

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1175

AN ACT

AMENDING SECTIONS 32-2901, 32-2902, 32-2904, 32-2907, 32-2911, 32-2912, 32-2913, 32-2914, 32-2915, 32-2916, 32-2917, 32-2931, 32-2932, 32-2933, 32-2934, 32-2935, 32-2939, 32-2941 AND 32-2951, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2901, Arizona Revised Statutes, is amended to
3 read:

4 32-2901. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Acupuncture" means a medical therapy in which ailments are
7 diagnosed and treated by the specific application of needles, heat or
8 physical and electromagnetic impulses or currents to specific anatomic points
9 on the body through any of the following:

10 (a) The diagnosis and treatment of ailments according to the
11 systematic principles of traditional Asian medicine.

12 (b) The diagnosis and treatment of pain, neuromuscular disorders and
13 other ailments based on the body's biophysics and neuroanatomic structure.

14 (c) The use of devices to determine the biologic electrical response
15 pattern of acupuncture points as a guide to diagnose bodily ailments and to
16 guide the prescription of homeopathic substances, orthomolecular therapy or
17 pharmaceutical medicine.

18 2. "Adequate records" means legible medical records that contain at a
19 minimum sufficient information to identify the patient, support the
20 diagnosis, document the treatment, accurately describe the results, indicate
21 advice, cautionary warnings and informed consent discussions with the patient
22 and provide sufficient information for another licensed health care
23 practitioner to assume continuity of the patient's care and to continue or
24 modify the treatment plan.

25 3. "Approved internship" means that the applicant has completed
26 training in a hospital that was approved for internship, fellowship or
27 residency training by the council on medical education in hospitals of the
28 American medical association, the association of American medical colleges,
29 the royal college of physicians and surgeons of Canada, the American
30 osteopathic association or any board approved similar body in the United
31 States or Canada that approves hospitals for internship, fellowship or
32 residency training.

33 4. "Approved school of medicine":

34 (a) AS IT RELATES TO A PERSON WHO IS SEEKING LICENSURE PURSUANT TO
35 SECTION 32-2912, SUBSECTION A, means a school or college that offers a course
36 of study that on successful conclusion results in a degree of doctor of
37 medicine or doctor of osteopathy and that offers a course of study that is
38 approved or accredited by the association of American medical colleges, the
39 association of Canadian medical colleges, the American medical association,
40 the American osteopathic association or any board approved similar body in
41 the United States or Canada that accredits this course of study.

42 (b) AS IT RELATES TO A PERSON WHO IS SEEKING LICENSURE PURSUANT TO
43 SECTION 32-2912, SUBSECTION B, MEANS A SCHOOL OR COLLEGE THAT ON SUCCESSFUL
44 COMPLETION RESULTS IN A DEGREE OF DOCTOR OF HOMEOPATHY AND THAT IS APPROVED
45 OR ACCREDITED BY THE COUNCIL ON HOMEOPATHIC EDUCATION OR ANY BOARD APPROVED

1 SIMILAR BODY IN THE UNITED STATES OR CANADA THAT ACCREDITS THIS COURSE OF
2 STUDY.

3 5. "Board" means the board of homeopathic and integrated medicine
4 examiners.

5 6. "Chelation therapy" means an experimental medical therapy to
6 restore cellular homeostasis through the use of intravenous, metal-binding
7 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation
8 therapy is not an experimental therapy if it is used to treat heavy metal
9 poisoning.

10 7. "Controlled substance" means a drug or substance or a drug's or
11 substance's immediate precursor that is defined or listed in title 36,
12 chapter 27, article 2.

13 8. "Drug" means a medication or substance that is any of the
14 following:

15 (a) Recognized in the official compendia or for which standards or
16 specifications are prescribed in the official compendia.

17 (b) Intended for use in the diagnosis, cure, mitigation, treatment or
18 prevention of human diseases.

19 (c) Articles other than food that are intended to affect the structure
20 or function of the human body.

21 9. "Homeopathic medication" means a substance of animal, vegetable or
22 mineral origin that is prepared according to homeopathic pharmacology and
23 that is given usually in a homeopathic microdosage.

24 10. "Homeopathic microdosage" means a substance prepared so that it is
25 diluted from ten to the minus one to ten to the minus ten thousandth or
26 higher of its original concentration.

27 11. "Homeopathy" means a system of medicine that employs homeopathic
28 medication in accordance with the principle that a substance that produces
29 symptoms in a healthy person can cure those symptoms in an ill person.

30 12. "Immediate family" means a person's spouse, natural or adopted
31 children, parents and siblings and the natural or adopted children, parents
32 and siblings of the person's spouse.

33 13. "Letter of concern" means an advisory letter to notify a ~~physician~~
34 ~~LICENSEE~~ that, while there is insufficient evidence to support disciplinary
35 action, the board believes the ~~physician~~ ~~LICENSEE~~ should modify or eliminate
36 certain practices.

37 14. "Licensee" means a ~~homeopathic-physician~~ ~~PERSON WHO IS~~ licensed
38 ~~under~~ ~~PURSUANT TO~~ this chapter.

39 15. "Medical assistant" means an unlicensed person who has completed an
40 educational program approved by the board, who assists in a homeopathic
41 practice under the supervision of a doctor of homeopathy and who performs
42 delegated procedures commensurate with the assistant's education and training
43 but who does not diagnose, interpret, design or modify established treatment
44 programs or violate any statute.

1 16. "Medical incompetence" means the lack of sufficient medical
2 knowledge or skill by a licensee to a degree that is likely to endanger a
3 patient's health. Medical incompetence includes the range of knowledge
4 expected for basic licensure ~~PURSUANT TO THIS CHAPTER OR~~ as a medical or
5 osteopathic physician in any professional regulatory jurisdiction of the
6 United States and additional knowledge of homeopathic treatments and
7 modalities expected of ~~physicians~~ ~~PERSONS WHO ARE~~ licensed ~~under~~ ~~PURSUANT TO~~
8 this chapter.

9 17. "Minor surgery" means surgical procedures that are conducted by a
10 licensee ~~WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION A~~ in an
11 outpatient setting and that involve the removal or repair of lesions or
12 injuries to the skin, mucous membranes and subcutaneous tissues, the use of
13 topical, local or regional anesthetic agents, the treatment by stabilizing or
14 casting nondisplaced and uncomplicated fractures of the extremities and
15 diagnostic endoscopies of the intestinal tract, nasopharynx and vagina.
16 Minor surgery also includes diagnostic aspiration of joints and subcutaneous
17 cysts, therapeutic injections of muscular trigger points, tendons, ligaments
18 and scars and the subcutaneous implantation of medical therapeutic agents.
19 Minor surgery does not include the use of general, spinal or epidural
20 anesthesia, the opening of body cavities, the repair of blood vessels and
21 nerves or the biopsy by incision, excision or needle aspiration of internal
22 organs, the breast or the prostate.

23 18. "Neuromuscular integration" means musculoskeletal therapy that uses
24 any combination of manual methods, physical agents and physical medicine
25 procedures and devices to improve physiological function by normalizing body
26 structure.

27 19. "Nutrition" means the recommendation by a licensee of therapeutic
28 or preventative dietary measures, food factor concentrates, fasting and
29 cleansing regimens and the rebalancing by a licensee of digestive system
30 function to correct diseases of malnutrition, to resolve conditions of
31 metabolic imbalance and to support optimal vitality.

32 20. "Orthomolecular therapy" means therapy to provide the optimum
33 concentration of substances normally present in the human body such as
34 vitamins, minerals, amino acids and enzymes. Orthomolecular therapy includes
35 the diagnosis of ailments or physiologic stresses that occur as a result of
36 genetic or environmental influences as well as acquired or inherited allergy
37 and hypersensitivity responses.

38 21. "Pharmaceutical medicine" means a drug therapy that uses
39 prescription-only and nonprescription pharmaceutical agents as well as
40 medicinal agents of botanical, biological or mineral origin and that is based
41 on current scientific indications or traditional or historical usage
42 indications.

