

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

**CHAPTER 241**  
**HOUSE BILL 2411**

AN ACT

AMENDING SECTIONS 32-3251, 32-3253, 32-3261, 32-3272, 32-3281 AND 32-4223,  
ARIZONA REVISED STATUTES; RELATING TO HEALTH PROFESSIONALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 32-3251, Arizona Revised Statutes, is amended to  
3 read:  
4 32-3251. Definitions; notifications or communications  
5 A. In this chapter, unless the context otherwise requires:  
6 1. "Board" means the board of behavioral health examiners.  
7 2. "Client" means a patient who receives behavioral health services  
8 from a person licensed pursuant to this chapter.  
9 3. "Direct client contact" means, ~~beginning November 1, 2015,~~ the  
10 performance of therapeutic or clinical functions related to the  
11 applicant's professional practice level of psychotherapy that includes  
12 diagnosis, assessment and treatment and that may include psychoeducation  
13 for mental, emotional and behavioral disorders based primarily on verbal  
14 or nonverbal communications and intervention with, and in the presence of,  
15 one or more clients.  
16 4. "Equivalent" means comparable in content and quality but not  
17 identical.  
18 5. "Indirect client service" means, ~~beginning November 1, 2015,~~  
19 training for, and the performance of, functions of an applicant's  
20 professional practice level in preparation for or on behalf of a client  
21 for whom direct client contact functions are also performed, including  
22 case consultation and receipt of clinical supervision. Indirect client  
23 service does not include the provision of psychoeducation.  
24 6. "Letter of concern" means a nondisciplinary written document  
25 sent by the board to notify a licensee that, while there is insufficient  
26 evidence to support disciplinary action, the board believes that  
27 continuation of the activities that led to the investigation may result in  
28 further board action against the licensee.  
29 7. "Licensee" means a person who is licensed pursuant to this  
30 chapter.  
31 8. "Practice of behavioral health" means the practice of marriage  
32 and family therapy, professional counseling, social work and substance  
33 abuse counseling pursuant to this chapter.  
34 9. "Practice of marriage and family therapy" means the professional  
35 application of family systems theories, principles and techniques to treat  
36 interpersonal relationship issues and nervous, mental and emotional  
37 disorders that are cognitive, affective or behavioral. The practice of  
38 marriage and family therapy includes:  
39 (a) Assessment, appraisal and diagnosis.  
40 (b) The use of psychotherapy for the purpose of evaluation,  
41 diagnosis and treatment of individuals, couples, families and groups.  
42 10. "Practice of professional counseling" means the professional  
43 application of mental health, psychological and human development  
44 theories, principles and techniques to:

1 (a) Facilitate human development and adjustment throughout the  
2 human life span.

3 (b) Assess and facilitate career development.

4 (c) Treat interpersonal relationship issues and nervous, mental and  
5 emotional disorders that are cognitive, affective or behavioral.

6 (d) Manage symptoms of mental illness.

7 (e) Assess, appraise, evaluate, diagnose and treat individuals,  
8 couples, families and groups through the use of psychotherapy.

9 11. "Practice of social work" means the professional application of  
10 social work theories, principles, methods and techniques to:

11 (a) Treat mental, behavioral and emotional disorders.

12 (b) Assist individuals, families, groups and communities to enhance  
13 or restore the ability to function physically, socially, emotionally,  
14 mentally and economically.

15 (c) Assess, appraise, diagnose, evaluate and treat individuals,  
16 couples, families and groups through the use of psychotherapy.

17 12. "Practice of substance abuse counseling" means the professional  
18 application of general counseling theories, principles and techniques as  
19 specifically adapted, based on research and clinical experience, to the  
20 specialized needs and characteristics of persons who are experiencing  
21 substance abuse, chemical dependency and related problems and to the  
22 families of those persons. The practice of substance abuse counseling  
23 includes the following as they relate to substance abuse and chemical  
24 dependency issues:

25 (a) Assessment, appraisal and diagnosis.

26 (b) The use of psychotherapy for the purpose of evaluation,  
27 diagnosis and treatment of individuals, couples, families and groups.

28 13. "Psychoeducation" means the education of a client as part of a  
29 treatment process that provides the client with information regarding  
30 mental health, emotional disorders or behavioral health.

31 14. "Psychotherapy" means a variety of treatment methods developing  
32 out of generally accepted theories about human behavior and development.

33 15. "Telepractice" means providing behavioral health services  
34 through interactive audio, video or electronic communication that occurs  
35 between the behavioral health professional and the client, including any  
36 electronic communication for evaluation, diagnosis and treatment,  
37 including distance counseling, in a secure platform, and that meets the  
38 requirements of telemedicine pursuant to section 36-3602.

