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

Section 1. Section 32-3251, Arizona Revised Statutes, is amended to read:

32-3251. Definitions; notifications or communications

A. In this chapter, unless the context otherwise requires:
1. "Board" means the board of behavioral health examiners.
2. "Client" means a patient who receives behavioral health services from a person licensed pursuant to this chapter.
3. "Direct client contact" means, beginning November 1, 2015, the performance of therapeutic or clinical functions related to the applicant's professional practice level of psychotherapy that includes diagnosis, assessment and treatment and that may include psychoeducation for mental, emotional and behavioral disorders based primarily on verbal or nonverbal communications and intervention with, and in the presence of, one or more clients.
4. "Equivalent" means comparable in content and quality but not identical.
5. "Indirect client service" means, beginning November 1, 2015, training for, and the performance of, functions of an applicant's professional practice level in preparation for or on behalf of a client for whom direct client contact functions are also performed, including case consultation and receipt of clinical supervision. Indirect client service does not include the provision of psychoeducation.
6. "Letter of concern" means a nondisciplinary written document sent by the board to notify a licensee that, while there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.
7. "Licensee" means a person who is licensed pursuant to this chapter.
8. "Practice of behavioral health" means the practice of marriage and family therapy, professional counseling, social work and substance abuse counseling pursuant to this chapter.
9. "Practice of marriage and family therapy" means the professional application of family systems theories, principles and techniques to treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral. The practice of marriage and family therapy includes:
   (a) Assessment, appraisal and diagnosis.
   (b) The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.
10. "Practice of professional counseling" means the professional application of mental health, psychological and human development theories, principles and techniques to:
(a) Facilitate human development and adjustment throughout the life span.
(b) Assess and facilitate career development.
(c) Treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral.
(d) Manage symptoms of mental illness.
(e) Assess, appraise, evaluate, diagnose and treat individuals, couples, families and groups through the use of psychotherapy.

11. "Practice of social work" means the professional application of social work theories, principles, methods and techniques to:
   (a) Treat mental, behavioral and emotional disorders.
   (b) Assist individuals, families, groups and communities to enhance or restore the ability to function physically, socially, emotionally, mentally and economically.
   (c) Assess, appraise, diagnose, evaluate and treat individuals, couples, families and groups through the use of psychotherapy.

12. "Practice of substance abuse counseling" means the professional application of general counseling theories, principles and techniques as specifically adapted, based on research and clinical experience, to the specialized needs and characteristics of persons who are experiencing substance abuse, chemical dependency and related problems and to the families of those persons. The practice of substance abuse counseling includes the following as they relate to substance abuse and chemical dependency issues:
   (a) Assessment, appraisal and diagnosis.
   (b) The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.

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

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

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

16. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:
   (a) **Conviction BEING CONVICTED** of a felony. Conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the conviction.
(b) Use of fraud or deceit in connection with rendering services as a licensee or in establishing qualifications pursuant to this chapter.

(c) MAKING any oral or written misrepresentation of a fact by an applicant or licensee:
   (i) To secure or attempt to secure the issuance or renewal of a license.
   (ii) In any statements provided during an investigation or disciplinary proceeding by the board.
   (iii) Regarding the licensee's skills or the value of any treatment provided or to be provided.

(d) MAKING any false, fraudulent or deceptive statement connected with the practice of behavioral health, including false or misleading advertising by the licensee or the licensee's staff or a representative compensated by the licensee.

(e) Securing or attempting to secure the issuance or renewal of a license by knowingly taking advantage of the mistake of another person or the board.

(f) ENGAGING IN active habitual intemperance in the use of alcohol or active habitual substance abuse.

(g) Using a controlled substance that is not prescribed for use during a prescribed course of treatment.

(h) Obtaining a fee by fraud, deceit or misrepresentation.
   (i) Aiding or abetting a person who is not licensed pursuant to this chapter to purport to be a licensed behavioral health professional in this state.

(j) ENGAGING IN conduct that the board determines is gross negligence or repeated negligence in the licensee's profession.

