

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 65

HOUSE BILL 2206

AN ACT

AMENDING SECTIONS 13-1418, 28-3005, 28-3153, 28-3315, 32-3251, 32-3252, 32-3253, 32-3261, 32-3262, 32-3271, 32-3272, 32-3273, 32-3274, 32-3282, 32-3283, 32-3284, 32-3286, 32-3291, 32-3292, 32-3293, 32-3301, 32-3303, 32-3311 AND 32-3313, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-3281, 32-3294, 32-3302 AND 32-3312, ARIZONA REVISED STATUTES; REPEALING TITLE 32, CHAPTER 33, ARTICLE 8, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 32, CHAPTER 33, ARTICLE 3, ARIZONA REVISED STATUTES, TO "LICENSURE"; AMENDING TITLE 32, CHAPTER 33, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-3275 THROUGH 32-3280; AMENDING TITLE 32, CHAPTER 33, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-3281; AMENDING TITLE 32, CHAPTER 33, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 8; RELATING TO THE BOARD OF BEHAVIORAL HEALTH EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-1418, Arizona Revised Statutes, is amended to
3 read:
4 13-1418. Sexual misconduct; behavioral health professionals;
5 classification
6 A. A behavioral health professional ~~certified~~ LICENSED pursuant to
7 title 32, chapter 33 or a psychiatrist or psychologist licensed pursuant to
8 title 32, chapter 13, 17 or 19.1 commits sexual misconduct by intentionally
9 or knowingly engaging in sexual intercourse with a ~~patient~~ CLIENT who is
10 currently under the care or supervision of the ~~certified~~ LICENSED behavioral
11 health professional, psychiatrist or psychologist.
12 B. Sexual misconduct by a ~~certified~~ LICENSED behavioral health
13 professional, psychiatrist or psychologist is a class 6 felony.
14 C. This section does not apply to any act of sexual conduct that
15 occurs between a ~~certified~~ LICENSED behavioral health professional,
16 psychiatrist or psychologist and a ~~patient~~ CLIENT after the ~~patient~~ CLIENT
17 has completed a course of treatment or if the ~~patient~~ CLIENT is not under the
18 care of the ~~certified~~ LICENSED behavioral health professional, psychiatrist
19 or psychologist.
20 Sec. 2. Section 28-3005, Arizona Revised Statutes, is amended to read:
21 28-3005. Medical or psychological reports; immunity;
22 definitions
23 A. A physician, psychologist or ~~certified~~ substance abuse counselor
24 who provides information to the director in good faith and at the written
25 request of a driver license applicant or licensee concerning a person's
26 medical or psychological condition with respect to operation of a motor
27 vehicle is immune from personal liability with respect to the information
28 provided.
29 B. Notwithstanding the physician-patient or psychologist-client
30 confidentiality relationship, a physician or psychologist may voluntarily
31 report a patient to the department who has a medical or psychological
32 condition that in the opinion of the physician or psychologist could
33 significantly impair the person's ability to safely operate a motor vehicle.
34 If a report is made, the physician or psychologist shall make the report in
35 writing, including the name, address and date of birth of the patient. On
36 receipt of the report, the department may require an examination of the
37 person reported in the manner provided by section 28-3314. A person shall
38 not bring an action against a physician or psychologist for not making a
39 report pursuant to this subsection. The physician or psychologist submitting
40 the report in good faith is immune from civil or criminal liability for
41 making the report pursuant to this subsection. The physician's or
42 psychologist's report is subject to subpoena or order to produce in an action
43 except an action against the physician or psychologist submitting the report.

1 C. In this section:

2 ~~2-~~ 1. "Medical or psychological condition" means a condition that
3 could affect a person's functional ability to safely operate a motor vehicle.

4 ~~3-~~ 2. "Physician" means a medical doctor, optometrist, chiropractor,
5 naturopathic physician, doctor of osteopathy or doctor of homeopathy who is
6 licensed to practice in this state or another state or who is employed by the
7 federal government and practicing in this state or their agents.

8 ~~4-~~ 3. "Psychologist" means a person who is licensed pursuant to title
9 32, chapter 19.1, who is licensed to practice psychology in another state or
10 who is employed by the federal government and practicing in this state.

11 ~~1-~~ 4. "~~Certified~~ Substance abuse counselor" means a person who is
12 ~~certified~~ LICENSED by the board of behavioral health examiners in this state,
13 who is LICENSED OR certified in another state, who is certified by a board
14 for certification of addiction counselors, who is a nationally certified
15 addiction counselor or who is employed by the federal government and
16 practicing in this state.

17 Sec. 3. Section 28-3153, Arizona Revised Statutes, is amended to read:
18 28-3153. Driver license issuance; prohibitions

19 A. The department shall not issue the following:

20 1. A driver license to a person who is under eighteen years of age,
21 except that the department may issue:

22 (a) A restricted instruction permit for a class D or G license to a
23 person who is at least fifteen years of age.

24 (b) An instruction permit for a class D, G or M license as provided by
25 this chapter to a person who is at least fifteen years and seven months of
26 age.

27 (c) A class G or M license as provided by this chapter to a person who
28 is at least sixteen years of age.

29 2. A class D, G or M license or instruction permit to a person who is
30 under eighteen years of age and who has been tried in adult court and
31 convicted of a second or subsequent violation of criminal damage to property
32 pursuant to section 13-1602, subsection A, paragraph 1 or convicted of a
33 felony offense in the commission of which a motor vehicle is used, including
34 theft of a motor vehicle pursuant to section 13-1802, unlawful use of means
35 of transportation pursuant to section 13-1803 or theft of means of
36 transportation pursuant to section 13-1814, or who has been adjudicated
37 delinquent for a second or subsequent act that would constitute criminal
38 damage to property pursuant to section 13-1602, subsection A, paragraph 1 or
39 adjudicated delinquent for an act that would constitute a felony offense in
40 the commission of which a motor vehicle is used, including theft of a motor
41 vehicle pursuant to section 13-1802, unlawful use of means of transportation
42 pursuant to section 13-1803 or theft of means of transportation pursuant to
43 section 13-1814, if committed by an adult.

1 3. A class A, B or C license to a person who is under twenty-one years
2 of age, except that the department may issue a class A, B or C license that
3 is restricted to only intrastate driving to a person who is at least eighteen
4 years of age.

5 4. A license to a person whose license or driving privilege has been
6 suspended, during the suspension period.

7 5. Except as provided in section 28-3315, a license to a person whose
8 license or driving privilege has been revoked.

9 6. A class A, B or C license to a person who has been disqualified
10 from obtaining a commercial driver license.

11 7. A license to a person who on application notifies the department
12 that the person is an alcoholic as defined in section 36-2021 or a drug
13 dependent person as defined in section 36-2501, unless the person
14 successfully completes the medical screening process pursuant to section
15 28-3052 or submits a medical examination report that includes a current
16 evaluation from a **certified** substance abuse counselor indicating that, in the
17 opinion of the counselor, the condition does not affect or impair the
18 person's ability to safely operate a motor vehicle.

19 8. A license to a person who has been adjudged to be incapacitated
20 pursuant to section 14-5304 and who at the time of application has not
21 obtained either a court order that allows the person to drive or a
22 termination of incapacity as provided by law.

23 9. A license to a person who is required by this chapter to take an
24 examination unless the person successfully passes the examination.

25 10. A license to a person who is required under the motor vehicle
26 financial responsibility laws of this state to deposit proof of financial
27 responsibility and who has not deposited the proof.