39 16. "Unprofessional conduct" includes the following, whether  
40 occurring in this state or elsewhere:

41 (a) ~~Conviction~~ BEING CONVICTED of a felony. Conviction by a court  
42 of competent jurisdiction or a plea of no contest is conclusive evidence  
43 of the conviction.

- 1 (b) ~~Use of~~ USING fraud or deceit in connection with rendering  
2 services as a licensee or in establishing qualifications pursuant to this  
3 chapter.
- 4 (c) MAKING any oral or written misrepresentation of a fact ~~by an~~  
5 ~~applicant or licensee~~:
- 6 (i) To secure or attempt to secure the issuance or renewal of a  
7 license.
- 8 (ii) In any statements provided during an investigation or  
9 disciplinary proceeding by the board.
- 10 (iii) Regarding the licensee's skills or the value of any treatment  
11 provided or to be provided.
- 12 (d) MAKING any false, fraudulent or deceptive statement connected  
13 with the practice of behavioral health, including false or misleading  
14 advertising by the licensee or the licensee's staff or a representative  
15 compensated by the licensee.
- 16 (e) Securing or attempting to secure the issuance or renewal of a  
17 license by knowingly taking advantage of the mistake of another person or  
18 the board.
- 19 (f) ENGAGING IN active habitual intemperance in the use of alcohol  
20 or active habitual substance abuse.
- 21 (g) Using a controlled substance that is not prescribed for use  
22 during a prescribed course of treatment.
- 23 (h) Obtaining a fee by fraud, deceit or misrepresentation.
- 24 (i) Aiding or abetting a person who is not licensed pursuant to  
25 this chapter to purport to be a licensed behavioral health professional in  
26 this state.
- 27 (j) ENGAGING IN conduct that the board determines is gross  
28 negligence or repeated negligence in the licensee's profession.
- 29 (k) ENGAGING IN any conduct or practice that is contrary to  
30 recognized standards of ethics in the behavioral health profession or that  
31 constitutes a danger to the health, welfare or safety of a client.
- 32 (l) ENGAGING IN any conduct, practice or condition that impairs the  
33 ability of the licensee to safely and competently practice the licensee's  
34 profession.
- 35 (m) Engaging or offering to engage as a licensee in activities that  
36 are not congruent with the licensee's professional education, training or  
37 experience.
- 38 (n) Failing to comply with or violating, attempting to violate or  
39 assisting in or abetting the violation of any provision of this chapter,  
40 any rule adopted pursuant to this chapter, any lawful order of the board,  
41 or any formal order, consent agreement, term of probation or stipulated  
42 agreement issued under this chapter.
- 43 (o) Failing to furnish information within a specified time to the  
44 board or its investigators or representatives if legally requested by the  
45 board.

- 1 (p) Failing to conform to minimum practice standards as developed  
2 by the board.
- 3 (q) Failing or refusing to maintain adequate records of behavioral  
4 health services provided to a client.
- 5 (r) Providing behavioral health services that are clinically  
6 unjustified or unsafe or otherwise engaging in activities as a licensee  
7 that are unprofessional by current standards of practice.
- 8 (s) Terminating behavioral health services to a client without  
9 making an appropriate referral for continuation of care for the client if  
10 continuing behavioral health services are indicated.
- 11 (t) Disclosing a professional confidence or privileged  
12 communication except as may otherwise be required by law or permitted by a  
13 LEGALLY valid written release.
- 14 (u) Failing to allow the board or its investigators on demand to  
15 examine and have access to documents, reports and records in any format  
16 maintained by the licensee that relate to the licensee's practice of  
17 behavioral health.
- 18 (v) ENGAGING IN any sexual conduct between a licensee and a client  
19 or former client.
- 20 (w) Providing behavioral health services to any person with whom  
21 the licensee has had sexual contact.
- 22 (x) Exploiting a client, former client or supervisee. For the  
23 purposes of this subdivision, "exploiting" means taking advantage of a  
24 professional relationship with a client, former client or supervisee for  
25 the benefit or profit of the licensee.
- 26 (y) Engaging in a dual relationship with a client that could impair  
27 the licensee's objectivity or professional judgment or create a risk of  
28 harm to the client. For the purposes of this subdivision, "dual  
29 relationship" means a licensee simultaneously engages in both a  
30 professional and nonprofessional relationship with a client that is  
31 avoidable and not incidental.
- 32 (z) Engaging in physical contact between a licensee and a client if  
33 there is a reasonable possibility of physical or psychological harm to the  
34 client as a result of that contact.
- 35 (aa) Sexually harassing a client, former client, research subject,  
36 supervisee or coworker. For the purposes of this subdivision, "sexually  
37 harassing" includes sexual advances, sexual solicitation, requests for  
38 sexual favors, unwelcome comments or gestures or any other verbal or  
39 physical conduct of a sexual nature.
- 40 (bb) Harassing, exploiting or retaliating against a client, former  
41 client, research subject, supervisee, coworker or witness or a complainant  
42 in a disciplinary investigation or proceeding involving a licensee.
- 43 (cc) Failing to take reasonable steps to inform potential victims  
44 and appropriate authorities if the licensee becomes aware during the  
45 course of providing or supervising behavioral health services that a

1 client's condition indicates a clear and imminent danger to the client or  
2 others.