- 1 22. "Practice of homeopathic medicine":
2 (a) FOR THE PURPOSES OF A PERSON WHO IS LICENSED PURSUANT TO SECTION
3 32-2912, SUBSECTION A, means the practice of medicine in which a person
4 purports to diagnose, treat or correct real or imagined human diseases,
5 injuries, ailments, infirmities and deformities of a physical or mental
6 origin and includes acupuncture, chelation therapy, homeopathy, minor
7 surgery, neuromuscular integration, nutrition, orthomolecular therapy and
8 pharmaceutical medicine.
9 (b) FOR THE PURPOSES OF A PERSON WHO IS LICENSED PURSUANT TO SECTION
10 32-2912, SUBSECTION B, MEANS THE PRACTICE OF MEDICINE IN WHICH A PERSON
11 PURPORTS TO DIAGNOSE, TREAT OR CORRECT REAL OR IMAGINED HUMAN DISEASES,
12 INJURIES, AILMENTS, INFIRMITIES AND DEFORMITIES OF A PHYSICAL OR MENTAL
13 ORIGIN BY MEANS OF HOMEOPATHY OR NUTRITION.
14 23. "Preceptorship" means an extended period of individual study with
15 one or more experienced homeopathic physicians or institutions.
16 24. "Prescription-only drug" does not include a controlled substance
17 but does include:
18 (a) A drug that is generally regarded by medical experts to be unsafe
19 if its use and dosage are not supervised by a medical practitioner.
20 (b) A drug that is approved for use under the supervision of a medical
21 practitioner pursuant to the federal new drug application law or section
22 32-1962.
23 (c) A potentially harmful drug if its labeling does not contain full
24 directions for its use by the patient.
25 (d) A drug that is required by federal law to bear on its label the
26 following words: "Caution: Federal law prohibits dispensing without
27 prescription."
28 25. "Professional negligence" means any of the following:
29 (a) That a licensee administers treatment to a patient in a manner
30 that is contrary to accepted practices and that harms the patient if it can
31 be shown to the board's satisfaction that accepted practices are inherently
32 less hazardous.
33 (b) That a licensee commits an act of unprofessional conduct or
34 displays an unreasonable lack of professional skill or fidelity.
35 (c) That a licensee's negligence, carelessness or disregard of
36 established principles or practice results in a patient's injury, unnecessary
37 suffering or death.
38 26. "Special purpose licensing examination" means an examination
39 developed by the national board of medical examiners on behalf of the
40 federation of state medical boards for use by state licensing boards to test
41 the basic medical competence of physicians who are applying for licensure and
42 who have been in practice in another jurisdiction of the United States and to
43 determine the competence of a physician under investigation by a state
44 licensing board.

1 Sec. 2. Section 32-2902, Arizona Revised Statutes, is amended to read:
2 32-2902. Board of homeopathic and integrated medicine
3 examiners; membership; duties; removal; immunity

4 A. The board of homeopathic and integrated medicine examiners is
5 established consisting of the following ~~six~~ members appointed by the
6 governor:

7 1. Two public members.

8 2. ~~UNTIL JANUARY 1, 2015~~, four ~~homeopathic physicians~~ MEMBERS WHO ARE
9 licensed ~~under this chapter~~ PURSUANT TO SECTION 32-2912, SUBSECTION A.

10 3. ~~BEGINNING JANUARY 1, 2015~~, FIVE MEMBERS WHO ARE LICENSED PURSUANT
11 TO THIS CHAPTER, ONE OF WHOM IS LICENSED PURSUANT TO 32-2912, SUBSECTION B.

12 B. Board members serve staggered three year terms ending on June 30.
13 Board members shall not serve more than three consecutive terms. A board
14 member may continue to serve until that member's replacement takes office.

15 C. Board members shall be residents of this state for at least three
16 consecutive years immediately before their appointment.

17 D. The governor may remove a board member from office because of that
18 member's neglect of duty, malfeasance, misfeasance, incompetence or
19 unprofessional or dishonorable conduct.

20 E. A board member's term of office automatically ends if that member
21 is absent from this state for more than six months or if that member fails to
22 attend three consecutive regularly scheduled board meetings.

23 F. Board members and board employees are immune from civil liability
24 for any good faith action they take to implement this chapter.

25 Sec. 3. Section 32-2904, Arizona Revised Statutes, is amended to read:
26 32-2904. Powers and duties

27 A. The board shall:

28 1. Conduct all examinations for applicants for a license under this
29 chapter, issue licenses, conduct hearings, regulate the conduct of licensees
30 and administer and enforce this chapter.

31 2. Enforce the standards of practice prescribed by this chapter and
32 board rules.

33 3. Collect and account for all fees under this chapter and deposit,
34 pursuant to sections 35-146 and 35-147, the monies in the appropriate fund.

35 4. Maintain a record of its acts and proceedings, including the
36 issuance, refusal to issue, renewal, suspension or revocation of licenses to
37 practice according to this chapter.

38 5. Maintain a roster of all ~~homeopathic physicians~~ PERSONS WHO ARE
39 licensed ~~under~~ PURSUANT TO this chapter, ~~which shall indicate~~ THAT INCLUDES:

40 (a) The LICENSEE'S name ~~of the licensed physician~~.

41 (b) The current professional office address.

42 (c) The date and number of the license issued under this chapter.

43 (d) Whether the licensee is in good standing.

1 jurisdiction. The panel shall consist of one member from each board, one
2 legal representative from each board and one attorney who is licensed to
3 practice law in this state, who is selected by the supreme court and who
4 shall serve as chairman.

5 C. The chairman shall fix a date, time and place for a meeting within
6 thirty days ~~from~~ AFTER the date the action is referred to the panel.

7 D. The panel shall determine which board shall investigate the
8 complaint or whether both boards shall conduct their own investigation and
9 hearing.

10 E. After conducting its investigation, the board chosen to conduct the
11 investigation shall transmit all investigation materials, findings and
12 conclusions to the other board ~~with which the physician is licensed~~. That
13 board shall review this information to determine if it shall take any action
14 against the ~~physician~~ LICENSEE or dismiss the complaint.

15 F. If the licensing boards decide without resorting to arbitration
16 which board shall conduct the investigation, the board conducting the
17 investigation shall transmit all materials, findings and conclusions to the
18 other ~~boards with which the physician is licensed~~ BOARD.

19 Sec. 5. Section 32-2911, Arizona Revised Statutes, is amended to read:

20 32-2911. Persons and acts not affected by chapter

21 This chapter does not prevent:

22 1. The practice of any other method, system or science of healing by a
23 person who is licensed pursuant to the laws of this state if that person is
24 acting within the scope of that license.

25 2. The practice by ~~homeopathic physicians~~ LICENSEES discharging their
26 duties while members of the armed forces of the United States or other
27 federal agencies.

28 3. A person from administering a lawful domestic or family remedy,
29 health food or health food supplement to that person's immediate family
30 members.

31 4. A person from administering over-the-counter homeopathic remedies
32 in the course of providing medical assistance in an emergency.

33 5. The practice of any of the healing arts offered by this state's
34 Indian tribes.

35 6. The practice of religion, treatment by prayer or the laying on of
36 hands as a religious rite or ordinance.

37 7. Any act competently performed by a physician assistant that is
38 within the scope of that person's duties.

39 8. A ~~physician~~ PERSON WHO IS licensed TO PRACTICE HOMEOPATHIC MEDICINE
40 in any state, district or territory of the United States from infrequently
41 consulting with a person licensed under this chapter or acting pursuant to an
42 invitation by a legitimate sponsor to visit this state to promote
43 professional education through lectures, clinics or demonstrations if that
44 ~~visiting physician~~ PERSON does not open an office, meet with patients or

1 receive calls relating to the practice of homeopathic medicine outside of the
2 sponsoring institution's facilities and programs.

3 9. The independent practice of acupuncture as a traditional Asian
4 healing art.

5 10. The practice of providing treatment of the spiritual vital force in
6 accordance with hahnemanian principles through the use of remedies that are
7 diluted beyond the concentration of substances in drinking water and prepared
8 in the manner described in the homeopathic pharmacopoeia of the United
9 States.

10 Sec. 6. Section 32-2912, Arizona Revised Statutes, is amended to read:

11 32-2912. Qualifications of applicant; applications; scope of
12 practice

13 A. The board shall grant a license to practice ~~medicine as a~~
14 ~~homeopathic physician~~ PURSUANT TO THIS CHAPTER to an applicant who meets all
15 of the following requirements:

16 1. Is a person of good moral character.

17 2. Holds a degree from an approved school of medicine or has received
18 a medical education that the board determines is of equivalent quality.

19 3. Holds a license in good standing to practice medicine or
20 osteopathic medicine that is issued under chapter 13 or 17 of this title or
21 by another state, district or territory of the United States.