(k) ENGAGING IN any conduct or practice that is contrary to recognized standards of ethics in the behavioral health profession or that constitutes a danger to the health, welfare or safety of a client.

(l) ENGAGING IN any conduct, practice or condition that impairs the ability of the licensee to safely and competently practice the licensee's profession.

(m) Engaging or offering to engage as a licensee in activities that are not congruent with the licensee's professional education, training or experience.

(n) Failing to comply with or violating, attempting to violate or assisting in or abetting the violation of any provision of this chapter, any rule adopted pursuant to this chapter, any lawful order of the board, or any formal order, consent agreement, term of probation or stipulated agreement issued under this chapter.

(o) Failing to furnish information within a specified time to the board or its investigators or representatives if legally requested by the board.
(p) Failing to conform to minimum practice standards as developed by the board.

(q) Failing or refusing to maintain adequate records of behavioral health services provided to a client.

(r) Providing behavioral health services that are clinically unjustified or unsafe or otherwise engaging in activities as a licensee that are unprofessional by current standards of practice.

(s) Terminating behavioral health services to a client without making an appropriate referral for continuation of care for the client if continuing behavioral health services are indicated.

(t) Disclosing a professional confidence or privileged communication except as may otherwise be required by law or permitted by a LEGALLY valid written release.

(u) Failing to allow the board or its investigators on demand to examine and have access to documents, reports and records in any format maintained by the licensee that relate to the licensee's practice of behavioral health.

(v) ENGAGING IN any sexual conduct between a licensee and a client or former client.

(w) Providing behavioral health services to any person with whom the licensee has had sexual contact.

(x) Exploiting a client, former client or supervisee. For the purposes of this subdivision, "exploiting" means taking advantage of a professional relationship with a client, former client or supervisee for the benefit or profit of the licensee.

(y) Engaging in a dual relationship with a client that could impair the licensee's objectivity or professional judgment or create a risk of harm to the client. For the purposes of this subdivision, "dual relationship" means a licensee simultaneously engages in both a professional and nonprofessional relationship with a client that is avoidable and not incidental.

(z) Engaging in physical contact between a licensee and a client if there is a reasonable possibility of physical or psychological harm to the client as a result of that contact.

(aa) Sexually harassing a client, former client, research subject, supervisee or coworker. For the purposes of this subdivision, "sexually harassing" includes sexual advances, sexual solicitation, requests for sexual favors, unwelcome comments or gestures or any other verbal or physical conduct of a sexual nature.

(bb) Harassing, exploiting or retaliating against a client, former client, research subject, supervisee, coworker or witness or a complainant in a disciplinary investigation or proceeding involving a licensee.

(cc) Failing to take reasonable steps to inform potential victims and appropriate authorities if the licensee becomes aware during the course of providing or supervising behavioral health services that a
client's condition indicates a clear and imminent danger to the client or
others.

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

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

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

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

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

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

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

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

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

(mm) ENGAGING IN any conduct that results in a sanction imposed by
an agency of the federal government that involves restricting, suspending,
limiting or removing the licensee's ability to obtain financial
remuneration for behavioral health services.

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

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

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

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

32-3253. Powers and duties
A. The board shall:
1. Adopt rules consistent with and necessary or proper to carry out
the purposes of this chapter.
2. Administer and enforce this chapter, rules adopted pursuant to
this chapter and orders of the board.
3. Issue a license by examination, endorsement or temporary
recognition to, and renew the license of, each person who is qualified to
be licensed pursuant to this chapter. The board must issue or deny a
license within one hundred eighty days after the applicant submits a
completed application.
4. Establish a licensure fee schedule annually, by a formal vote at
a regular board meeting.
5. Collect fees and spend monies.
6. Keep a record of all persons WHO ARE licensed pursuant to this
chapter, actions taken on all applications for licensure, actions
involving renewal, suspension, revocation or denial of a license or
probation of licensees and the receipt and disbursal of monies.
7. Adopt an official seal for attestation of licensure and other
official papers and documents.
8. Conduct investigations and determine on its own motion WHETHER
a licensee or an applicant has engaged in unprofessional conduct,
is incompetent or is mentally or physically unable to engage in the
practice of behavioral health.
9. Conduct disciplinary actions pursuant to this chapter and board
rules.
10. Establish and enforce standards or criteria of programs or
other mechanisms to ensure the continuing competence of licensees.
11. Establish and enforce compliance with professional standards
and rules of conduct for licensees.
12. Engage in a full exchange of information with the licensing and
disciplinary boards and professional associations for behavioral health
professionals in this state and other jurisdictions.
13. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions, money or property from any public or private source, including the federal government. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