3 (dd) Failing to comply with the laws of the appropriate licensing  
4 or credentialing authority to provide behavioral health services by  
5 electronic means in all governmental jurisdictions where the client  
6 receiving these services resides.

7 (ee) Giving or receiving a payment, kickback, rebate, bonus or  
8 other remuneration for a referral.

9 (ff) Failing to report in writing to the board information that  
10 would cause a reasonable licensee to believe that another licensee is  
11 guilty of unprofessional conduct or is physically or mentally unable to  
12 provide behavioral health services competently or safely. This duty does  
13 not extend to information provided by a licensee that is protected by the  
14 behavioral health professional-client privilege unless the information  
15 indicates a clear and imminent danger to the client or others or is  
16 otherwise subject to mandatory reporting requirements pursuant to state or  
17 federal law.

18 (gg) Failing to follow federal and state laws regarding the  
19 storage, use and release of confidential information regarding a client's  
20 personal identifiable information or care.

21 (hh) Failing to retain records pursuant to section 12-2297.

22 (ii) Violating any federal or state law, rule or regulation  
23 applicable to the practice of behavioral health.

24 (jj) Failing to make client records in the licensee's possession  
25 available in a timely manner to another health professional or licensee on  
26 receipt of proper authorization to do so from the client, a minor client's  
27 parent, the client's legal guardian or the client's authorized  
28 representative.

29 (kk) Failing to make client records in the licensee's possession  
30 promptly available to the client, a minor client's parent, the client's  
31 legal guardian or the client's authorized representative on receipt of  
32 proper authorization to do so from the client, a minor client's parent,  
33 the client's legal guardian or the client's authorized representative.

34 (ll) Being the subject of the revocation, suspension, surrender or  
35 any other disciplinary sanction of a professional license, certificate or  
36 registration or other adverse action related to a professional license,  
37 certificate or registration in another jurisdiction or country, including  
38 the failure to report the adverse action to the board. The action taken  
39 may include refusing, denying, revoking or suspending a license or  
40 certificate, the surrendering of a license or certificate, otherwise  
41 limiting, restricting or monitoring a licensee or certificate holder or  
42 placing a licensee or certificate holder on probation.

43 (mm) **ENGAGING IN** any conduct that results in a sanction imposed by  
44 an agency of the federal government that involves restricting, suspending,

1 limiting or removing the licensee's ability to obtain financial  
2 remuneration for behavioral health services.

3 (nn) Violating the security of any licensure examination materials.

4 (oo) ~~The use of~~ USING fraud or deceit in connection with taking or  
5 assisting another person in taking a licensure examination.

6 B. FOR THE PURPOSES OF THIS CHAPTER, NOTIFICATIONS OR  
7 COMMUNICATIONS REQUIRED TO BE WRITTEN OR IN WRITING MAY BE TRANSMITTED OR  
8 RECEIVED BY MAIL, ELECTRONIC TRANSMISSION, FACSIMILE TRANSMISSION OR HAND  
9 DELIVERY AND SHALL NOT BE TRANSMITTED OR RECEIVED ORALLY.

10 Sec. 2. Section 32-3253, Arizona Revised Statutes, is amended to  
11 read:

12 32-3253. Powers and duties

13 A. The board shall:

14 1. Adopt rules consistent with and necessary or proper to carry out  
15 the purposes of this chapter.

16 2. Administer and enforce this chapter, rules adopted pursuant to  
17 this chapter and orders of the board.

18 3. Issue a license by examination, endorsement or temporary  
19 recognition to, and renew the license of, each person who is qualified to  
20 be licensed pursuant to this chapter. The board must issue or deny a  
21 license within one hundred eighty days after the applicant submits a  
22 completed application.

23 4. Establish a licensure fee schedule annually, by a formal vote at  
24 a regular board meeting.

25 5. Collect fees and spend monies.

26 6. Keep a record of all persons WHO ARE licensed pursuant to this  
27 chapter, actions taken on all applications for licensure, actions  
28 involving renewal, suspension, revocation or denial of a license or  
29 probation of licensees and the receipt and disbursement of monies.