22 4. Has a professional record that indicates that the applicant has not
23 had a license to practice medicine refused, revoked, suspended or restricted
24 in any way by any state, territory, district or country for reasons that
25 relate to the ~~physician's~~ APPLICANT'S ability to competently and safely
26 practice medicine.

27 5. Has a professional record that indicates that the applicant has not
28 committed any act or engaged in any conduct that would constitute grounds for
29 disciplinary action against a licensee under this chapter.

30 6. Has the physical and mental capacity to safely engage in the
31 practice of medicine.

32 7. Pays all fees and costs required by the board.

33 8. Completes the application required by the board.

34 B. NOTWITHSTANDING SUBSECTION A, PARAGRAPHS 2, 3 AND 4 OF THIS
35 SECTION, THE BOARD SHALL ISSUE A LICENSE PURSUANT TO THIS CHAPTER TO AN
36 APPLICANT WHO MEETS THE REQUIREMENTS OF SUBSECTION A, PARAGRAPHS 1, 5, 6, 7
37 AND 8 OF THIS SECTION AND WHO HOLDS A DEGREE FROM AN APPROVED SCHOOL OF
38 MEDICINE.

39 ~~B-~~ C. The board may require an applicant to submit additional written
40 or oral information and may conduct additional investigations if it
41 determines that this is necessary to adequately inform itself of the
42 applicant's ability to meet the requirements of this chapter. If an
43 applicant has had a license revoked by or has surrendered a license to,
44 another jurisdiction, the applicant may attempt to demonstrate to the board's
45 satisfaction that the applicant is completely rehabilitated with respect to

1 the conduct that was the basis for the revocation or surrender of the
2 license.

3 ~~E.~~ D. The board shall vacate its previous order to deny a license if
4 that denial was based on the applicant's conviction of a felony or an offense
5 involving moral turpitude and that conviction has been reversed on appeal.
6 The ~~physician~~ APPLICANT may resubmit an application for licensure as soon as
7 the court enters the reversal.

8 ~~D.~~ E. If the board finds that an applicant has committed an act or
9 engaged in conduct that would constitute grounds for disciplinary action, the
10 board shall determine to its satisfaction that the conduct has been
11 corrected, monitored and resolved. If the matter has not been resolved,
12 before it issues a license the board shall determine to its satisfaction that
13 mitigating circumstances exist that prevent its resolution.

14 ~~E.~~ F. Except as provided in subsection ~~E.~~ D OF THIS SECTION, a person
15 shall not submit an application for reinstatement or a new application within
16 five years after the person has completely corrected the conduct and made
17 full legal restitution to the board's satisfaction.

18 ~~F.~~ G. An applicant shall submit a verified completed application to
19 the board in a form and within a period of time prescribed by the board. The
20 application shall include:

21 1. The application fee.

22 2. Affidavits from three ~~physicians~~ PERSONS who are ACTIVELY licensed
23 to practice ALLOPATHIC, OSTEOPATHIC OR HOMEOPATHIC medicine in any state or
24 district of the United States and who are ~~in active practice. The physicians~~
25 ~~shall~~ ABLE TO attest to the applicant's good moral character and fitness to
26 practice ~~homeopathic medicine~~ PURSUANT TO THIS CHAPTER.

27 3. A diploma or certificate ~~conferring the degree of doctor of~~
28 ~~medicine in homeopathy~~ issued by a homeopathic college or any other
29 educational institution approved by the board or documentation of the
30 applicant's successful completion of preceptorships or formal postgraduate
31 courses approved by the board.

32 4. IF THE PERSON IS APPLYING FOR LICENSURE PURSUANT TO SUBSECTION A OF
33 THIS SECTION, proof that the applicant has served a board approved
34 internship.

35 5. The applicant's oath that:

36 (a) All of the information contained in the application and the
37 accompanying evidence or other credentials is correct.

38 (b) The applicant submitted the credentials without fraud or
39 misrepresentation and that the applicant is the lawful holder of the
40 credentials.

41 (c) The applicant authorizes the release to the board of any
42 information from any source that the board determines is necessary for it to
43 act on the application.

44 ~~G.~~ H. The board shall promptly inform an applicant in writing of any
45 deficiency in the application that prevents the board from acting on it.

1 ~~H.~~ I. The board shall consider an application withdrawn if any of the
2 following is true:

3 1. The applicant submits a written request to withdraw the
4 application.

5 2. The applicant without good cause fails to appear for a board
6 interview.

7 3. The applicant fails to submit information to the board within one
8 year of the board's request for that information.

9 4. The applicant fails to complete the required examination or
10 personal interview within one year of submitting the application.

11 J. A PERSON WHO IS ISSUED A LICENSE PURSUANT TO SUBSECTION B OF THIS
12 SECTION SHALL PRACTICE ONLY WITHIN THE SCOPE OF PRACTICE AS PRESCRIBED BY
13 THIS CHAPTER. A LICENSEE WHO ACTS OUTSIDE THAT SCOPE OF PRACTICE COMMITS AN
14 ACT OF UNPROFESSIONAL CONDUCT. IN ADDITION TO ALL OTHER AVAILABLE REMEDIES,
15 THE BOARD MAY SEEK INJUNCTIVE RELIEVE PURSUANT TO SECTION 32-2940.

16 Sec. 7. Section 32-2913, Arizona Revised Statutes, is amended to read:

17 32-2913. Examination; reexamination

18 A. An applicant for licensure shall successfully pass an examination
19 prescribed by the board.

20 B. Examination for a license to practice under this chapter shall
21 include all subjects that are generally accepted as necessary for a thorough
22 knowledge of the practice of ~~medicine-as~~ homeopathic ~~physicians~~ MEDICINE.
23 The board shall prescribe rules for conducting the examination and shall set
24 the passing grade. IF A PERSON IS SEEKING LICENSURE PURSUANT TO SECTION
25 32-2912, SUBSECTION A, THE EXAMINATION MAY INCLUDE SUBJECTS THAT ARE UNIQUE
26 TO THAT SCOPE OF PRACTICE.

27 C. The board shall review the examination of any applicant ~~upon~~ ON the
28 applicant's request. A grade on an examination reviewed by the board may be
29 changed only by the majority vote of the members of the board. A person who
30 fails to pass the initial licensure examination may be reexamined within one
31 year ~~of~~ AFTER the date of the receipt of the original application fee without
32 payment of additional fees. However, the applicant shall pay all additional
33 fees associated with board prescribed investigatory examinations such as the
34 special purpose licensing examination.

35 D. In a written examination, applicants shall be designated by numbers
36 only and the corresponding names shall be kept secret until after the grading
37 of the examinations.

38 Sec. 8. Section 32-2914, Arizona Revised Statutes, is amended to read:

39 32-2914. Fees

40 A. The board by formal vote at its annual meeting shall establish fees
41 and penalties that do not exceed the following:

42 1. Five hundred fifty dollars for an application for a license to
43 practice homeopathic medicine pursuant to section 32-2912, subsection ~~F~~ G,
44 paragraph 1.

45 2. Two hundred fifty dollars for issuance of an initial license.

- 1 3. Fifty dollars for issuance of a duplicate license.
- 2 4. One thousand dollars for annual renewal of a license.
- 3 5. Three hundred fifty dollars for late renewal of a license.
- 4 6. Two hundred dollars for initial and annual renewal of a permit to
- 5 dispense drugs and devices.
- 6 7. Five hundred dollars for an application for a locum tenens
- 7 registration.
- 8 8. Two hundred fifty dollars for issuance of a locum tenens
- 9 registration.
- 10 9. Two hundred dollars for annual renewal of a homeopathic medical
- 11 assistant registration.
- 12 10. Twenty-five cents per page for copying board records, documents,
- 13 letters, minutes, applications and files.
- 14 11. Thirty-five dollars for a copy of an audiotape.
- 15 12. One hundred dollars for the sale of computerized tapes or diskettes
- 16 that do not require programming.
- 17 13. Two hundred dollars for supervising a homeopathic medical
- 18 assistant.
- 19 14. Three hundred dollars for each initial application and annual
- 20 renewal of a registration to conduct a practical educational program for
- 21 supervised medical assistants.
- 22 B. The board may charge a licensee with the board's costs to
- 23 administer a special purpose licensing examination related to its
- 24 investigation of the licensee's competence.
- 25 C. The board may charge the actual cost of completing a professional
- 26 conduct investigation to the licensee who is the subject of the investigation
- 27 if the board determines that the licensee violated this chapter or a board
- 28 rule.
- 29 D. The board shall charge additional fees for services that it is not
- 30 required to provide under this chapter but that it determines are necessary
- 31 to carry out its purpose. The board shall charge only the actual cost of
- 32 providing these services.
- 33 Sec. 9. Section 32-2915, Arizona Revised Statutes, is amended to read:
- 34 32-2915. Licensure; issuance; duplicate licenses; renewal;
- 35 continuing education; expiration; cancellation
- 36 A. The board shall issue a license to practice homeopathic medicine in
- 37 this state if the applicant meets all board requirements for licensure and
- 38 pays the licensure fee.
- 39 B. The board may issue a duplicate license to a person who holds a
- 40 license under this chapter on payment of the duplicate license fee.
- 41 C. Until January 1, 2009, by December 1 of each year the executive
- 42 director shall notify each licensee of the renewal date and provide the
- 43 current renewal form. The executive director shall send this notice by first
- 44 class mail to the address the licensee most recently provided to the board.