28 11. A license to a person if the department has good cause to believe
29 that the operation of a motor vehicle on the highways by the person would
30 threaten the public safety or welfare.

31 12. A license to a person whose driver license has been ordered to be
32 suspended pursuant to section 25-518.

33 B. The department shall not issue a driver license to or renew the
34 driver license of the following persons:

35 1. A person about whom the court notifies the department that the
36 person violated the person's written promise to appear in court when charged
37 with a violation of the motor vehicle laws of this state until the department
38 receives notification in a manner approved by the department that the person
39 appeared either voluntarily or involuntarily or that the case has been
40 adjudicated, that the case is being appealed or that the case has otherwise
41 been disposed of as provided by law.

42 2. If notified pursuant to section 28-1601, a person who fails to pay
43 a civil penalty as provided in section 28-1601, except for a parking
44 violation, until the department receives notification in a manner approved by
45 the department that the person paid the civil penalty, that the case is being
46 appealed or that the case has otherwise been disposed of as provided by law.

1 C. The magistrate or the clerk of the court shall provide the
2 notification to the department prescribed by subsection B of this section.

3 D. Notwithstanding any other law, the department shall not issue to or
4 renew a driver license or nonoperating identification license for a person
5 who does not submit proof satisfactory to the department that the applicant's
6 presence in the United States is authorized under federal law. The director
7 shall adopt rules necessary to carry out the purposes of this subsection. The
8 rules shall include procedures for:

9 1. Verification that the applicant's presence in the United States is
10 authorized under federal law.

11 2. Issuance of a temporary driver permit pursuant to section 28-3157
12 pending verification of the applicant's status in the United States.

13 Sec. 4. Section 28-3315, Arizona Revised Statutes, is amended to read:

14 28-3315. Period of suspension, revocation or disqualification;
15 unlicensed drivers

16 A. The department shall not suspend, revoke or disqualify a driver
17 license or privilege to drive a motor vehicle on the public highways for more
18 than one year from the date of a conviction or judgment, if any, against a
19 person for which this chapter makes revocation, suspension or
20 disqualification mandatory or from the date the notice is sent pursuant to
21 section 28-3318 if no conviction was involved, except as permitted under
22 subsection E of this section and sections 28-1383, 28-3312, 28-3319, 28-3320
23 and 28-3473.

24 B. A person whose license or privilege to drive a motor vehicle on the
25 public highways has been revoked may apply for a new license as provided by
26 law after the cause of the revocation is removed or after expiration of the
27 revocation period prescribed by law. After the department investigates an
28 applicant's driving record in this state or another state by examining
29 department records or other sufficient evidence to determine that all
30 withdrawal actions are complete, that the applicant has not committed any
31 traffic violations within twelve months preceding application and that all
32 other statutory requirements are satisfied, the department may issue a new
33 license.

34 C. The department shall not accept an application for reinstatement of
35 a driver license until after the twelve month period prescribed in subsection
36 B of this section has elapsed.

37 D. If the revocation is related to alcohol or other drugs, the person
38 shall provide the department with a current evaluation from a physician
39 licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed
40 pursuant to title 32, chapter 19.1 or a ~~certified~~ substance abuse counselor
41 as defined in section 28-3005 indicating that, in the opinion of the
42 physician, psychologist or counselor, the condition does not affect or impair
43 the person's ability to safely operate a motor vehicle. For the purposes of
44 reinstating a license or driving privilege pursuant to this article, the
45 department may rely on the opinion of a physician licensed pursuant to title
46 32, chapter 13, 17 or 29, a psychologist licensed pursuant to title 32,

1 chapter 19.1 or a ~~certified~~ substance abuse counselor as defined in section
2 28-3005.

3 E. Notwithstanding subsections A and B of this section:

4 1. A person whose license or privilege to drive is revoked pursuant to
5 section 28-1383, subsection J or section 28-3304, subsection A, paragraph 1
6 or 9 is not entitled to have the person's license or privilege renewed or
7 restored for three years.

8 2. A person whose license or privilege to drive is revoked pursuant to
9 section 13-1209 is not entitled to have the person's license or privilege
10 renewed or restored for the period of time ordered by the court.

11 3. A person whose license, permit or privilege to drive is revoked
12 pursuant to section 28-661, subsection E is not entitled to have the person's
13 license, permit or privilege renewed or restored for five years.

14 4. A person whose license, permit or privilege to drive is revoked
15 pursuant to section 28-661, subsection F is not entitled to have the person's
16 license, permit or privilege renewed or restored for three years.

17 F. Except as provided in section 28-3473, if an unlicensed driver
18 commits an offense for which a driver license could be suspended, revoked or
19 disqualified, the department shall not accept the unlicensed driver's
20 application for a driver license for a period equal to the period of time
21 that applies to a driver with a license. If the offense is one for which a
22 driver license could be revoked, the department shall not accept the
23 unlicensed driver's application for a driver license unless it investigates
24 the character, habits and driving ability of the person and is satisfied that
25 it is safe to grant the privilege of driving a motor vehicle on the public
26 highways.

27 G. The expiration of a person's license during the period of time it
28 is under suspension, revocation or disqualification does not invalidate or
29 terminate the suspension, revocation or disqualification.

30 H. A person whose license or privilege to drive a motor vehicle on the
31 public highways has been suspended pursuant to section 28-3306, subsection A,
32 paragraph 5 or section 28-3314 may apply for a new license as provided by law
33 after the cause for suspension is removed or after expiration of the
34 suspension period prescribed by law if both of the following conditions are
35 met:

36 1. The department is satisfied, after reviewing the medical condition
37 and driving ability of the person, that it is safe to grant the person the
38 privilege of driving a motor vehicle on the public highways.

39 2. If the person has a medical condition related to alcohol or other
40 drugs, the person provides the department with a current evaluation form from
41 a physician licensed pursuant to title 32, chapter 13, 17 or 29, a
42 psychologist licensed pursuant to title 32, chapter 19.1 or a ~~certified~~
43 substance abuse counselor as defined in section 28-3005 indicating that, in
44 the opinion of the physician, psychologist or counselor, the condition does
45 not affect or impair the person's ability to operate a motor vehicle in a
46 safe manner.

1 Sec. 5. Section 32-3251, Arizona Revised Statutes, is amended to read:

2 32-3251. Definitions

3 In this chapter, unless the context otherwise requires:

4 1. "Board" means the board of behavioral health examiners.

5 ~~2. "Counseling principles, methods, procedures and services" includes~~
6 ~~counseling, appraisal, evaluation, assessment of dysfunctional behavior,~~
7 ~~consulting, referral, education or research.~~

8 2. "CLIENT" MEANS A PATIENT WHO RECEIVES BEHAVIORAL HEALTH SERVICES
9 FROM A PERSON LICENSED PURSUANT TO THIS CHAPTER.

10 3. "Credentialing committee" means a committee established pursuant to
11 this chapter.