30 7. Adopt an official seal for attestation of licensure and other  
31 official papers and documents.

32 8. Conduct investigations and determine on its own motion ~~if~~  
33 WHETHER a licensee or an applicant has engaged in unprofessional conduct,  
34 is incompetent or is mentally or physically unable to engage in the  
35 practice of behavioral health.

36 9. Conduct disciplinary actions pursuant to this chapter and board  
37 rules.

38 10. Establish and enforce standards or criteria of programs or  
39 other mechanisms to ensure the continuing competence of licensees.

40 11. Establish and enforce compliance with professional standards  
41 and rules of conduct for licensees.

42 12. Engage in a full exchange of information with the licensing and  
43 disciplinary boards and professional associations for behavioral health  
44 professionals in this state and other jurisdictions.

1           13. Subject to section 35-149, accept, expend and account for  
2 gifts, grants, devises and other contributions, money or property from any  
3 public or private source, including the federal government. Monies  
4 received under this paragraph shall be deposited, pursuant to sections  
5 35-146 and 35-147, in special funds for the purpose specified, which are  
6 exempt from the provisions of section 35-190 relating to lapsing of  
7 appropriations.

8           14. Adopt rules regarding the application for and approval of  
9 educational curricula of regionally accredited colleges or universities  
10 with a program not otherwise accredited by an organization or entity  
11 recognized by the board that are consistent with the requirements of this  
12 chapter and maintain a list of those programs. Approvals ~~shall be~~ ARE  
13 valid for a period of five years if no changes of curricula are made that  
14 are inconsistent with the requirements of this chapter or board rule.

15           15. Maintain a registry of licensees who have met the educational  
16 requirements to provide supervision as required pursuant to this chapter  
17 to applicants in the same profession.

18           16. Adopt rules to allow approval of persons who wish to provide  
19 supervision pursuant to this chapter and who are not licensed by the board  
20 and who are licensed in a profession other than the profession in which  
21 the applicant is seeking licensure.

22           17. Recognize not more than four hundred hours of psychoeducation  
23 for work experience required pursuant to sections 32-3293, 32-3301,  
24 32-3311 and 32-3321.

25           18. Adopt rules regarding the use of telepractice ~~beginning on~~  
26 ~~November 1, 2015.~~

27           19. IF AN APPLICANT IS REQUIRED TO PASS AN EXAMINATION FOR  
28 LICENSURE, ALLOW THE APPLICANT TO TAKE THE EXAMINATION THREE TIMES DURING  
29 A TWELVE-MONTH PERIOD.

30           B. The board may join professional organizations and associations  
31 organized exclusively to promote the improvement of the standards of the  
32 practice of behavioral health, protect the health and welfare of the  
33 public or assist and facilitate the work of the board.

34           C. The board may enter into stipulated agreements with a licensee  
35 for the confidential treatment, rehabilitation and monitoring of chemical  
36 dependency or psychiatric, psychological or behavioral health disorders in  
37 a program provided pursuant to subsection D of this section. A licensee  
38 who materially fails to comply with a program shall be terminated from the  
39 confidential program. Any records of the licensee who is terminated from  
40 a confidential program are no longer confidential or exempt from the  
41 public records law, notwithstanding any law to the contrary. Stipulated  
42 agreements are not public records if the following conditions are met:

43           1. The licensee voluntarily agrees to participate in the  
44 confidential program.



1           2. The licensee complies with all treatment requirements or  
2 recommendations including participation in approved programs.

3           3. The licensee refrains from professional practice until the  
4 return to practice has been approved by the treatment program and the  
5 board.

6           4. The licensee complies with all monitoring requirements of the  
7 stipulated agreement, including random bodily fluid testing.

8           5. The licensee's professional employer is notified of the  
9 licensee's chemical dependency or medical, psychiatric, psychological or  
10 behavioral health disorders and participation in the confidential program  
11 and is provided a copy of the stipulated agreement.

12           D. The board shall establish a confidential program for the  
13 monitoring of licensees who are chemically dependent or who have  
14 psychiatric, psychological or behavioral health disorders that may impact  
15 their ability to safely practice and who enroll in a rehabilitation  
16 program that meets the criteria prescribed by the board. The licensee  
17 ~~shall be~~ IS responsible for the costs associated with rehabilitative  
18 services and monitoring. The board may take further action if a licensee  
19 refuses to enter into a stipulated agreement or fails to comply with the  
20 terms of a stipulated agreement. In order to protect the public health  
21 and safety, the confidentiality requirements of this subsection do not  
22 apply if a licensee does not comply with the stipulated agreement.