1 D. Except as provided in section 32-4301, until January 1, 2009, a
2 licensee shall renew the license on or before January 1 of each year by
3 submitting a completed renewal form and the renewal fee. A licensee who
4 fails to do this by February 1 shall also submit the late fee prescribed in
5 this article. A license expires if it is not renewed as prescribed by this
6 subsection on or before May 1.

7 E. Beginning January 1, 2009, at least thirty days before the first
8 day of the month in which a ~~physician's~~ license was initially issued, the
9 executive director shall notify the licensee of the renewal date and provide
10 a renewal form. The executive director shall send this notice by first class
11 mail to the address the licensee most recently provided to the board.

12 F. Beginning January 1, 2010, each licensee shall include with the
13 renewal form a statement that the licensee has completed at least twenty
14 hours of board approved continuing education in the preceding year. The
15 board shall not renew a license if the licensee does not fully document
16 compliance with this subsection. The board may waive the continuing
17 education requirements of this subsection for a period prescribed by the
18 board if the licensee's noncompliance was due to disability, military
19 service, absence from the United States or circumstances beyond the control
20 of the licensee. If a licensee fails to complete the continuing education
21 requirements of this subsection for any other reason, the board may grant an
22 extension of not more than sixty days. A licensee who fails to comply with
23 the continuing education requirements of this subsection and who has not been
24 granted a waiver pursuant to this subsection commits an act of unprofessional
25 conduct and is subject to probation or licensure suspension or revocation.

26 G. Beginning January 1, 2009, a licensee shall submit a completed
27 application for license renewal and the renewal fee each year on or before
28 the last day of the month in which the license was initially issued. A
29 license expires if it is not renewed within sixty days. A licensee who fails
30 to do this by the first day of the following month must also submit a late
31 fee as prescribed by the board. A person who practices homeopathic medicine
32 after a license has expired is in violation of this chapter.

33 H. The board may issue a license to a person whose license has expired
34 only if that person applies for a license as prescribed in sections 32-2912
35 and 32-2913.

36 I. With each application for licensure renewal, the licensee shall
37 include a report of disciplinary actions, restriction and any other action
38 placed on or against the license or practice by any other state regulatory
39 board or agency of the federal government, including the denial of a license
40 for failing a special purpose licensing examination. The report shall
41 include the name and address of the sanctioning agency, the nature of the
42 action taken and a general statement of the charges leading to the action
43 taken.

44 J. On request of a licensee the board shall cancel that person's
45 license to practice homeopathic medicine if the licensee is not the subject

1 of a board investigation or disciplinary proceeding. The board may cancel
2 the license of a person under investigation for violating this chapter or
3 board rules if the licensee admits to the violations in writing and on the
4 board record.

5 Sec. 10. Section 32-2916, Arizona Revised Statutes, is amended to
6 read:

7 32-2916. Directory; change of address; civil penalty; fees

8 A. The board may publish an annual directory containing the following:

9 1. The names and addresses of the officers and members of the board.

10 2. The names and addresses of all persons certified, licensed or
11 registered by the board.

12 3. The current certified board rules.

13 4. A copy of this chapter.

14 5. A list of approved postgraduate and continuing education courses in
15 the treatment modalities pertinent to the practice of ~~a~~ homeopathic
16 ~~physician~~ MEDICINE.

17 6. A LIST OF APPROVED SCHOOLS OF MEDICINE.

18 ~~6-~~ 7. Additional information that the board determines is of interest
19 and importance to ~~homeopathic physicians~~ LICENSEES.

20 B. Each licensee shall inform the board in writing of the licensee's
21 home address, home telephone number, office address and office telephone
22 number as requested by the board and within forty-five days of a change in
23 any of this information. The board shall keep a licensee's home address and
24 home telephone number confidential. The board may assess a licensee who
25 fails to comply with this subsection with the board's costs to locate the
26 licensee. The board may also impose a civil penalty on that licensee of not
27 more than one hundred dollars.

28 C. The board shall provide each licensee with one copy of the
29 directory free of charge. The board may provide additional copies to the
30 public and licensee for a cost of not more than twenty-five dollars for each
31 directory.

32 D. The board shall deposit, pursuant to sections 35-146 and 35-147,
33 monies collected under this section in the board of homeopathic and
34 integrated medicine examiners' fund.

35 Sec. 11. Section 32-2917, Arizona Revised Statutes, is amended to
36 read:

37 32-2917. Locum tenens registration

38 A. The board president or a person designated by the board may issue
39 locum tenens registration to a person who meets all of the following
40 requirements:

41 1. Submits proof satisfactory to the board that the applicant for
42 registration holds an unrestricted license to practice ALLOPATHIC,
43 OSTEOPATHIC OR HOMEOPATHIC medicine ~~or osteopathic medicine~~ in another state,
44 district or territory of the United States, ~~and~~ that the license has not been
45 revoked or suspended for any reason and that there are no unresolved

1 complaints or formal charges filed against the applicant with any licensing
2 board.

3 2. Submits an application as prescribed by section 32-2912.

4 3. The ~~homeopathic physician~~ LICENSEE for whom the applicant for
5 registration under this section is substituting or assisting provides the
6 board with a written request for the applicant's registration.

7 4. Submits the fees required under section 32-2914.

8 B. The board may authorize the applicant to provide locum tenens
9 services if it is satisfied that the applicant has met the requirements of
10 subsection A of this section.

11 C. Locum tenens registration granted under this section is valid for
12 thirty days. The board may extend registration for an additional thirty days
13 on written request by the ~~homeopathic physician~~ PERSON who made the original
14 request for registration. This request shall explain why the extension is
15 necessary and shall include prescribed fees and other information requested
16 by the board.

17 Sec. 12. Section 32-2931, Arizona Revised Statutes, is amended to
18 read:

19 32-2931. Violations; classification

20 A. The following acts are class 5 felonies:

21 1. Practicing medicine as a ~~homeopathic physician~~ DOCTOR PURSUANT TO
22 THIS CHAPTER without being licensed or exempt from licensure ~~under~~ PURSUANT
23 TO this chapter.

24 2. Securing a license to ENGAGE IN THE practice OF homeopathic
25 medicine PURSUANT TO THIS CHAPTER by fraud or deceit.

26 3. Impersonating a member of the board.

27 B. The following acts are class 2 misdemeanors:

28 1. Using the designation "doctor of homeopathy", "homeopathic ~~medical~~
29 doctor", "MEDICAL DOCTOR-HOMEOPATHIC", "DOCTOR OF OSTEOPATHY-HOMEOPATHIC" OR
30 "homeopathic physician", "~~doctor of medicine (homeopathic)~~" or "~~homeopath~~"
31 without being licensed ~~under~~ PURSUANT TO this chapter.

32 2. Using any words, initials or symbols that lead the public to
33 believe that a person is licensed to ENGAGE IN THE practice OF homeopathic
34 medicine in this state if this is not true.