12 ~~4. "Independent social work practice" means both private,~~
13 ~~self-employed practice on a fee for service basis by an individual social~~
14 ~~worker or as part of a group practice and autonomous self-regulated practice~~
15 ~~by a social worker under the auspices of a public or private agency or~~
16 ~~facility.~~

17 ~~5. "Practice of marital and family therapy" means the professional~~
18 ~~application of marital and family theories and techniques in the diagnosis~~
19 ~~and treatment of mental and emotional conditions in individuals, couples and~~
20 ~~families and involves the presence of a diagnosed mental or physical disorder~~
21 ~~in at least one member of the couple or family being treated. Practice of~~
22 ~~marital and family therapy includes the use of psychotherapy to diagnose,~~
23 ~~evaluate and treat individuals, couples, families and groups.~~

24 ~~6. "Practice of professional counseling" means the professional~~
25 ~~application of counseling principles, methods, procedures and services to~~
26 ~~assist individuals, couples, families and groups to achieve interpersonal,~~
27 ~~intrapersonal, social, educational or vocational development and adjustment~~
28 ~~and to promote optimal mental health. Practice of professional counseling~~
29 ~~includes the use of psychotherapy to diagnose, evaluate and treat~~
30 ~~individuals, couples, families and groups.~~

31 ~~7. "Practice of social work" means professional services that are~~
32 ~~developed to effect change in human behavior, emotional responses and social~~
33 ~~conditions of individuals, couples, families, groups and communities and that~~
34 ~~involve specialized knowledge and skill related to human development,~~
35 ~~including an understanding of unconscious motivation, the potential for human~~
36 ~~growth, the availability of social resources and knowledge of social~~
37 ~~systems. Practice of social work includes:~~

38 ~~(a) The use of psychotherapy for the purpose of diagnosis, evaluation~~
39 ~~and treatment of individuals, couples, families and groups.~~

40 ~~(b) Social planning, administration and research for community social~~
41 ~~services delivery systems.~~

1 ~~8. "Practice of substance abuse counseling" means the direct~~
2 ~~application of professional counseling techniques to persons who are~~
3 ~~dependent on or abuse substances and to persons who are affected by that~~
4 ~~dependency or abuse. Practice of substance abuse counseling includes the use~~
5 ~~of psychotherapy for the purpose of diagnosis, evaluation and treatment of~~
6 ~~substance abuse and chemical dependency in individuals, couples, families and~~
7 ~~groups.~~

8 4. "LETTER OF CONCERN" MEANS A NONDISCIPLINARY WRITTEN DOCUMENT SENT
9 BY THE BOARD TO NOTIFY A LICENSEE THAT, WHILE THERE IS INSUFFICIENT EVIDENCE
10 TO SUPPORT DISCIPLINARY ACTION, THE BOARD BELIEVES THAT CONTINUATION OF THE
11 ACTIVITIES THAT LED TO THE INVESTIGATION MAY RESULT IN FURTHER BOARD ACTION
12 AGAINST THE LICENSEE.

13 5. "LICENSEE" MEANS A PERSON LICENSED PURSUANT TO THIS CHAPTER.

14 6. "PRACTICE OF BEHAVIORAL HEALTH" MEANS THE PRACTICE OF MARRIAGE AND
15 FAMILY THERAPY, PROFESSIONAL COUNSELING, SOCIAL WORK AND SUBSTANCE ABUSE
16 COUNSELING PURSUANT TO THIS CHAPTER.

17 7. "PRACTICE OF MARRIAGE AND FAMILY THERAPY" MEANS THE PROFESSIONAL
18 APPLICATION OF FAMILY SYSTEMS THEORIES, PRINCIPLES AND TECHNIQUES TO TREAT
19 INTERPERSONAL RELATIONSHIP ISSUES AND NERVOUS, MENTAL AND EMOTIONAL DISORDERS
20 THAT ARE COGNITIVE, AFFECTIVE OR BEHAVIORAL. THE PRACTICE OF MARRIAGE AND
21 FAMILY THERAPY INCLUDES:

22 (a) ASSESSMENT, APPRAISAL AND DIAGNOSIS.

23 (b) THE USE OF PSYCHOTHERAPY FOR THE PURPOSE OF EVALUATION, DIAGNOSIS
24 AND TREATMENT OF INDIVIDUALS, COUPLES, FAMILIES AND GROUPS.

25 8. "PRACTICE OF PROFESSIONAL COUNSELING" MEANS THE PROFESSIONAL
26 APPLICATION OF MENTAL HEALTH, PSYCHOLOGICAL AND HUMAN DEVELOPMENT THEORIES,
27 PRINCIPLES AND TECHNIQUES TO:

28 (a) FACILITATE HUMAN DEVELOPMENT AND ADJUSTMENT THROUGHOUT THE HUMAN
29 LIFE SPAN.

30 (b) ASSESS AND FACILITATE CAREER DEVELOPMENT.

31 (c) TREAT INTERPERSONAL RELATIONSHIP ISSUES AND NERVOUS, MENTAL AND
32 EMOTIONAL DISORDERS THAT ARE COGNITIVE, AFFECTIVE OR BEHAVIORAL.

33 (d) MANAGE SYMPTOMS OF MENTAL ILLNESS.

34 (e) ASSESS, APPRAISE, EVALUATE, DIAGNOSE AND TREAT INDIVIDUALS,
35 COUPLES, FAMILIES AND GROUPS THROUGH THE USE OF PSYCHOTHERAPY.

36 9. "PRACTICE OF SOCIAL WORK" MEANS THE PROFESSIONAL APPLICATION OF
37 SOCIAL WORK THEORY, PRINCIPLES, METHODS AND TECHNIQUES TO:

38 (a) TREAT MENTAL AND EMOTIONAL DISORDERS.

39 (b) ASSIST INDIVIDUALS, FAMILIES, GROUPS AND COMMUNITIES TO ENHANCE OR
40 RESTORE THE ABILITY TO FUNCTION PHYSICALLY, SOCIALLY, EMOTIONALLY, MENTALLY
41 AND ECONOMICALLY.

42 (c) ASSESS, APPRAISE, DIAGNOSE, EVALUATE AND TREAT INDIVIDUALS,
43 COUPLES, FAMILIES AND GROUPS THROUGH THE USE OF PSYCHOTHERAPY.

1 10. "PRACTICE OF SUBSTANCE ABUSE COUNSELING" MEANS THE PROFESSIONAL
2 APPLICATION OF GENERAL COUNSELING THEORIES, PRINCIPLES AND TECHNIQUES AS
3 SPECIFICALLY ADAPTED, BASED ON RESEARCH AND CLINICAL EXPERIENCE, TO THE
4 SPECIALIZED NEEDS AND CHARACTERISTICS OF PERSONS WHO ARE EXPERIENCING
5 SUBSTANCE ABUSE, CHEMICAL DEPENDENCY AND RELATED PROBLEMS AND TO THE FAMILIES
6 OF THOSE PERSONS. THE PRACTICE OF SUBSTANCE ABUSE COUNSELING INCLUDES THE
7 FOLLOWING AS THEY RELATE TO SUBSTANCE ABUSE AND CHEMICAL DEPENDENCY ISSUES:

8 (a) ASSESSMENT, APPRAISAL AND DIAGNOSIS.

9 (b) THE USE OF PSYCHOTHERAPY FOR THE PURPOSE OF EVALUATION, DIAGNOSIS
10 AND TREATMENT OF INDIVIDUALS, COUPLES, FAMILIES AND GROUPS.

11 ~~9-~~ 11. "Psychotherapy" means a variety of treatment methods
12 developing out of generally accepted theories about human behavior and
13 development.

14 ~~10-~~ 12. "Unprofessional ~~practice~~ CONDUCT" includes THE FOLLOWING,
15 WHETHER OCCURRING IN THIS STATE OR ELSEWHERE:

16 (a) Conviction of a felony. CONVICTION BY A COURT OF COMPETENT
17 JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE EVIDENCE OF THE
18 CONVICTION.