23           E. The board shall audio record all meetings and maintain all audio  
24 and video recordings or stenographic records of interviews and meetings  
25 for a period of three years from when the record was created.

26           Sec. 3. Section 32-3261, Arizona Revised Statutes, is amended to  
27 read:

28           32-3261. Academic review committees; members; appointment;  
29   qualifications; terms; compensation; immunity;  
30   training

31           A. The board shall establish an academic review committee for each  
32 professional area licensed pursuant to this chapter to do the following:

33           1. Review applications referred to the committee by the board or  
34 the executive director to determine whether an applicant, whose curriculum  
35 has not been approved pursuant to section 32-3253, subsection A, paragraph  
36 14 or whose program is not accredited by an organization or entity  
37 approved by the board, has met the educational requirements of this  
38 chapter or board rules.

39           2. On referral by the executive director, make recommendations to  
40 the board regarding whether an applicant has met the requirements of  
41 supervised work experience required for licensure pursuant to this chapter  
42 or board rules.

43           3. Make specific findings concerning an application's deficiencies.

1           4. Review applications and make recommendations to the board for  
2 curriculum approval applications made pursuant to section 32-3253,  
3 subsection A, paragraph 14.

4           5. At the request of the board, make recommendations regarding  
5 examinations required pursuant to this chapter.

6           6. Review applications for and make determinations regarding  
7 exemptions related to clinical supervision requirements.

8           ~~B.~~ B. IF AN APPLICATION IS REFERRED TO AN ACADEMIC REVIEW COMMITTEE  
9 FOR REVIEW AND THE ACADEMIC REVIEW COMMITTEE FINDS THAT ADDITIONAL  
10 INFORMATION IS NEEDED FROM THE APPLICANT, THE ACADEMIC REVIEW COMMITTEE  
11 SHALL PROVIDE A COMPREHENSIVE WRITTEN REQUEST FOR ADDITIONAL INFORMATION  
12 TO THE APPLICANT.

13           ~~C.~~ C. An academic review committee shall be composed of three  
14 members who have been residents of this state for at least one year before  
15 appointment, at least one but not more than two of whom are licensed in  
16 the professional area pursuant to this chapter and have five years of  
17 experience in the applicable profession. At least one but not more than  
18 two members must have served within the previous ten years as core or  
19 full-time faculty at a regionally accredited college or university in a  
20 program related to the applicable profession and have experience in the  
21 design and development of the curriculum of a related program. If  
22 qualified, a faculty member may serve on more than one academic review  
23 committee. A board member may not be appointed to serve on an academic  
24 review committee.

25           ~~D.~~ D. Committee members shall initially be appointed by the board.  
26 From and after January 1, 2016, the governor shall appoint the committee  
27 members. A committee member who is initially appointed by the board may be  
28 reappointed by the governor. A committee member who is initially  
29 appointed by the board shall continue to serve until appointed or replaced  
30 by the governor.

31           ~~E.~~ E. Committee members serve at the pleasure of the governor for  
32 terms of three years. A member shall not serve more than two full  
33 consecutive terms.

34           ~~F.~~ F. Committee members are eligible to receive compensation of  
35 not more than eighty-five dollars for each day actually and necessarily  
36 spent in the performance of their duties.

37           ~~G.~~ G. An academic review committee shall annually elect a chairman  
38 and secretary from its membership.

39           ~~H.~~ H. Committee members are personally immune from suit with  
40 respect to all acts done and actions taken in good faith and in  
41 furtherance of the purposes of this chapter.

42           ~~I.~~ I. Committee members shall receive at least five hours of  
43 training as prescribed by the board within one year after the member is  
44 initially appointed and that includes instruction in ethics and open  
45 meeting requirements.

1           Sec. 4. Section 32-3272, Arizona Revised Statutes, is amended to  
2 read:

3           32-3272. Fees

4           A. For issuance of a license pursuant to this chapter, including  
5 application fees, the board shall establish and charge reasonable fees not  
6 to exceed five hundred dollars.

7           B. For renewal of a license pursuant to this chapter, the board  
8 shall establish and charge reasonable fees not to exceed five hundred  
9 dollars. The board shall not increase fees pursuant to this subsection  
10 more than twenty-five dollars each year.

11           C. The board by rule may adopt a fee for applications for approval  
12 of educational curricula pursuant to section 32-3253, subsection A,  
13 paragraph ~~15~~ 14.

14           D. The board shall establish fees to produce monies that  
15 approximate the cost of maintaining the board.