35 Sec. 13. Section 32-2932, Arizona Revised Statutes, is amended to
36 read:

37 32-2932. Use of title or abbreviation by a licensee

38 A person ~~practicing~~ WHO IS LICENSED pursuant to this chapter ~~shall~~
39 ~~designate himself~~ MAY USE THE DESIGNATION and sign ~~his~~ THE LICENSEE'S name,
40 wherever required, in any capacity, as "homeopathic ~~physician~~ DOCTOR" ~~or~~
41 "~~doctor of medicine (homeopathic)~~". IF THE LICENSEE IS A GRADUATE OF A BOARD
42 APPROVED ALLOPATHIC SCHOOL OF MEDICINE, THE LICENSEE MAY ALSO USE THE
43 DESIGNATION "MEDICAL DOCTOR-HOMEOPATHIC" OR "HOMEOPATHIC PHYSICIAN". IF THE
44 LICENSEE IS A GRADUATE OF A BOARD APPROVED OSTEOPATHIC SCHOOL OF MEDICINE,
45 THE LICENSEE MAY ALSO USE THE DESIGNATION "DOCTOR OF OSTEOPATHY-HOMEOPATHIC"

1 OR "HOMEOPATHIC PHYSICIAN". IF THE LICENSEE IS A GRADUATE OF A BOARD
2 APPROVED HOMEOPATHIC MEDICAL SCHOOL, THE LICENSEE SHALL ONLY USE THE
3 DESIGNATION "HOMEOPATHIC DOCTOR" OR "DOCTOR OF HOMEOPATHY".

4 Sec. 14. Section 32-2933, Arizona Revised Statutes, is amended to
5 read:

6 32-2933. Definition of unprofessional conduct

7 A. IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES,
8 "unprofessional conduct" includes the following acts, whether occurring in
9 this state or elsewhere:

10 1. Performing an invasive surgical procedure not specifically
11 permitted by this chapter or by board rules or pursuant to a license issued
12 under chapter 13 or 17 of this title.

13 2. Wilful betrayal of a professional secret or wilful violation of a
14 privileged communication except as either of these may otherwise be required
15 by law. This paragraph does not prevent members of the board from the full
16 and free exchange of information with the licensing and disciplinary boards
17 of other states, territories or districts of the United States or with
18 foreign countries or with the Arizona homeopathic and integrative medical
19 association or any of its component organizations or with the homeopathic
20 medical organizations of other states, counties, districts or territories or
21 with those of foreign countries.

22 3. Commission of a felony, whether or not involving moral turpitude,
23 or a misdemeanor involving moral turpitude. In either case, conviction by
24 any court of competent jurisdiction or a plea of no contest is deemed
25 conclusive evidence of guilt.

26 4. Habitual intemperance in the use of alcohol or habitual substance
27 abuse.

28 5. Violating federal, state, county or municipal laws or regulations
29 applicable to the practice of medicine or relating to public health.

30 6. Prescribing a controlled substance for other than accepted
31 therapeutic purposes.

32 7. Conduct that the board determines is gross professional negligence,
33 repeated professional negligence or any negligence that causes the death of a
34 patient.

35 8. Impersonating another ~~physician~~ PERSON LICENSED PURSUANT TO THIS
36 CHAPTER.

37 9. Acting or assuming to act as a member of the board if this is not
38 true.

39 10. Procuring or attempting to procure a license to practice
40 homeopathic medicine by fraud, by misrepresentation or by knowingly taking
41 advantage of the mistake of another.

42 11. Having professional connection with or lending one's name to an
43 illegal practitioner of homeopathic medicine or of any of the other healing
44 arts.

- 1 12. Representing that a manifestly incurable disease, injury, ailment
2 or infirmity can be permanently cured or that a curable disease, injury,
3 ailment or infirmity can be cured within a stated time if this is not true.
- 4 13. Offering, undertaking or agreeing to cure or treat a disease,
5 injury, ailment or infirmity by a secret means, method, device or
6 instrumentality.
- 7 14. Refusing to divulge to the board on demand the means, method,
8 device or instrumentality used in the treatment of a disease, injury, ailment
9 or infirmity.
- 10 15. Giving or receiving or aiding or abetting the giving or receiving
11 of rebates, either directly or indirectly.
- 12 16. Knowingly making any false or fraudulent statement, written or
13 oral, in connection with the practice of homeopathic medicine except as the
14 same may be necessary for accepted therapeutic purposes.
- 15 17. Immorality or misconduct that tends to discredit the profession.
- 16 18. Being disciplined by another regulatory jurisdiction because of the
17 licensee's mental or physical inability to engage safely in the practice of
18 medicine, medical incompetence or unprofessional conduct as defined by that
19 jurisdiction and that corresponds directly or indirectly with an act of
20 unprofessional conduct prescribed by this section. The disciplinary action
21 may include refusing, denying, revoking or suspending a license, issuing a
22 formal reprimand, issuing a decree of censure or otherwise limiting,
23 restricting or monitoring the licensee or placing the licensee on probation.
- 24 19. Any conduct or practice contrary to recognized standards of ethics
25 of the homeopathic medical profession, any conduct or practice that does or
26 might constitute a danger to the health, welfare or safety of the patient or
27 the public or any conduct, practice or condition that does or might impair
28 the ability to practice homeopathic medicine safely and skillfully.
- 29 20. Failing or refusing to maintain adequate records on a patient or to
30 make patient records promptly available to another ~~physician~~ LICENSEE on
31 request and receipt of proper authorization.
- 32 21. Advertising in a false, deceptive or misleading manner.
- 33 22. Violating or attempting to violate, directly or indirectly, or
34 assisting in or abetting the violation of or conspiring to violate this
35 chapter or any board rule.
- 36 23. Using a controlled substance unless it is prescribed by ~~another A~~
37 physician for use during a prescribed course of treatment.
- 38 24. Prescribing, dispensing or administering anabolic androgenic
39 steroids for other than therapeutic purposes.
- 40 25. Prescribing or dispensing controlled substances to members of the
41 ~~homeopathic physician's~~ LICENSEE'S immediate family.
- 42 26. Prescribing, dispensing or administering schedule II controlled
43 substances as defined in section 36-2513, including amphetamines and similar
44 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a

1 period in excess of thirty days in any one year, or the nontherapeutic use of
2 injectable amphetamines.

3 27. The use of experimental forms of diagnosis and treatment without
4 adequate informed patient consent, without a board approved written
5 disclosure that the form of diagnosis and treatment to be used is
6 experimental and without conforming to generally accepted experimental
7 criteria, including protocols, detailed records, periodic analysis of results
8 and periodic review by a peer review committee.

9 28. Sexual intimacies with a patient.

10 29. Use of the designation "M.D." or "D.O." in a way that would lead
11 the public to believe that a person is licensed by the Arizona medical board
12 or the board of osteopathic examiners in medicine and surgery in this state
13 if this is not the case.

14 30. Falsely or fraudulently representing or holding oneself out as
15 being a homeopathic medical specialist.

16 31. Failing to dispense drugs and devices in compliance with article 4
17 of this chapter.

18 32. Violating a formal board order, terms of probation or a stipulation
19 issued or entered into by the board or its designee under this chapter.

20 33. Charging a fee for services not rendered or charging and collecting
21 a clearly unreasonable fee. In determining the reasonableness of the fee,
22 the board shall consider the fee customarily charged in this state for
23 similar services in relation to modifying factors such as the time required,
24 the complexity of the service and the skill required to perform the service
25 properly. This paragraph does not apply if there is a clearly written
26 contract for a fixed fee between the **physician LICENSEE** and the patient that
27 is entered into before the **physician LICENSEE** provides the service.

28 34. Failing to appropriately direct, collaborate with or supervise a
29 licensed, certified or registered health care provider, a homeopathic medical
30 assistant or office personnel employed or assigned to the **physician LICENSEE**
31 to assist in the medical care of patients.

32 35. Knowingly making a false or misleading statement on a form required
33 by the board or in written correspondence with the board.

34 36. Failing to furnish legally requested information in a timely manner
35 to the board or its investigators or representatives.

36 37. Failing to allow properly authorized board personnel to examine or
37 have access to a licensee's documents, reports or records that relate to the
38 licensee's medical practice or medically related activities.

39 38. Signing a blank, undated or predated prescription form.

40 39. Refusing to submit to a body fluid examination required under
41 section 32-2941 or pursuant to a board investigation into the licensee's
42 substance abuse.

43 40. Prescribing, dispensing or furnishing a prescription medication or
44 a prescription-only device as defined in section 32-1901 to a person unless
45 the licensee first conducts a comprehensive physical or mental health status

1 examination of that person or has previously established a doctor-patient
2 relationship. This paragraph does not apply to:

3 (a) A ~~physician~~ LICENSEE who provides temporary patient supervision on
4 behalf of the patient's regular treating licensed health care professional.

5 (b) Emergency medical situations as defined in section 41-1831.

