hearing is effective on the date of its deposit in the mail. The board
22 shall hold a formal hearing within one hundred eighty days after that date.

23 ~~H.~~ J. If the licensee wishes to be present at the formal hearing in
24 person or by representation, or both, the licensee shall file with the
25 board a written answer to the charges in the complaint. A licensee who has
26 been notified of a complaint pursuant to this section shall file with the
27 board a written response not more than twenty days after service of the
28 complaint and the notice of hearing. If the licensee fails to file an
29 answer in writing, it is deemed an admission of the act or acts charged in
30 the complaint and notice of hearing and the board may take disciplinary
31 action pursuant to this chapter without a hearing.

1 to, for the purpose of examination, and the right to copy any documents,
2 reports, records or any other physical evidence of any person being
3 investigated, or the reports, records and any other documents maintained by
4 and in possession of any hospital, clinic, physician's office, laboratory,
5 pharmacy or any other public or private agency, and any health care
6 institution as defined in section 36-401, if such documents, reports,
7 records or evidence relate to chiropractic competence, unprofessional
8 conduct or the mental or physical ability of a doctor of chiropractic to
9 safely practice chiropractic.

10 B. For the purpose of all investigations and proceedings conducted
11 by the board:

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

28 2. Any person appearing before the board may be represented by
29 counsel.

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

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

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

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

19 D. ~~Nothing in~~ This section ~~or~~ AND any other provision of law ~~making~~
20 THAT MAKES communications between a DOCTOR OF chiropractic ~~physician~~ and
21 ~~his~~ THE DOCTOR OF CHIROPRACTIC'S patient a privileged communication ~~applies~~
22 DO NOT APPLY to investigations or proceedings conducted pursuant to this
23 chapter. The board and its employees, agents and representatives shall
24 keep in confidence the names of any patients whose records are reviewed
25 during the course of investigations and proceedings pursuant to this
26 chapter.

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

29 32-934. Business entities; registration; fees; medical records
30 protocol; civil penalty; exemptions; violation;
31 classification

1 A. A business entity may not offer chiropractic services pursuant to
2 this chapter unless:

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

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

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

9 C. Registration expires on June 1 of each year. A business entity
10 that wishes to renew a registration must submit an application for renewal
11 as prescribed by the board on an annual basis before the expiration date
12 and pay a renewal fee as prescribed by the board by rule. The board shall
13 prorate the renewal fee for the first year registration renewal based on
14 the first day of the month that the business entity was registered with the
15 board. An entity that fails to renew the registration before the
16 expiration date is subject to a late fee as prescribed by the board by
17 rule.

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

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

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

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

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

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

29 G. A business entity must establish a written protocol for the
30 secure storage, transfer and access of the medical records of the business
31 entity's patients. This protocol must include, at a minimum, procedures
32 for:

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

3 2. Disposing of unclaimed medical records.

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

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

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

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

15 K. This section does not apply to:

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

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

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

24 4. An administrator or executor of the estate of a deceased doctor
25 of chiropractic or a person who is legally authorized to act for a doctor
26 of chiropractic who has been adjudicated to be mentally incompetent for not
27 more than one year after the date of the doctor of chiropractic's death or
28 incapacitation.

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

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

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

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

7 Sec. 9. Legislative intent

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

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

17 C. The legislature intends to further the following policies with
18 this act:

19 1. Recognize the existence of overlapping functions between the
20 statutes directing the state board of chiropractic examiners on how to
21 conduct public business and that of other state agencies.

22 2. Restore the original legislative purpose for creating the state
23 board of chiropractic examiners.

24 3. Eliminate arbitrary investigations that are not within the scope
25 or authority of the state board of chiropractic examiners.

26 4. Eliminate the abuse of power and misuse of public monies by the
27 state board of chiropractic examiners.

28 5. Reassert that policies and procedures must be followed that
29 require any allegations of evidence of criminal wrongdoing be reported to
30 the appropriate criminal justice agency."

31 Amend title to conform

JOSEPH CHAPLIK

1405CHAPLIK SE.docx
03/21/2024
04:33 PM
H: LG/ra