19 (b) Use of fraud or deceit in connection with rendering services as a
20 ~~certified behavioral health professional~~ LICENSEE or in establishing
21 qualifications pursuant to this chapter.

22 (c) ANY ORAL OR WRITTEN MISREPRESENTATION OF A FACT BY AN APPLICANT OR
23 LICENSEE:

24 (i) TO SECURE OR ATTEMPT TO SECURE THE ISSUANCE OR RENEWAL OF A
25 LICENSE.

26 (ii) IN ANY STATEMENTS PROVIDED DURING AN INVESTIGATION OR
27 DISCIPLINARY PROCEEDING BY THE BOARD.

28 (iii) REGARDING THE LICENSEE'S SKILLS OR THE VALUE OF ANY TREATMENT
29 PROVIDED OR TO BE PROVIDED.

30 (d) ANY FALSE, FRAUDULENT OR DECEPTIVE STATEMENT CONNECTED WITH THE
31 PRACTICE OF BEHAVIORAL HEALTH, INCLUDING FALSE OR MISLEADING ADVERTISING BY
32 THE LICENSEE OR THE LICENSEE'S STAFF OR A REPRESENTATIVE COMPENSATED BY THE
33 LICENSEE.

34 (e) SECURING OR ATTEMPTING TO SECURE THE ISSUANCE OR RENEWAL OF A
35 LICENSE BY KNOWINGLY TAKING ADVANTAGE OF THE MISTAKE OF ANOTHER PERSON OR THE
36 BOARD.

37 ~~(e)~~ (f) ACTIVE habitual intemperance in the use of ~~narcotics,~~ alcohol
38 ~~or drugs to the extent that performance of professional duties is impaired~~ OR
39 ACTIVE HABITUAL SUBSTANCE ABUSE.

40 (g) USING A CONTROLLED SUBSTANCE THAT IS NOT PRESCRIBED FOR USE DURING
41 A PRESCRIBED COURSE OF TREATMENT.

42 ~~(d)~~ (h) Obtaining a fee by fraud, DECEIT or misrepresentation.

43 ~~(e)~~ ~~Betraying a professional confidence.~~

44 ~~(f)~~ ~~Making use of statements of a character tending to deceive or~~
45 ~~mislead the public.~~

- 1 ~~(g)~~ (i) Aiding or abetting a person who is not ~~certified as a~~
2 ~~behavioral health professional~~ LICENSED pursuant to this chapter to purport
3 to be a ~~certified~~ LICENSED behavioral health professional in this state.
- 4 ~~(h)~~ ~~Gross negligence in the practice of a behavioral health profession~~
5 ~~by a certified behavioral health professional.~~
- 6 (j) CONDUCT THAT THE BOARD DETERMINES IS GROSS NEGLIGENCE OR REPEATED
7 NEGLIGENCE IN THE LICENSEE'S PROFESSION.
- 8 ~~(i)~~ (k) Any conduct or practice that is contrary to recognized
9 standards of ethics in the behavioral health profession or that constitutes a
10 danger to the health, welfare or safety of a client.
- 11 ~~(j)~~ (l) Any conduct, practice or condition that impairs the ability
12 of the ~~certified behavioral health professional~~ LICENSEE to safely and
13 competently practice ~~that~~ THE LICENSEE'S profession.
- 14 ~~(k)~~ (m) Engaging or offering to engage as a ~~certified behavioral~~
15 ~~health professional~~ LICENSEE in activities that are not congruent with the
16 ~~certified behavioral health professional's~~ LICENSEE'S professional education,
17 training or experience.
- 18 ~~(l)~~ ~~Violating any provision of this chapter or refusing or neglecting~~
19 ~~to comply with rules adopted pursuant to this chapter or any lawful order of~~
20 ~~the board or a credentialing committee.~~
- 21 (n) FAILING TO COMPLY WITH OR VIOLATING, ATTEMPTING TO VIOLATE OR
22 ASSISTING IN OR ABETTING THE VIOLATION OF ANY PROVISION OF THIS CHAPTER, ANY
23 RULE ADOPTED PURSUANT TO THIS CHAPTER, ANY LAWFUL ORDER OF THE BOARD, OR ANY
24 FORMAL ORDER, CONSENT AGREEMENT, TERM OF PROBATION OR STIPULATED AGREEMENT
25 ISSUED UNDER THIS CHAPTER.
- 26 (o) FAILING TO FURNISH INFORMATION WITHIN A SPECIFIED TIME TO THE
27 BOARD OR ITS INVESTIGATORS OR REPRESENTATIVES IF LEGALLY REQUESTED BY THE
28 BOARD.
- 29 (p) FAILING TO CONFORM TO MINIMUM PRACTICE STANDARDS AS DEVELOPED BY
30 THE BOARD.
- 31 (q) FAILING OR REFUSING TO MAINTAIN ADEQUATE RECORDS OF BEHAVIORAL
32 HEALTH SERVICES PROVIDED TO A CLIENT.
- 33 (r) PROVIDING BEHAVIORAL HEALTH SERVICES THAT ARE CLINICALLY
34 UNJUSTIFIED OR UNSAFE OR OTHERWISE ENGAGING IN ACTIVITIES AS A LICENSEE THAT
35 ARE UNPROFESSIONAL BY CURRENT STANDARDS OF PRACTICE.
- 36 (s) TERMINATING BEHAVIORAL HEALTH SERVICES TO A CLIENT WITHOUT MAKING
37 AN APPROPRIATE REFERRAL FOR CONTINUATION OF CARE FOR THE CLIENT IF CONTINUING
38 BEHAVIORAL HEALTH SERVICES ARE INDICATED.
- 39 (t) DISCLOSING A PROFESSIONAL CONFIDENCE OR PRIVILEGED COMMUNICATION
40 EXCEPT AS MAY OTHERWISE BE REQUIRED BY LAW OR PERMITTED BY A VALID WRITTEN
41 RELEASE.
- 42 (u) FAILING TO ALLOW THE BOARD OR ITS INVESTIGATORS ON DEMAND TO
43 EXAMINE AND HAVE ACCESS TO DOCUMENTS, REPORTS AND RECORDS IN ANY FORMAT
44 MAINTAINED BY THE LICENSEE THAT RELATE TO THE LICENSEE'S PRACTICE OF
45 BEHAVIORAL HEALTH.

1 (v) ANY SEXUAL CONDUCT BETWEEN A LICENSEE AND A CLIENT OR FORMER
2 CLIENT.

3 (w) PROVIDING BEHAVIORAL HEALTH SERVICES TO ANY PERSON WITH WHOM THE
4 LICENSEE HAS HAD SEXUAL CONTACT.

5 (x) EXPLOITING A CLIENT, FORMER CLIENT OR SUPERVISEE. FOR THE
6 PURPOSES OF THIS SUBDIVISION, "EXPLOITING" MEANS TAKING ADVANTAGE OF A
7 PROFESSIONAL RELATIONSHIP WITH A CLIENT, FORMER CLIENT OR SUPERVISEE FOR THE
8 BENEFIT OR PROFIT OF THE LICENSEE.