16           E. THE BOARD SHALL WAIVE THE APPLICATION FEE FOR AN INDEPENDENT  
17 LEVEL LICENSE IF AN APPLICANT HAS PAID THE FEE FOR AN INITIAL OR RENEWAL  
18 ASSOCIATE LEVEL LICENSE IN THIS STATE AND WITHIN NINETY DAYS AFTER PAYMENT  
19 OF THE FEE THE APPLICANT APPLIES FOR AN INDEPENDENT LEVEL LICENSE.

20           Sec. 5. Section 32-3281, Arizona Revised Statutes, is amended to  
21 read:

22           32-3281. Disciplinary action; investigations; hearings; civil  
23 penalty; timely complaints; burden of proof

24           A. The board, on its own motion or on a complaint, may investigate  
25 any evidence that appears to show that a licensee is or may be  
26 incompetent, is or may be guilty of unprofessional conduct or is or may be  
27 mentally or physically unable to safely engage in the practice of  
28 behavioral health. As part of its investigation, the board may hold an  
29 investigational meeting pursuant to this chapter. Any person may, and a  
30 licensee and any entity licensed by the office of behavioral health  
31 licensure shall, report to the board any information that would cause a  
32 reasonable licensee to believe that another licensee is guilty of  
33 unprofessional conduct or is physically or mentally unable to provide  
34 behavioral health services competently or safely. Any person or entity  
35 that reports or provides information to the board in good faith is not  
36 subject to an action for civil damages. It is an act of unprofessional  
37 conduct for any licensee to fail to report as required by this  
38 section. The board shall report to the office of behavioral health  
39 licensure in the department of health services any entity licensed by the  
40 office of behavioral health licensure that fails to report as required by  
41 this section. For complaints related to conduct that is inconsistent with  
42 professional standards or ethics, scope of practice or standard of care,  
43 the board may consult with one or more licensed or retired behavioral  
44 health professionals of the same profession as the licensee to review  
45 complaints and make recommendations to the board.

1           B. On determination of reasonable cause, the board shall require,  
2 at the licensee's own expense, any combination of mental, physical or  
3 psychological examinations, assessments or skills evaluations necessary to  
4 determine the licensee's competence or ability to safely engage in the  
5 practice of behavioral health and conduct necessary investigations,  
6 including investigational interviews between representatives of the board  
7 and the licensee, to fully inform the board with respect to any  
8 information filed with the board under subsection A of this  
9 section. These examinations may include biological fluid testing. The  
10 board may require the licensee, at the licensee's expense, to undergo  
11 assessment by a rehabilitative, retraining or assessment program approved  
12 by the board.

13           C. If the board finds, based on the information received pursuant  
14 to subsection A or B of this section, that the public health, safety or  
15 welfare imperatively requires emergency action, and incorporates a finding  
16 to that effect in its order, the board may restrict, limit or order a  
17 summary suspension of a license pending proceedings for revocation or  
18 other action. If the board takes action pursuant to this subsection, it  
19 must also serve the licensee with a written notice that states the charges  
20 and that the licensee is entitled to a formal hearing before the board or  
21 an administrative law judge within sixty days.

22           D. If after completing an investigation the board finds that the  
23 information provided is not of sufficient seriousness to merit  
24 disciplinary action against the licensee, the board shall either:

25           1. Dismiss the complaint if, in the opinion of the board, the  
26 complaint is without merit.

27           2. File a letter of concern and dismiss the complaint. The  
28 licensee may file a written response with the board within thirty days  
29 after the licensee receives the letter of concern.

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

34           E. A complaint dismissed by the board pursuant to subsection D,  
35 paragraph 1 of this section is not a complaint of unprofessional conduct  
36 and shall not be disclosed by the board as a complaint on the licensee's  
37 complaint history.

38           F. If after completing its investigation the board believes that  
39 the information is or may be true, the board may enter into a consent  
40 agreement with the licensee to limit or restrict the licensee's practice  
41 or to rehabilitate the licensee, protect the public and ensure the  
42 licensee's ability to safely engage in the practice of behavioral health.  
43 A consent agreement may also require the licensee to successfully complete  
44 a board approved rehabilitative, retraining or assessment program.

1           G. If the board finds that the information provided pursuant to  
2 subsection A of this section is or may be true, the board may request a  
3 formal interview with the licensee. If the licensee refuses the  
4 invitation for a formal interview or accepts and the results indicate that  
5 grounds may exist for revocation or suspension of the licensee's license  
6 for more than twelve months, the board shall issue a formal complaint and  
7 order that a hearing be held pursuant to title 41, chapter 6, article 10.  
8 If after completing a formal interview the board finds that the protection  
9 of the public requires emergency action, the board may order a summary  
10 suspension of the licensee's license pending formal revocation proceedings  
11 or other action authorized by this section.