6 (c) Prescriptions written to prepare a patient for a medical
7 examination.

8 (d) Prescriptions written or prescription medications issued for use
9 by a county or tribal public health department for immunization programs,~~an~~
10 OR emergency treatment,~~—~~ OR in response to an infectious disease
11 investigation, a public health emergency, an infectious disease outbreak or
12 an act of bioterrorism. For the purposes of this subdivision, "bioterrorism"
13 has the same meaning prescribed in section 36-781.

14 41. Failing to obtain from a patient before an examination or treatment
15 a signed informed consent that includes language that makes it clear the
16 ~~physician~~ LICENSEE is providing homeopathic medical treatment instead of or
17 in addition to standard conventional allopathic or osteopathic treatment.

18 B. IF A PERSON IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION B,
19 UNPROFESSIONAL CONDUCT ALSO INCLUDES THE FOLLOWING:

20 1. PERFORMING AN INVASIVE PROCEDURE, INCLUDING PERFORMING INTRAVENOUS
21 THERAPY, DRAWING BODILY FLUIDS OR ORDERING GENETIC TESTING.

22 2. PRESCRIBING, DISPENSING OR ADMINISTERING ANY CONTROLLED SUBSTANCE.

23 3. PRESCRIBING, DISPENSING OR ADMINISTERING A PRESCRIPTION DRUG.

24 4. USING THE TITLE "PHYSICIAN", "MEDICAL DOCTOR-HOMEOPATHIC", "DOCTOR
25 OF OSTEOPATHY-HOMEOPATHIC", "DOCTOR OF MEDICINE (HOMEOPATHIC)" OR
26 "HOMEOPATHIC PHYSICIAN" OR OTHERWISE IMPLYING THAT THE LICENSEE IS A LICENSED
27 ALLOPATHIC OR OSTEOPATHIC PHYSICIAN.

28 5. FAILING TO CORRECT A KNOWN MISUNDERSTANDING REGARDING THE
29 LICENSEE'S LICENSURE STATUS.

30 6. FAILING TO OBTAIN FROM A PATIENT BEFORE AN EXAMINATION OR TREATMENT
31 A SIGNED INFORMED CONSENT THAT INCLUDES LANGUAGE THAT MAKES IT CLEAR THE
32 LICENSEE IS NOT AN ALLOPATHIC OR OSTEOPATHIC PHYSICIAN AND IS PROVIDING
33 HOMEOPATHIC TREATMENT UNDER THE LIMITED SCOPE OF PRACTICE OF HOMEOPATHIC
34 MEDICINE PURSUANT TO THIS CHAPTER.

35 7. FAILING TO CONSULT WITH OR REFER PATIENTS TO OTHER HEALTH CARE
36 PROVIDERS WHEN APPROPRIATE.

37 8. DISCONTINUING OR ADVISING A PATIENT TO DISCONTINUE A PHYSICIAN'S
38 TREATMENT OR MEDICINE WITHOUT FIRST CONSULTING THE PRESCRIBING OR TREATING
39 PHYSICIAN.

40 9. FAILING TO REFER A PATIENT WITH A LIFE THREATENING ILLNESS TO A
41 LICENSED ALLOPATHIC OR OSTEOPATHIC PHYSICIAN CURRENTLY PRACTICING
42 HOMEOPATHIC, ALLOPATHIC OR OSTEOPATHIC MEDICINE.

1 Sec. 15. Section 32-2934, Arizona Revised Statutes, is amended to
2 read:

3 32-2934. Grounds for suspension or revocation of license; duty
4 to report; unprofessional conduct hearing; decision
5 of board

6 A. The board on its own motion may investigate any evidence that
7 appears to show that a ~~homeopathic physician~~ LICENSEE is or may be medically
8 incompetent, guilty of unprofessional conduct or mentally or physically
9 unable to engage safely in the practice of HOMEOPATHIC medicine. Any
10 ~~homeopathic physician~~ LICENSEE, the Arizona homeopathic and integrative
11 medical association or any health care institution as defined in section
12 36-401 shall, and any other person may, report to the board any information
13 the person may have that appears to show that a ~~homeopathic physician~~
14 LICENSEE is or may be medically incompetent, guilty of unprofessional conduct
15 or mentally or physically unable to engage safely in the practice of
16 HOMEOPATHIC medicine. The board shall notify the ~~homeopathic physician~~
17 LICENSEE about whom information is received as to the content of the
18 information within one hundred twenty days after receipt of the information.
19 Any person who reports or provides information to the board in good faith is
20 not subject to an action for civil damages as a result of reporting or
21 providing the information, and the person's name shall not be disclosed
22 unless the person's testimony is essential to the disciplinary proceedings
23 conducted pursuant to this section. It is an act of unprofessional conduct
24 for any ~~homeopathic physician~~ LICENSEE to fail to report as required by this
25 section. Any health care institution that fails to report as required by
26 this section shall be reported by the board to the institution's licensing
27 agency.

28 B. A health care institution shall inform the board if the privileges
29 of a ~~homeopathic physician~~ LICENSEE to practice in the health care
30 institution are denied, revoked, suspended or limited because of actions by
31 the ~~homeopathic physician~~ LICENSEE that jeopardized patient health and
32 welfare or if the ~~physician~~ LICENSEE resigns during pending proceedings for
33 revocation, suspension or limitation of privileges. A report to the board
34 pursuant to this subsection shall contain a general statement of the reasons
35 the health care institution denied or took action to revoke, suspend or limit
36 a ~~homeopathic physician's~~ LICENSEE'S privileges.

37 C. The board may conduct investigations necessary to fully inform
38 itself with respect to any evidence filed with the board under subsection A
39 of this section. As part of this investigation, the board may require the
40 ~~physician~~ LICENSEE under investigation to be interviewed by board
41 representatives or to undergo any combination of mental, physical, oral or
42 written medical competency examinations.

43 D. If the information gathered under subsections A and B of this
44 section indicates that the protection of public health requires that the
45 board take emergency action, it may order the summary suspension of a license

1 pending the outcome of a formal disciplinary hearing pursuant to title 41,
2 chapter 6, article 10. The board shall serve the suspended licensee with a
3 written notice of the specific charges and the time and place of the formal
4 hearing. The board shall hold this hearing within sixty days ~~of~~ AFTER the
5 suspension unless the board for good reason shown by the licensee grants an
6 extension on the hearing date.

7 E. If, after completing its investigation, the board finds that the
8 information provided pursuant to subsection A of this section is not of
9 sufficient seriousness to merit direct action against the license ~~of the~~
10 ~~homeopathic physician~~, it may take any of the following actions:

11 1. Dismiss if, in the opinion of the board, the information is without
12 merit.

13 2. File a letter of concern.

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

18 F. If after completing its initial investigation under subsection A of
19 this section the board determines that rehabilitative or disciplinary action
20 can be taken without the presence of the licensee at an informal interview,
21 the board and the licensee may enter into a stipulated agreement to limit or
22 restrict the licensee's practice or to rehabilitate the licensee, protect the
23 public and ensure the licensee's ability to safely engage in the practice of
24 homeopathic medicine.

25 G. If after completing its investigation the board believes that this
26 information is or may be true, the board may request an informal interview
27 with the ~~homeopathic physician~~ LICENSEE. If the ~~homeopathic physician~~
28 LICENSEE refuses the invitation or accepts the invitation and the results of
29 the interview indicate that suspension or revocation of the license may be in
30 order, the board shall issue a formal complaint and conduct a formal hearing
31 pursuant to title 41, chapter 6, article 10. If after completing the
32 informal interview the board finds that the information provided under
33 subsection A of this section is not of sufficient seriousness to merit
34 suspension or revocation of the license, it may take the following actions:

35 1. Dismiss if, in the opinion of the board, the information is without
36 merit.

37 2. File a letter of concern.

38 3. Issue a decree of censure. A decree of censure constitutes an
39 official action against the ~~homeopathic physician's~~ license and may include a
40 requirement for restitution of fees to a patient resulting from violations of
41 this chapter or board rules.

42 4. Fix a period and terms of probation best adapted to protect the
43 public health and safety and rehabilitate or educate the ~~homeopathic~~
44 ~~physician~~ LICENSEE. The probation, if deemed necessary, may include
45 temporary suspension of the license for not to exceed twelve months,

1 restriction of the ~~homeopathic-physician's~~ license to practice HOMEOPATHIC
2 medicine or a requirement for restitution of fees to a patient resulting from
3 violations of this chapter or board rules. If a licensee fails to comply
4 with the terms of probation, the board may file a summons, complaint and
5 notice of hearing pursuant to title 41, chapter 6, article 10 based on the
6 information considered by the board at the informal interview and any other
7 acts or conduct alleged to be in violation of this chapter or board rules.