9 (y) ENGAGING IN A DUAL RELATIONSHIP WITH A CLIENT THAT COULD IMPAIR
10 THE LICENSEE'S OBJECTIVITY OR PROFESSIONAL JUDGMENT OR CREATE A RISK OF HARM
11 TO THE CLIENT. FOR THE PURPOSES OF THIS SUBDIVISION, "DUAL RELATIONSHIP"
12 MEANS A LICENSEE SIMULTANEOUSLY ENGAGES IN BOTH A PROFESSIONAL AND
13 NONPROFESSIONAL RELATIONSHIP WITH A CLIENT THAT IS AVOIDABLE AND NOT
14 INCIDENTAL.

15 (z) ENGAGING IN PHYSICAL CONTACT BETWEEN A LICENSEE AND A CLIENT IF
16 THERE IS A REASONABLE POSSIBILITY OF PHYSICAL OR PSYCHOLOGICAL HARM TO THE
17 CLIENT AS A RESULT OF THAT CONTACT.

18 (aa) SEXUALLY HARASSING A CLIENT, FORMER CLIENT, RESEARCH SUBJECT,
19 SUPERVISEE OR COWORKER. FOR THE PURPOSES OF THIS SUBDIVISION, "SEXUALLY
20 HARASSING" INCLUDES SEXUAL ADVANCES, SEXUAL SOLICITATION, REQUESTS FOR SEXUAL
21 FAVORS, UNWELCOME COMMENTS OR GESTURES OR ANY OTHER VERBAL OR PHYSICAL
22 CONDUCT OF A SEXUAL NATURE.

23 (bb) HARASSING, EXPLOITING OR RETALIATING AGAINST A CLIENT, FORMER
24 CLIENT, RESEARCH SUBJECT, SUPERVISEE, COWORKER OR WITNESS OR A COMPLAINANT IN
25 A DISCIPLINARY INVESTIGATION OR PROCEEDING INVOLVING A LICENSEE.

26 (cc) FAILING TO TAKE REASONABLE STEPS TO INFORM POTENTIAL VICTIMS AND
27 APPROPRIATE AUTHORITIES IF THE LICENSEE BECOMES AWARE DURING THE COURSE OF
28 PROVIDING OR SUPERVISING BEHAVIORAL HEALTH SERVICES THAT A CLIENT'S CONDITION
29 INDICATES A CLEAR AND IMMINENT DANGER TO THE CLIENT OR OTHERS.

30 (dd) FAILING TO COMPLY WITH THE LAWS OF THE APPROPRIATE LICENSING OR
31 CREDENTIALING AUTHORITY TO PROVIDE BEHAVIORAL HEALTH SERVICES BY ELECTRONIC
32 MEANS IN ALL GOVERNMENTAL JURISDICTIONS WHERE THE CLIENT RECEIVING THESE
33 SERVICES RESIDES.

34 (ee) GIVING OR RECEIVING A PAYMENT, KICKBACK, REBATE, BONUS OR OTHER
35 REMUNERATION FOR A REFERRAL.

36 (ff) FAILING TO REPORT IN WRITING TO THE BOARD INFORMATION THAT WOULD
37 CAUSE A REASONABLE LICENSEE TO BELIEVE THAT ANOTHER LICENSEE IS GUILTY OF
38 UNPROFESSIONAL CONDUCT OR IS PHYSICALLY OR MENTALLY UNABLE TO PROVIDE
39 BEHAVIORAL HEALTH SERVICES COMPETENTLY OR SAFELY. THIS DUTY DOES NOT EXTEND
40 TO INFORMATION PROVIDED BY A LICENSEE THAT IS PROTECTED BY THE BEHAVIORAL
41 HEALTH PROFESSIONAL-CLIENT PRIVILEGE UNLESS THE INFORMATION INDICATES A CLEAR
42 AND IMMINENT DANGER TO THE CLIENT OR OTHERS OR IS OTHERWISE SUBJECT TO
43 MANDATORY REPORTING REQUIREMENTS PURSUANT TO STATE OR FEDERAL LAW.

44 (gg) FAILING TO FOLLOW FEDERAL AND STATE LAWS REGARDING THE STORAGE,
45 USE AND RELEASE OF CONFIDENTIAL INFORMATION REGARDING A CLIENT'S PERSONAL
46 IDENTIFIABLE INFORMATION OR CARE.

1 (hh) FAILING TO RETAIN RECORDS PURSUANT TO SECTION 12-2297.

2 (ii) VIOLATING ANY FEDERAL OR STATE LAW, RULE OR REGULATION APPLICABLE
3 TO THE PRACTICE OF BEHAVIORAL HEALTH.

4 (jj) FAILING TO MAKE CLIENT RECORDS IN THE LICENSEE'S POSSESSION
5 AVAILABLE IN A TIMELY MANNER TO ANOTHER HEALTH PROFESSIONAL OR LICENSEE ON
6 RECEIPT OF PROPER AUTHORIZATION TO DO SO FROM THE CLIENT, A MINOR CLIENT'S
7 PARENT, THE CLIENT'S LEGAL GUARDIAN OR THE CLIENT'S AUTHORIZED
8 REPRESENTATIVE.

9 (kk) FAILING TO MAKE CLIENT RECORDS IN THE LICENSEE'S POSSESSION
10 PROMPTLY AVAILABLE TO THE CLIENT, A MINOR CLIENT'S PARENT, THE CLIENT'S LEGAL
11 GUARDIAN OR THE CLIENT'S AUTHORIZED REPRESENTATIVE ON RECEIPT OF PROPER
12 AUTHORIZATION TO DO SO FROM THE CLIENT, A MINOR CLIENT'S PARENT, THE CLIENT'S
13 LEGAL GUARDIAN OR THE CLIENT'S AUTHORIZED REPRESENTATIVE.

14 (ll) BEING THE SUBJECT OF THE REVOCATION, SUSPENSION, SURRENDER OR ANY
15 OTHER DISCIPLINARY SANCTION OF A PROFESSIONAL LICENSE, CERTIFICATE OR
16 REGISTRATION OR OTHER ADVERSE ACTION RELATED TO A PROFESSIONAL LICENSE,
17 CERTIFICATE OR REGISTRATION IN ANOTHER JURISDICTION OR COUNTRY, INCLUDING THE
18 FAILURE TO REPORT THE ADVERSE ACTION TO THE BOARD. THE ACTION TAKEN MAY
19 INCLUDE REFUSING, DENYING, REVOKING OR SUSPENDING A LICENSE OR CERTIFICATE,
20 THE SURRENDERING OF A LICENSE OR CERTIFICATE, OTHERWISE LIMITING, RESTRICTING
21 OR MONITORING A LICENSEE OR PLACING A LICENSEE ON PROBATION.

22 (mm) ANY SANCTION IMPOSED BY AN AGENCY OF THE FEDERAL GOVERNMENT THAT
23 INVOLVES RESTRICTING, SUSPENDING, LIMITING OR REMOVING THE LICENSEE'S ABILITY
24 TO OBTAIN FINANCIAL REMUNERATION FOR BEHAVIORAL HEALTH SERVICES.

25 (nn) VIOLATING THE SECURITY OF ANY LICENSURE EXAMINATION MATERIALS.

26 (oo) THE USE OF FRAUD OR DECEIT IN CONNECTION WITH TAKING OR ASSISTING
27 ANOTHER PERSON IN TAKING A LICENSURE EXAMINATION.

28 Sec. 6. Section 32-3252, Arizona Revised Statutes, is amended to read:

29 32-3252. Board of behavioral health examiners; appointment;
30 qualifications; terms; organization; compensation;
31 immunity

32 A. The board of behavioral health examiners is established consisting
33 of ~~two members~~ ONE PROFESSIONAL MEMBER from each credentialing committee
34 established pursuant to this chapter and ~~eight~~ FOUR public members appointed
35 by the governor.