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

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

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

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

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

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

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

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

1. The licensee voluntarily agrees to participate in the confidential program.
2. The licensee complies with all treatment requirements or recommendations including participation in approved programs.
3. The licensee refrains from professional practice until the return to practice has been approved by the treatment program and the board.
4. The licensee complies with all monitoring requirements of the stipulated agreement, including random bodily fluid testing.
5. The licensee's professional employer is notified of the licensee's chemical dependency or medical, psychiatric, psychological or behavioral health disorders and participation in the confidential program and is provided a copy of the stipulated agreement.

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

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

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

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

A. The board shall establish an academic review committee for each professional area licensed pursuant to this chapter to do the following:
1. Review applications referred to the committee by the board or the executive director to determine whether an applicant, whose curriculum has not been approved pursuant to section 32-3253, subsection A, paragraph 14 or whose program is not accredited by an organization or entity approved by the board, has met the educational requirements of this chapter or board rules.
2. On referral by the executive director, make recommendations to the board regarding whether an applicant has met the requirements of supervised work experience required for licensure pursuant to this chapter or board rules.
3. Make specific findings concerning an application's deficiencies.
4. Review applications and make recommendations to the board for curriculum approval applications made pursuant to section 32-3253, subsection A, paragraph 14.

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

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

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

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

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

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

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

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

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

I. Committee members shall receive at least five hours of training as prescribed by the board within one year after the member is initially appointed and that includes instruction in ethics and open meeting requirements.
Sec. 4. Section 32-3272, Arizona Revised Statutes, is amended to read:

32-3272. Fees
A. For issuance of a license pursuant to this chapter, including application fees, the board shall establish and charge reasonable fees not to exceed five hundred dollars.
B. For renewal of a license pursuant to this chapter, the board shall establish and charge reasonable fees not to exceed five hundred dollars. The board shall not increase fees pursuant to this subsection more than twenty-five dollars each year.
C. The board by rule may adopt a fee for applications for approval of educational curricula pursuant to section 32-3253, subsection A, paragraph 14.
D. The board shall establish fees to produce monies that approximate the cost of maintaining the board.
E. THE BOARD SHALL WAIVE THE APPLICATION FEE FOR AN INDEPENDENT LEVEL LICENSE IF AN APPLICANT HAS PAID THE FEE FOR AN INITIAL OR RENEWAL ASSOCIATE LEVEL LICENSE IN THIS STATE AND WITHIN NINETY DAYS AFTER PAYMENT OF THE FEE THE APPLICANT APPLIES FOR AN INDEPENDENT LEVEL LICENSE.

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

32-3281. Disciplinary action; investigations; hearings; civil penalty; timely complaints; burden of proof
A. The board, on its own motion or on a complaint, may investigate any evidence that appears to show that a licensee is or may be incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of behavioral health. As part of its investigation, the board may hold an investigational meeting pursuant to this chapter. Any person may, and a licensee and any entity licensed by the office of behavioral health licensure shall, report to the board any information that would cause a reasonable licensee to believe that another licensee is guilty of unprofessional conduct or is physically or mentally unable to provide behavioral health services competently or safely. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. It is an act of unprofessional conduct for any licensee to fail to report as required by this section. The board shall report to the office of behavioral health licensure in the department of health services any entity licensed by the office of behavioral health licensure that fails to report as required by this section. For complaints related to conduct that is inconsistent with professional standards or ethics, scope of practice or standard of care, the board may consult with one or more licensed or retired behavioral health professionals of the same profession as the licensee to review complaints and make recommendations to the board.
B. On determination of reasonable cause, the board shall require, at the licensee's own expense, any combination of mental, physical or psychological examinations, assessments or skills evaluations necessary to determine the licensee's competence or ability to safely engage in the practice of behavioral health and conduct necessary investigations, including investigational interviews between representatives of the board and the licensee, to fully inform the board with respect to any information filed with the board under subsection A of this section. These examinations may include biological fluid testing. The board may require the licensee, at the licensee's expense, to undergo assessment by a rehabilitative, retraining or assessment program approved by the board.