12           H. If after completing the formal interview the board finds the  
13 information provided is not of sufficient seriousness to merit suspension  
14 for more than twelve months or revocation of the license, the board may  
15 take the following actions:

16           1. Dismiss if, in the opinion of the board, the information is  
17 without merit.

18           2. File a letter of concern and dismiss the complaint. The  
19 licensee may file a written response with the board within thirty days  
20 after the licensee receives the letter of concern.

21           3. Issue a decree of censure. A decree of censure is an official  
22 action against the licensee's license and may include a requirement for  
23 restitution of fees to a client resulting from violations of this chapter  
24 or rules adopted pursuant to this chapter.

25           4. Fix a period and terms of probation best adapted to protect the  
26 public health and safety and rehabilitate or educate the licensee  
27 concerned. Probation may include temporary suspension not to exceed  
28 twelve months, restriction of the licensee's license to practice  
29 behavioral health, a requirement for restitution of fees to a client or  
30 education or rehabilitation at the licensee's own expense. If a licensee  
31 fails to comply with the terms of probation, the board shall serve the  
32 licensee with a written notice that states that the licensee is subject to  
33 a formal hearing based on the information considered by the board at the  
34 formal interview and any other acts or conduct alleged to be in violation  
35 of this chapter or rules adopted by the board pursuant to this chapter,  
36 including noncompliance with the terms of probation or a consent  
37 agreement.

38           5. Issue a nondisciplinary order requiring the licensee to complete  
39 a prescribed number of hours of continuing education in an area or areas  
40 prescribed by the board to provide the licensee with the necessary  
41 understanding of current developments, skills, procedures or treatment.

42           I. If the board finds that the information provided in subsection A  
43 or G of this section warrants suspension or revocation of a license issued  
44 under this chapter, the board shall initiate formal proceedings pursuant  
45 to title 41, chapter 6, article 10.

1 J. In a formal interview pursuant to subsection G of this section  
2 or in a hearing pursuant to subsection I of this section, the board in  
3 addition to any other action may impose a civil penalty not to exceed one  
4 thousand dollars for each violation of this chapter or a rule adopted  
5 under this chapter.

6 K. A letter of concern is a public document.

7 L. A licensee who after a formal hearing is found by the board to  
8 be guilty of unprofessional conduct, to be mentally or physically unable  
9 to safely engage in the practice of behavioral health or to be  
10 professionally incompetent is subject to censure, probation as provided in  
11 this section, suspension of license or revocation of license or any  
12 combination of these, including a stay of action, and for a period of time  
13 or permanently and under conditions as the board deems appropriate for the  
14 protection of the public health and safety and just in the  
15 circumstance. The board may charge all costs incurred in the course of  
16 the investigation and formal hearing to the licensee it finds is in  
17 violation of this chapter. The board shall deposit, pursuant to sections  
18 35-146 and 35-147, monies collected pursuant to this subsection in the  
19 board of behavioral health examiners fund established by section 32-3254.

20 M. If the board during the course of any investigation determines  
21 that a criminal violation may have occurred involving the delivery of  
22 behavioral health services, the board shall make the evidence of  
23 violations available to the appropriate criminal justice agency for its  
24 consideration.

25 N. The board shall deposit, pursuant to sections 35-146 and 35-147,  
26 all monies collected from civil penalties paid pursuant to this chapter in  
27 the state general fund.

28 O. Notice of a complaint and hearing is effective by a true copy of  
29 the notice being sent by certified mail to the licensee's last known  
30 address of record in the board's files. Notice of the complaint and  
31 hearing is complete on the date of its deposit in the mail.

32 P. In determining the appropriate disciplinary action under this  
33 section, the board shall consider all previous nondisciplinary and  
34 disciplinary actions against a licensee.

35 Q. The board may defer action with regard to an impaired licensee  
36 who voluntarily signs an agreement, in a form satisfactory to the board,  
37 agreeing to practice restrictions and treatment and monitoring programs  
38 deemed necessary by the board to protect the public health and safety. A  
39 licensee who is impaired and who does not agree to enter into an agreement  
40 with the board is subject to other action as provided pursuant to this  
41 chapter.

1 R. Subject to an order duly entered by the board, a person whose  
2 license to practice behavioral health has been suspended or restricted  
3 pursuant to this chapter, whether voluntarily or by action of the board,  
4 may at reasonable intervals apply to the board for reinstatement of the  
5 license. The person shall submit the application in writing and in the  
6 form prescribed by the board. After conducting an investigation and  
7 hearing, the board may grant or deny the application or modify the  
8 original finding to reflect any circumstances that have changed  
9 sufficiently to warrant modification. The board may require the applicant  
10 to pass an examination or complete board imposed continuing education  
11 requirements or may impose any other sanctions the board deems appropriate  
12 for reentry into the practice of behavioral health.