36 B. Each PROFESSIONAL board member ~~shall be a resident of this state at~~
37 ~~the time of appointment. Representatives from credentialing committees shall~~
38 ~~be eligible to be certified pursuant to this chapter and shall have at least~~
39 ~~five years' experience in the practice of a behavioral health~~
40 ~~profession. Public members shall not be eligible for certification pursuant~~
41 ~~to this chapter~~ SHALL:

42 1. BE A RESIDENT OF THIS STATE FOR NOT LESS THAN ONE YEAR BEFORE
43 APPOINTMENT.

44 2. BE AN ACTIVE LICENSEE IN GOOD STANDING.

45 3. HAVE AT LEAST FIVE YEARS OF EXPERIENCE IN AN AREA OF BEHAVIORAL
46 HEALTH LICENSED PURSUANT TO THIS CHAPTER.

- 1 C. EACH PUBLIC MEMBER SHALL:
2 1. BE A RESIDENT OF THIS STATE FOR NOT LESS THAN ONE YEAR BEFORE
3 APPOINTMENT.
4 2. BE AT LEAST TWENTY-ONE YEARS OF AGE.
5 3. NOT BE OR HAVE EVER BEEN A BEHAVIORAL HEALTH PROFESSIONAL OR THE
6 SPOUSE OF A BEHAVIORAL HEALTH PROFESSIONAL.
7 4. NOT HAVE OR HAVE EVER HAD ANY FINANCIAL INTEREST IN THE PROVISION
8 OF BEHAVIORAL HEALTH SERVICES.
9 5. NOT HAVE ENGAGED IN ANY ACTIVITY DIRECTLY RELATED TO THE PRACTICE
10 OF BEHAVIORAL HEALTH.
- 11 ~~C.~~ D. The term of office of board members is three years to begin and
12 end on the third Monday in January. A member shall not serve more than two
13 full consecutive terms.
- 14 ~~D.~~ E. The board shall annually elect a chairman and
15 secretary-treasurer from its membership.
- 16 ~~E.~~ F. Board members are eligible to receive compensation as
17 determined pursuant to section 38-611 for each day actually and necessarily
18 spent in the performance of their duties.
- 19 ~~F.~~ G. Board members AND PERSONNEL are personally immune from suit
20 with respect to all acts done and actions taken in good faith and in
21 furtherance of the purposes of this chapter.
- 22 Sec. 7. Section 32-3253, Arizona Revised Statutes, is amended to read:
23 32-3253. Powers and duties
- 24 A. The board shall:
25 1. Adopt rules consistent with and necessary or proper to carry out
26 the purposes of this chapter.
27 2. Administer and enforce this chapter, rules adopted pursuant to this
28 chapter and orders of the board.
29 ~~3. Certify every qualified applicant who is recommended to the board
30 for certification by the appropriate credentialing committee as a
31 practitioner of the particular behavioral health profession regulated.~~
32 3. ISSUE A LICENSE BY EXAMINATION, RECIPROCITY OR TEMPORARY
33 RECOGNITION TO, AND RENEW THE LICENSE OF, EACH PERSON WHO IS QUALIFIED TO BE
34 LICENSED PURSUANT TO THIS CHAPTER.
35 4. Establish a ~~certification~~ LICENSURE fee schedule annually, by a
36 formal vote at a regular board meeting.
37 5. Collect fees AND SPEND MONIES.
38 6. Keep a record of all persons ~~certified~~ LICENSED pursuant to this
39 chapter, actions taken on all applications for ~~certification~~ LICENSURE,
40 actions involving renewal, suspension, revocation or denial of ~~certificates A~~
41 LICENSE or probation of ~~certified behavioral health professionals~~ LICENSEES
42 and the receipt and disbursement of monies.
43 7. Adopt an official seal for attestation of ~~certification~~ LICENSURE
44 and other official papers and documents.
45 8. Employ temporary or permanent personnel as it deems necessary.

1 9. CONDUCT INVESTIGATIONS AND DETERMINE ON ITS OWN MOTION IF A
2 LICENSEE OR AN APPLICANT HAS ENGAGED IN UNPROFESSIONAL CONDUCT, IS
3 INCOMPETENT OR IS MENTALLY OR PHYSICALLY UNABLE TO ENGAGE IN THE PRACTICE OF
4 BEHAVIORAL HEALTH.

5 10. CONDUCT DISCIPLINARY ACTIONS PURSUANT TO THIS CHAPTER AND BOARD
6 RULES.

7 11. ESTABLISH AND ENFORCE STANDARDS OR CRITERIA OF PROGRAMS OR OTHER
8 MECHANISMS TO ENSURE THE CONTINUING COMPETENCE OF LICENSEES.

9 12. ESTABLISH AND ENFORCE COMPLIANCE WITH PROFESSIONAL STANDARDS AND
10 RULES OF CONDUCT FOR LICENSEES.

11 13. ENGAGE IN A FULL EXCHANGE OF INFORMATION WITH THE LICENSING AND
12 DISCIPLINARY BOARDS AND PROFESSIONAL ASSOCIATIONS FOR BEHAVIORAL HEALTH
13 PROFESSIONALS IN THIS STATE AND OTHER JURISDICTIONS.

14 ~~B. The board may conduct disciplinary hearings on credentialing
15 committee findings involving disciplinary action and, on review of records,
16 affirm, reverse, adopt, modify, supplement, amend or reject a credentialing
17 committee's report in whole or in part.~~

18 B. THE BOARD MAY JOIN PROFESSIONAL ORGANIZATIONS AND ASSOCIATIONS
19 ORGANIZED EXCLUSIVELY TO PROMOTE THE IMPROVEMENT OF THE STANDARDS OF THE
20 PRACTICE OF BEHAVIORAL HEALTH, PROTECT THE HEALTH AND WELFARE OF THE PUBLIC
21 OR ASSIST AND FACILITATE THE WORK OF THE BOARD.

22 Sec. 8. Section 32-3261, Arizona Revised Statutes, is amended to read:

23 32-3261. Credentialing committees; appointment; qualifications;
24 terms; compensation; organization; immunity

25 A. The following credentialing committees are established:

- 26 1. Social work.
- 27 2. Counseling.
- 28 3. Marriage and family therapy.
- 29 4. Substance abuse counseling and treatment.

30 B. The governor shall appoint **FOUR PROFESSIONAL** members ~~of~~ **AND ONE**
31 **PUBLIC MEMBER TO EACH** credentialing ~~committees~~ **COMMITTEE**. ~~Each credentialing~~
32 ~~committee member shall be a resident of this state at the time of~~
33 ~~appointment. Each credentialing committee shall consist of not fewer than~~
34 ~~two nor more than four members who are eligible to be certified members of~~
35 ~~the profession being regulated and not fewer than one nor more than three~~
36 ~~public members who are not in any way connected with the practice of~~
37 ~~behavioral health. The governor shall determine the exact size of each~~
38 ~~credentialing committee after due consideration of the size of the~~
39 ~~credentialing committee necessary to carry out the duties prescribed in this~~
40 ~~chapter.~~

41 C. EACH PROFESSIONAL CREDENTIALING COMMITTEE MEMBER SHALL:

- 42 1. BE A RESIDENT OF THIS STATE FOR NOT LESS THAN ONE YEAR BEFORE
43 APPOINTMENT.
- 44 2. BE AN ACTIVE LICENSEE IN GOOD STANDING.
- 45 3. HAVE AT LEAST FIVE YEARS OF EXPERIENCE IN AN AREA OF BEHAVIORAL
46 HEALTH LICENSED PURSUANT TO THIS CHAPTER.