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

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

1. Dismiss the complaint if, in the opinion of the board, the complaint is without merit.
2. File a letter of concern and dismiss the complaint. The licensee may file a written response with the board within thirty days after the licensee receives the letter of concern.
3. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

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

F. If after completing its investigation the board believes that the information is or may be true, the board may enter into a consent agreement with the licensee to limit or restrict the licensee's practice or to rehabilitate the licensee, protect the public and ensure the licensee's ability to safely engage in the practice of behavioral health. A consent agreement may also require the licensee to successfully complete a board approved rehabilitative, retraining or assessment program.
G. If the board finds that the information provided pursuant to subsection A of this section is or may be true, the board may request a formal interview with the licensee. If the licensee refuses the invitation for a formal interview or accepts and the results indicate that grounds may exist for revocation or suspension of the licensee's license for more than twelve months, the board shall issue a formal complaint and order that a hearing be held pursuant to title 41, chapter 6, article 10. If after completing a formal interview the board finds that the protection of the public requires emergency action, the board may order a summary suspension of the licensee's license pending formal revocation proceedings or other action authorized by this section.

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

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

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

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

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

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

I. If the board finds that the information provided in subsection A or G of this section warrants suspension or revocation of a license issued under this chapter, the board shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.
J. In a formal interview pursuant to subsection G of this section or in a hearing pursuant to subsection I of this section, the board in addition to any other action may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.

K. A letter of concern is a public document.

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

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

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

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

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

Q. The board may defer action with regard to an impaired licensee who voluntarily signs an agreement, in a form satisfactory to the board, agreeing to practice restrictions and treatment and monitoring programs deemed necessary by the board to protect the public health and safety. A licensee who is impaired and who does not agree to enter into an agreement with the board is subject to other action as provided pursuant to this chapter.
R. Subject to an order duly entered by the board, a person whose license to practice behavioral health has been suspended or restricted pursuant to this chapter, whether voluntarily or by action of the board, may at reasonable intervals apply to the board for reinstatement of the license. The person shall submit the application in writing and in the form prescribed by the board. After conducting an investigation and hearing, the board may grant or deny the application or modify the original finding to reflect any circumstances that have changed sufficiently to warrant modification. The board may require the applicant to pass an examination or complete board imposed continuing education requirements or may impose any other sanctions the board deems appropriate for reentry into the practice of behavioral health.

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

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

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

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

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

1. Malpractice settlements or judgments, allegations of sexual misconduct or an incident or occurrence involved a felony, diversion of a controlled substance or impairment while practicing by the licensee.

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

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

X. Except for disciplinary matters prescribed by section 32-3251, SUBSECTION A, paragraph 16, subdivision (v), the board has the burden of proof by clear and convincing evidence for disciplinary matters brought pursuant to this chapter.
Sec. 6. Section 32-4223, Arizona Revised Statutes, is amended to read:

32-4223. Reciprocity

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

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

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

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

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

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

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

Sec. 8. Regulatory boards; report; delayed repeal

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

1. The reduction of administrative burdens for licensing applicants.
2. Streamlining of the licensing application and renewal process and reducing the cost to the applicant and licensee.

B. On or before December 31, 2018, each board shall submit a report regarding its findings and recommendations to the governor, the president of the senate, the speaker of the house of representatives, the chairperson of the health committee of the house of representatives and the chairperson of the health and human services committee of the senate, or their successor committees, and shall provide a copy of the report to the secretary of state.

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