13 S. A person whose license is revoked, suspended or not renewed must  
14 return the license to the offices of the board within ten days after  
15 notice of that action.

16 T. The board may enforce a civil penalty imposed pursuant to this  
17 section in the superior court in Maricopa county.

18 U. For complaints being brought before the full board, the  
19 information released to the public regarding an ongoing investigation must  
20 clearly indicate that the investigation is a pending complaint and must  
21 include the following statement:

22 Pending complaints represent unproven allegations. On  
23 investigation, many complaints are found to be without merit  
24 or not of sufficient seriousness to merit disciplinary action  
25 against the licensee and are dismissed.

26 V. The board shall not act on its own motion or on any complaint  
27 received by the board in which an allegation of unprofessional conduct or  
28 any other violation of this chapter against a professional who holds an  
29 Arizona license occurred more than four years before the complaint is  
30 received by the board. The time limitation does not apply to:

31 1. Malpractice settlements or judgments, ~~or~~ allegations of sexual  
32 misconduct or ~~if~~ an incident or occurrence **THAT** involved a felony,  
33 diversion of a controlled substance or impairment while practicing by the  
34 licensee.

35 2. ~~A~~ **THE** board's consideration of the specific unprofessional  
36 conduct related to ~~a~~ **THE** licensee's failure to disclose conduct or a  
37 violation as required by law.

38 W. The board shall not open an investigation if identifying  
39 information regarding the complainant is not provided.

40 X. Except for disciplinary matters prescribed by section 32-3251,  
41 **SUBSECTION A**, paragraph 16, subdivision (v), the board has the burden of  
42 proof by clear and convincing evidence for disciplinary matters brought  
43 pursuant to this chapter.

1           Sec. 6. Section 32-4223, Arizona Revised Statutes, is amended to  
2 read:

3           32-4223. Reciprocity

4           A. An applicant is eligible for reciprocal licensure if either of  
5 the following applies:

6           1. The applicant has been licensed ~~continuously~~ in another state  
7 **THAT HAS COMPREHENSIVE STANDARDS FOR LICENSURE FOR MASSAGE THERAPISTS** for  
8 **AT LEAST TWO OF** the last five years preceding the filing of the  
9 application with the board ~~and the other state has standards for massage~~  
10 ~~therapists that are substantially equivalent to those in this state.~~

11           2. The applicant holds a current certification from the national  
12 certification board for therapeutic massage and bodywork or another agency  
13 that meets the standards of the national organization on competency  
14 assurance and received education and training substantially equivalent to  
15 that required by this chapter.

16           B. When an applicant submits an application for reciprocity, the  
17 applicant shall also submit a letter or other document acceptable to the  
18 board showing whether any jurisdiction that has previously certified or  
19 licensed the applicant has instituted disciplinary proceedings or has  
20 unresolved complaints pending against the applicant. If a disciplinary  
21 proceeding or an unresolved complaint is pending, the applicant shall not  
22 be licensed until the proceeding or the complaint has been resolved in the  
23 applicant's favor.

24           Sec. 7. Board of massage therapy; report; delayed repeal

25           A. On or before December 1, 2018, the board of massage therapy  
26 shall report to the chairperson of the health committee of the house of  
27 representatives and the chairperson of the health and human services  
28 committee of the senate, or their successor committees, on issues related  
29 to the number of hours required for a person to demonstrate entry-level  
30 competence to practice massage therapy in this state, including a survey  
31 of the requirements of businesses that employ massage therapists, laws in  
32 this and other states and requirements of accreditation entities or other  
33 organizations with expertise in massage therapy.

34           B. This section is repealed from and after June 30, 2019.

35           Sec. 8. Regulatory boards; report; delayed repeal

36           A. The board of homeopathic and integrated medicine examiners,  
37 state board of dispensing opticians and board of behavioral health  
38 examiners shall each research and compare licensing requirements of other  
39 states and shall consult with state industry representatives and licensees  
40 to make recommendations on the following:

41           1. The reduction of administrative burdens for licensing  
42 applicants.



- 1           2. Streamlining of the licensing application and renewal process  
2 and reducing the cost to the applicant and licensee.  
3           B. On or before December 31, 2018, each board shall submit a report  
4 regarding its findings and recommendations to the governor, the president  
5 of the senate, the speaker of the house of representatives, the  
6 chairperson of the health committee of the house of representatives and  
7 the chairperson of the health and human services committee of the senate,  
8 or their successor committees, and shall provide a copy of the report to  
9 the secretary of state.  
10          C. This section is repealed from and after June 30, 2019.

APPROVED BY THE GOVERNOR APRIL 17, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2018.