- 1 D. EACH PUBLIC MEMBER SHALL:
2 1. BE A RESIDENT OF THIS STATE FOR NOT LESS THAN ONE YEAR BEFORE
3 APPOINTMENT.
4 2. BE AT LEAST TWENTY-ONE YEARS OF AGE.
5 3. NOT BE OR HAVE EVER BEEN A BEHAVIORAL HEALTH PROFESSIONAL OR THE
6 SPOUSE OF A BEHAVIORAL HEALTH PROFESSIONAL.
7 4. NOT HAVE OR HAVE EVER HAD ANY FINANCIAL INTEREST IN THE PROVISION
8 OF BEHAVIORAL HEALTH SERVICES.
9 5. NOT HAVE ENGAGED IN ANY ACTIVITY DIRECTLY RELATED TO THE PRACTICE
10 OF BEHAVIORAL HEALTH.

11 ~~E.~~ E. The term of office of credentialing committee members is three
12 years to begin and end on the third Monday in January. A member shall not
13 serve more than two full consecutive terms.

14 ~~F.~~ F. Credentialing committee members are eligible to receive
15 compensation as determined pursuant to section 38-611 for each day actually
16 and necessarily spent in the performance of their duties.

17 ~~E.~~ G. A credentialing committee shall annually elect a chairman and
18 ~~secretary-treasurer~~ SECRETARY from its membership.

19 ~~F.~~ H. Credentialing committee members are personally immune from suit
20 with respect to all acts done and actions taken in good faith and in
21 furtherance of the purposes of this chapter.

22 Sec. 9. Section 32-3262, Arizona Revised Statutes, is amended to read:
23 32-3262. Credentialing committees; duties

24 ~~A.~~ A credentialing committee shall: ~~develop an application process for~~
25 ~~certification, recommend applicants for certification to the board and inform~~
26 ~~the public of the individuals who are certified by the board as behavioral~~
27 ~~health professionals in the credentialing committee's profession.~~

28 1. ADMINISTER AND ENFORCE THIS CHAPTER, RULES ADOPTED PURSUANT TO THIS
29 CHAPTER AND BOARD ORDERS.

30 2. REVIEW LICENSURE AND LICENSURE RENEWAL APPLICATIONS AND RECOMMEND
31 THE APPROVAL OR DENIAL OF LICENSURE AND LICENSURE RENEWAL TO THE BOARD.

32 3. CONDUCT INVESTIGATIONS AND HEARINGS REGARDING CHARGES OF VIOLATIONS
33 OF THIS CHAPTER AND BOARD RULES AND ORDERS AND MAKE RECOMMENDATIONS TO THE
34 BOARD PURSUANT TO THIS CHAPTER.

35 ~~B.~~ ~~A credentialing committee, on its own motion or on a complaint, may~~
36 ~~initiate an investigation regarding unprofessional practice by any behavioral~~
37 ~~health professional certified in the credentialing committee's profession. As~~
38 ~~part of its investigation a credentialing committee may hold a hearing~~
39 ~~pursuant to this chapter. If a credentialing committee holds a hearing it~~
40 ~~shall submit a report of its findings to the board within thirty days after~~
41 ~~the hearing.~~

42 ~~C.~~ ~~A credentialing committee may employ temporary or permanent~~
43 ~~personnel as it deems necessary.~~

44 Sec. 10. Heading change

45 The article heading of title 32, chapter 33, article 3, Arizona Revised
46 Statutes, is changed from "CERTIFICATION" to "LICENSURE".

1 Sec. 11. Section 32-3271, Arizona Revised Statutes, is amended to
2 read:

3 32-3271. Exceptions to licensure; jurisdiction

4 A. This chapter shall DOES not ~~be construed to limit services~~
5 ~~performed by a person who does not represent himself by any title specified~~
6 ~~in this chapter and who is~~ APPLY TO:

7 ~~1. A licensed or certified health care professional acting within the~~
8 ~~scope of his license or certificate.~~

9 1. A PERSON WHO IS CURRENTLY LICENSED, CERTIFIED OR REGULATED PURSUANT
10 TO ANOTHER CHAPTER OF THIS TITLE AND WHO PROVIDES SERVICES WITHIN THE
11 PERSON'S SCOPE OF PRACTICE IF THE PERSON DOES NOT CLAIM TO BE LICENSED
12 PURSUANT TO THIS CHAPTER.

13 ~~2. A student, intern or trainee pursuing a course of study in~~
14 ~~behavioral health in a regionally accredited institution of higher education~~
15 ~~or training institution if his behavioral health activities are performed~~
16 ~~under qualified supervision and constitute a part of his supervised course of~~
17 ~~study.~~

18 ~~3.~~ 2. Not A PERSON WHO IS NOT A resident of this state if ~~he~~ THE
19 PERSON:

20 (a) Performs behavioral health services in this state for not more
21 than ~~thirty~~ NINETY days in any one calendar year ~~and he~~ AS PRESCRIBED BY
22 BOARD RULE.

23 (b) Is authorized to perform ~~such~~ THESE services pursuant to the laws
24 of the state or country in which ~~he~~ THE PERSON resides OR PURSUANT TO THE
25 LAWS OF A FEDERALLY RECOGNIZED TRIBE.

26 (c) INFORMS THE CLIENT OF THE LIMITED NATURE OF THESE SERVICES AND
27 THAT THE PERSON IS NOT LICENSED IN THIS STATE.

28 ~~4.~~ 3. A rabbi, priest, minister or clergy of any religious
29 denomination or sect if the activities and services he performs are within
30 the scope of the performance of the regular or specialized ministerial duties
31 of an established and legally recognizable church, denomination or sect and
32 the person performing the services remains accountable to the established
33 authority of the church, denomination or sect.

34 ~~5. Employed in a behavioral health agency licensed by the department~~
35 ~~of health services or the department of economic security unless the person~~
36 ~~is certified by the board.~~

37 4. A MEMBER RUN SELF-HELP OR SELF-GROWTH GROUP IF NO MEMBER OF THE
38 GROUP RECEIVES DIRECT OR INDIRECT FINANCIAL COMPENSATION.

39 5. A BEHAVIORAL HEALTH TECHNICIAN OR BEHAVIORAL HEALTH
40 PARAPROFESSIONAL WHO IS EMPLOYED BY AN AGENCY LICENSED BY THE DEPARTMENT OF
41 HEALTH SERVICES.

42 6. A PERSON CONTRACTING WITH THE SUPREME COURT OR A PERSON EMPLOYED BY
43 OR CONTRACTING WITH AN AGENCY UNDER CONTRACT WITH THE SUPREME COURT WHO IS
44 OTHERWISE INELIGIBLE TO BE LICENSED OR WHO IS IN THE PROCESS OF APPLYING TO
45 BE LICENSED UNDER THIS CHAPTER AS LONG AS THAT PERSON IS IN COMPLIANCE WITH

1 THE SUPREME COURT CONTRACT CONDITIONS REGARDING PROFESSIONAL COUNSELING
2 SERVICES AND PRACTICES ONLY UNDER SUPERVISION.