8 5. Enter into an agreement with the ~~homeopathic-physician~~ LICENSEE to
9 restrict or limit the ~~homeopathic-physician's~~ LICENSEE'S practice or medical
10 activities in order to rehabilitate the ~~homeopathic-physician~~ LICENSEE,
11 protect the public and ensure the ~~homeopathic-physician's~~ LICENSEE'S ability
12 to safely engage in the practice of HOMEOPATHIC medicine.

13 6. Issue a nondisciplinary order requiring the licensee to complete a
14 prescribed number of hours of continuing education in an area or areas
15 prescribed by the board to provide the licensee with the necessary
16 understanding of current developments, skills, procedures or treatment.

17 H. In an informal interview or a formal hearing the board, in addition
18 to any other action that it may take, may impose an administrative penalty in
19 an amount of not less than five hundred dollars but not to exceed two
20 thousand dollars on a ~~homeopathic-physician~~ LICENSEE who violates this
21 chapter or a board rule. Actions to enforce the collection of these
22 penalties shall be brought in the name of this state by the attorney general
23 or the county attorney in the justice court or the superior court in the
24 county in which the violation occurred. Penalties imposed under this section
25 are in addition to and not in limitation of other penalties imposed pursuant
26 to this chapter.

27 I. If in the opinion of the board it appears that the allegations
28 concerning a ~~homeopathic-physician~~ LICENSEE are of a magnitude as to warrant
29 suspension or revocation of the license, the board shall serve on the
30 ~~physician~~ LICENSEE a summons and a complaint fully setting forth the conduct
31 or inability concerned and setting a date, time and place for a hearing
32 pursuant to title 41, chapter 6, article 10 to be held before the board in
33 not less than sixty days from the date of the notice.

34 J. A licensee who wishes to be present at the hearing in person or by
35 representation, or both, shall file a verified answer with the board within
36 twenty days after receiving service of the summons and complaint. The
37 licensee may present witnesses at this hearing.

38 K. The board shall issue subpoenas for witnesses as it may need and
39 for witnesses as the ~~physician~~ LICENSEE may request. Any person refusing to
40 obey a subpoena shall be certified by the board to the superior court in the
41 county in which service was made, and the court may institute proceedings for
42 contempt of court.

43 L. Service of the summons and complaint shall be as required in civil
44 cases.

1 M. Service of subpoenas for witnesses shall be as provided by law for
2 the service of subpoenas generally.

3 N. ~~Any homeopathic physician~~ A LICENSEE who after a hearing is found
4 to be guilty of unprofessional conduct or is found to be mentally or
5 physically unable to engage safely in the practice of homeopathic medicine is
6 subject to any combination of censure, probation or suspension of license or
7 revocation of the license for a prescribed period of time or permanently and
8 under conditions that the board deems appropriate for the protection of the
9 public health and safety and just in the circumstances.

10 O. If the board acts to modify any ~~homeopathic physician's~~ LICENSEE'S
11 prescription writing privileges, it shall immediately notify the Arizona
12 state board of pharmacy of the modification.

13 P. Notwithstanding section 32-2906, subsection A, the board shall
14 deposit, pursuant to sections 35-146 and 35-147, all monies collected from
15 administrative penalties paid pursuant to this section in the state general
16 fund.

17 Q. A letter of concern is a nondisciplinary public document that the
18 board may use in future disciplinary actions.

19 Sec. 16. Section 32-2935, Arizona Revised Statutes, is amended to
20 read:

21 32-2935. Right to examine and copy evidence; summoning
22 witnesses and documents; taking testimony; right to
23 counsel; court aid; process

24 A. In connection with the investigation by the board on its own motion
25 or as the result of information received pursuant to section ~~32-2935~~ 32-2934,
26 subsection A, the board or its authorized agents or employees shall at all
27 reasonable times have access to, for the purpose of examination, and the
28 right to copy any documents, reports, records or any other physical evidence
29 of any person being investigated, or the reports, records and any other
30 documents maintained by and in possession of any hospital, clinic,
31 ~~physician's~~ office, laboratory, pharmacy or any other public or private
32 agency, and any health care institution as defined in section 36-401, if ~~such~~
33 ~~THESE~~ documents, reports, records or evidence relate to medical competence,
34 unprofessional conduct or the mental or physical ability of a ~~homeopathic~~
35 ~~physician~~ LICENSEE to practice HOMEOPATHIC medicine safely.

36 B. For the purpose of all investigations and proceedings conducted by
37 the board:

38 1. The board on its own initiative, or ~~upon~~ ON application of any
39 person involved in the investigation, may issue subpoenas compelling the
40 attendance and testimony of witnesses, or demanding the production for
41 examination or copying of documents or any other physical evidence if ~~such~~
42 ~~THE~~ evidence relates to medical competence, unprofessional conduct or the
43 mental or physical ability of a ~~homeopathic physician~~ LICENSEE to practice
44 HOMEOPATHIC medicine safely. Within five days after the service of a
45 subpoena on any person requiring the production of any evidence in ~~his~~ THAT

1 PERSON'S possession or under ~~his~~ THAT PERSON'S control, ~~such~~ THE person may
2 petition the board to revoke, limit or modify the subpoena. The board shall
3 revoke, limit or modify ~~such~~ THE subpoena if in its opinion the evidence
4 required does not relate to unlawful practices covered by this chapter, is
5 not relevant to the charge ~~which~~ THAT is the subject matter of the hearing or
6 investigation or does not describe with sufficient particularity the physical
7 evidence whose production is required. Any member of the board or any agent
8 designated by the board may administer oaths or affirmations, examine
9 witnesses and receive ~~such~~ evidence.

10 2. Any person appearing before the board has the right to be
11 represented by counsel.

12 C. The superior court, ~~upon~~ ON application by the board or by the
13 person subpoenaed, may issue an order:

14 1. Requiring ~~such~~ THE person to appear before the board or the duly
15 authorized agent to produce evidence relating to the matter under
16 investigation. Any failure to obey ~~such~~ THE order of the court may be
17 punished by ~~such~~ THE court as a contempt.

18 2. Revoking, limiting or modifying the subpoena if in the court's
19 opinion the evidence demanded does not relate to unlawful practices covered
20 by this chapter, is not relevant to the charge ~~which~~ THAT is the subject
21 matter of the hearing or investigation, or does not describe with sufficient
22 particularity the evidence whose production is required.

23 D. Patient records, including clinical records, medical reports,
24 laboratory statements and reports, any file, film, any other report or oral
25 statement relating to diagnostic findings or treatment of patients, any
26 information from which a patient or ~~his~~ THE PATIENT'S family might be
27 identified or information received and records kept by the board as a result
28 of investigation procedures ~~shall~~ ARE not ~~be~~ available to the public.

29 E. This section or any other provision of law making communications
30 between a ~~homeopathic-physician~~ LICENSEE and a patient a privileged
31 communication does not apply to investigations or proceedings conducted
32 pursuant to this chapter. The board and its employees, agents and
33 representatives shall keep in confidence the names of any patients whose
34 records are reviewed during the course of investigations and proceedings
35 pursuant to this chapter.

36 F. Hospital records, medical staff records, medical staff review
37 committee records and testimony concerning ~~such~~ THESE records, and
38 proceedings related to the creation of ~~such~~ THESE records, are not available
39 to the public, shall be kept confidential by the board and are subject to the
40 same provisions concerning discovery and use in legal actions as are the
41 original records in the possession and control of hospitals, their medical
42 staffs and their medical staff review committees. The board shall use ~~such~~
43 records and testimony during the course of investigations and proceedings
44 pursuant to this chapter.

1 Sec. 17. Section 32-2939, Arizona Revised Statutes, is amended to
2 read:

3 32-2939. Medical assistants

4 ~~Nothing in~~ This chapter ~~shall be construed to~~ DOES NOT prevent a
5 medical assistant from assisting a ~~homeopathic physician~~ LICENSEE pursuant to
6 rules adopted by the board.

7 Sec. 18. Section 32-2941, Arizona Revised Statutes, is amended to
8 read:

9 32-2941. Substance abuse and treatment rehabilitation program;
10 private contract; funding

11 A. The board may establish a program for the treatment and
12 rehabilitation of licensees who are impaired by alcohol or substance abuse.
13 This program shall include education, intervention, therapeutic treatment and
14 ~~post-treatment~~ POSTTREATMENT monitoring and support.

15 B. The board may contract with other organizations to operate the
16 program. A contract with a private organization shall include the following
17 requirements:

18 1. Periodic reports to the board regarding treatment program activity.

19 2. Release of all treatment records to the board on demand.

20 3. Quarterly reports to the board regarding each licensee's diagnosis
21 and prognosis and recommendations for continuing care, treatment and
22 supervision.

23 4. Immediate reporting to the board of the name of an impaired
24 licensee who the treating organization believes is misusing chemical
25 substances.

26 5. Reports to the board as soon as possible of the name of the ~~doctor~~
27 LICENSEE who refuses to submit to treatment or whose impairment is not
28 substantially alleviated through treatment.

29 C. A licensee who is impaired by alcohol or substance abuse shall
30 agree to enter into a stipulation order with the board. The board shall
31 place the licensee on probation if the licensee refuses to do so.

32 D. The board may charge the board's costs relating to the licensee's
33 participation in the program to that licensee.

34 E. The board shall summarily suspend a ~~homeopathic physician's~~ license
35 pursuant to section 32-2934 if the licensee continues or resumes alcohol or
36 substance abuse after a board stipulation or probationary order that is no
37 longer in effect. After this suspension the board may delay license
38 revocation or other disciplinary actions if the licensee attends a treatment
39 program pursuant to this section. Within ninety days after the licensee
40 completes this program the board shall schedule formal proceedings for
41 licensure revocation or other disciplinary action.

1 Sec. 19. Section 32-2951, Arizona Revised Statutes, is amended to
2 read:

3 32-2951. Dispensing drugs and devices; conditions; definition

4 A. A ~~homeopathic physician~~ PERSON WHO IS LICENSED PURSUANT TO SECTION
5 32-2912, SUBSECTION A may dispense drugs and devices kept by the ~~physician~~
6 LICENSEE, including controlled substances, prescription-only drugs,
7 homeopathic medications and nonprescription drugs, if:

8 1. The ~~physician~~ LICENSEE includes the following information on the
9 label of each controlled substance and prescription-only drug and on the
10 label or accompanying instruction sheets of each homeopathic medication or
11 nonprescription drug:

12 (a) The ~~dispensing physician's~~ LICENSEE'S name, address and telephone
13 number.

14 (b) The date the drug is dispensed.

15 (c) The patient's name.

16 (d) The name and strength of the drug, the quantity dispensed,
17 directions for its use and any cautionary statements.

18 (e) The number of authorized refills.

19 2. The ~~dispensing physician~~ LICENSEE enters into the patient's medical
20 record the name, strength and potency of the drug dispensed, the date the
21 drug is dispensed, the dosing schedule, the number of refills and the
22 therapeutic reason.

23 3. The ~~dispensing physician~~ LICENSEE keeps all controlled substances
24 in a locked cabinet or room, controls access to the cabinet or room by a
25 written procedure and maintains an ongoing inventory of its contents.

26 4. The licensee pays a permit fee prescribed under section 32-2914.

27 B. Except in an emergency situation, a ~~physician~~ LICENSEE who
28 dispenses drugs for a profit without being registered by the board to do so
29 is subject to a civil penalty by the board of not less than three hundred
30 dollars and not more than one thousand dollars for each transaction and is
31 prohibited from further dispensing for a period of time as prescribed by the
32 board.

33 C. Before a ~~physician~~ LICENSEE dispenses a controlled substance or a
34 prescription-only pharmaceutical drug pursuant to this SUBSECTION A OF THIS
35 section, the ~~physician~~ LICENSEE shall give the patient a written prescription
36 on which appears the following statement in bold type:

37 **"This prescription may be filled by the prescribing physician or
38 by a pharmacy of your choice."**

39 D. The ~~physician~~ LICENSEE shall include the following information on a
40 prescription order:

41 1. The date it is issued.

42 2. The patient's name and address.

43 3. The name, strength and quantity of the drug.

44 4. Two signature lines for the ~~physician~~ LICENSEE. The right side of
45 the prescription form under the signature line shall contain the phrase

1 "Substitution Permissible" and the left side under the signature line shall
2 contain the phrase "Dispense As Written".

3 5. The dispensing ~~homeopathic physician's~~ LICENSEE'S drug enforcement
4 agency number for controlled substances.

5 6. ~~THE DATE AND~~ the printed name, ~~AND~~ signature ~~and date~~ of the
6 person who prepares, counts or measures the drug, labels the container or
7 distributes a prepackaged drug to the patient or the patient's
8 representative.

9 E. Before the ~~physician~~ LICENSEE dispenses a homeopathic medication,
10 including a prescription-only homeopathic medication or a nonprescription
11 drug, the ~~physician~~ LICENSEE shall give the patient a written statement on
12 which appears the following statement in bold type: "Prescriptions may be
13 filled by this prescribing physician or by a pharmacy of your choice."

14 F. A ~~physician~~ PERSON WHO IS LICENSED PURSUANT TO SECTION 32-2912,
15 SUBSECTION A shall dispense controlled substances and prescription-only drugs
16 for profit only to the ~~physician's~~ LICENSEE'S own patient and only for
17 conditions being treated by that ~~physician~~ LICENSEE. The ~~physician~~ LICENSEE
18 shall personally determine the legitimacy or advisability of the drugs
19 dispensed and shall document in writing the ~~physician's~~ LICENSEE'S procedures
20 for supervising the role of nurses and attendants in the dispensing process.

21 G. A PERSON WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION B
22 MAY DISPENSE ONLY THOSE DRUGS AND DEVICES KEPT BY THAT LICENSEE THAT ARE
23 HOMEOPATHIC MEDICATIONS AND NONPRESCRIPTION DRUGS INCLUDING NUTRITIONAL
24 SUPPLEMENTS AND MUST INCLUDE THE FOLLOWING INFORMATION ON THE LABEL OR
25 ACCOMPANYING INSTRUCTION SHEETS OF EACH HOMEOPATHIC MEDICATION OR
26 NONPRESCRIPTION DRUG:

27 1. THE DISPENSING LICENSEE'S NAME, ADDRESS AND TELEPHONE NUMBER.

28 2. THE DATE THE SUBSTANCE IS DISPENSED.

29 3. THE PATIENT'S NAME.

30 4. THE NAME AND STRENGTH OF THE SUBSTANCE, THE QUANTITY DISPENSED,
31 DIRECTIONS FOR ITS USE AND ANY CAUTIONARY STATEMENTS.

32 H. A LICENSEE WHO DISPENSES DRUGS AND DEVICES PURSUANT TO SUBSECTION G
33 OF THIS SECTION MUST ENTER INTO THE PATIENT'S MEDICAL RECORD THE NAME,
34 STRENGTH AND POTENCY OF THE SUBSTANCE DISPENSED, THE DATE THE SUBSTANCE IS
35 DISPENSED, THE DOSING SCHEDULE AND THE THERAPEUTIC REASON.

36 I. A PERSON WHO IS LICENSED PURSUANT TO SECTION 32-2912, SUBSECTION B
37 MAY NOT DISPENSE CONTROLLED SUBSTANCES OR PRESCRIPTION-ONLY SUBSTANCES.

38 ~~G-~~ J. This section shall be enforced by the board, which shall
39 establish rules regarding labeling, record keeping, storage and packaging of
40 drugs that are consistent with the requirements of chapter 18 of this title.
41 The board may conduct periodic inspections of dispensing practices to ~~assure~~
42 ENSURE compliance with this section and applicable rules.

1 ~~H.~~ K. For the purposes of this section, "dispense" means the delivery
2 by a ~~homeopathic physician~~ LICENSEE of a drug or device to a patient, except
3 for samples packaged for individual use by licensed manufacturers or
4 repackagers of drugs, and includes the prescribing, administering, packaging,
5 labeling and security necessary to prepare and safeguard the drug or device
6 for delivery.

7 Sec. 20. Exemption from rule making

8 For the purposes of this act, the board homeopathic and integrated
9 medicine examiners is exempt from the rule making requirements of title 41,
10 chapter 6, Arizona Revised Statutes, for one year after the effective date of
11 this act.