3 7. A PERSON EMPLOYED BY THE DEPARTMENT OF ECONOMIC SECURITY WHO
4 PRACTICES SOCIAL WORK, MARRIAGE AND FAMILY THERAPY, SUBSTANCE ABUSE
5 COUNSELING, COUNSELING AND CASE MANAGEMENT WITHIN THE SCOPE OF THE PERSON'S
6 JOB DUTIES AND UNDER DIRECT SUPERVISION BY THE DEPARTMENT OF ECONOMIC
7 SECURITY.

8 8. A STUDENT, INTERN OR TRAINEE PURSUING A COURSE OF STUDY IN SOCIAL
9 WORK, COUNSELING, MARRIAGE AND FAMILY THERAPY, SUBSTANCE ABUSE COUNSELING OR
10 CASE MANAGEMENT IN A REGIONALLY ACCREDITED INSTITUTION OF HIGHER EDUCATION OR
11 TRAINING INSTITUTION IF THE PERSON'S ACTIVITIES ARE PERFORMED UNDER QUALIFIED
12 SUPERVISION AND ARE PART OF THE PERSON'S SUPERVISED COURSE OF STUDY.

13 9. A PERSON PRACTICING SOCIAL WORK, COUNSELING AND CASE MANAGEMENT
14 EMPLOYED BY AN AGENCY LICENSED BY THE DEPARTMENT OF ECONOMIC SECURITY.

15 10. A PARAPROFESSIONAL EMPLOYED BY THE DEPARTMENT OF ECONOMIC SECURITY
16 OR BY AN AGENCY LICENSED BY THE DEPARTMENT OF ECONOMIC SECURITY.

17 B. A PERSON WHO PROVIDES SERVICES PURSUANT TO SUBSECTION A, PARAGRAPH
18 2 IS DEEMED TO HAVE AGREED TO THE JURISDICTION OF THE BOARD AND TO BE BOUND
19 BY THE LAWS OF THIS STATE.

20 Sec. 12. Section 32-3272, Arizona Revised Statutes, is amended to
21 read:

22 32-3272. Fees

23 A. ~~On recommendation of a credentialing committee~~ The board shall
24 establish and charge reasonable fees of not to exceed two hundred fifty
25 dollars for issuance and renewal of a ~~certificate granted to a certified~~
26 ~~behavioral health professional~~ LICENSE ISSUED PURSUANT TO THIS CHAPTER.

27 B. The board shall establish fees to produce monies that approximate
28 the cost of maintaining the board and the credentialing committees.

29 Sec. 13. Section 32-3273, Arizona Revised Statutes, is amended to
30 read:

31 32-3273. License renewal; continuing education

32 A. ~~Behavioral health professional certificates~~ A LICENSE issued
33 pursuant to this chapter ~~are~~ IS renewable biennially by paying the renewal
34 fee ~~recommended by the appropriate credentialing committee and established~~
35 PRESCRIBED by the board and submitting evidence satisfactory to the
36 appropriate credentialing committee of completion of relevant continuing
37 education experience as determined by the appropriate credentialing committee
38 during the previous twenty-four month period.

39 B. ~~A credentialing committee~~ THE BOARD shall send notice in writing of
40 required relevant continuing education experience to ~~its certified behavioral~~
41 ~~health professionals~~ EACH LICENSEE at least ~~one year~~ NINETY DAYS before the
42 renewal date.

43 C. A LICENSEE MUST SATISFY THE CONTINUING EDUCATION REQUIREMENTS THAT
44 ARE PRESCRIBED BY THE BOARD BY RULE AND THAT ARE DESIGNED TO PROVIDE THE
45 NECESSARY UNDERSTANDING OF ETHICS, CULTURAL COMPETENCY, CURRENT DEVELOPMENTS,
46 SKILLS, PROCEDURES AND TREATMENTS RELATED TO BEHAVIORAL HEALTH AND TO ENSURE

1 THE CONTINUING COMPETENCE OF LICENSEES. THE BOARD SHALL ADOPT RULES TO
2 PRESCRIBE THE MANNER OF DOCUMENTING COMPLIANCE WITH THIS SUBSECTION.

3 Sec. 14. Section 32-3274, Arizona Revised Statutes, is amended to
4 read:

5 32-3274. Reciprocity

6 The board may issue a ~~certificate~~ LICENSE to a person in ~~his~~ THAT
7 PERSON'S particular behavioral health profession if ~~he~~ THE PERSON is
8 licensed, ~~OR~~ certified ~~or registered in~~ BY another state REGULATORY AGENCY
9 at an equivalent or higher practice level as determined by the board, ~~and~~
10 pays the FEE prescribed ~~fee~~ BY THE BOARD AND MEETS ALL OF THE FOLLOWING
11 REQUIREMENTS:

12 1. SUBMITS A WRITTEN APPLICATION PRESCRIBED BY THE BOARD.

13 2. IS OF GOOD MORAL CHARACTER. THE BOARD'S STANDARD TO DETERMINE GOOD
14 MORAL CHARACTER SHALL NOT VIOLATE FEDERAL DISCRIMINATION LAWS.

15 3. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF OF INITIAL LICENSURE OR
16 CERTIFICATION AT AN EQUIVALENT DESIGNATION FOR WHICH THE APPLICANT IS SEEKING
17 LICENSURE IN THIS STATE AND PROOF THAT THE LICENSE OR CERTIFICATE IS CURRENT
18 AND IN GOOD STANDING.

19 4. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF THAT ANY OTHER LICENSE
20 OR CERTIFICATE ISSUED TO THE APPLICANT BY ANOTHER STATE HAS NOT BEEN
21 SUSPENDED OR REVOKED. IF A LICENSEE OR CERTIFICATE HOLDER HAS BEEN SUBJECTED
22 TO ANY OTHER DISCIPLINARY ACTION, THE BOARD MAY ASSESS THE MAGNITUDE OF THAT
23 ACTION AND MAKE A DECISION REGARDING RECIPROCITY BASED ON THIS ASSESSMENT.

24 5. MEETS ANY OTHER REQUIREMENTS PRESCRIBED BY THE BOARD.

25 Sec. 15. Title 32, chapter 33, article 3, Arizona Revised Statutes, is
26 amended by adding sections 32-3275 through 32-3280, to read:

27 32-3275. Requirements for licensure

28 AN APPLICANT FOR LICENSURE MUST MEET ALL OF THE FOLLOWING REQUIREMENTS:

29 1. SUBMIT AN APPLICATION AS PRESCRIBED BY THE BOARD.

30 2. BE AT LEAST TWENTY-ONE YEARS OF AGE.

31 3. BE OF GOOD MORAL CHARACTER. THE BOARD'S STANDARD TO DETERMINE GOOD
32 MORAL CHARACTER SHALL NOT VIOLATE FEDERAL DISCRIMINATION LAWS.

33 4. PAY ALL APPLICABLE FEES PRESCRIBED BY THE BOARD.

34 5. HAVE THE PHYSICAL AND MENTAL CAPABILITY TO SAFELY AND COMPETENTLY
35 ENGAGE IN THE PRACTICE OF BEHAVIORAL HEALTH.

36 6. NOT HAVE COMMITTED ANY ACT OR ENGAGED IN ANY CONDUCT THAT WOULD
37 CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION AGAINST A LICENSEE PURSUANT TO
38 THIS CHAPTER.

39 7. NOT HAVE HAD A PROFESSIONAL LICENSE OR CERTIFICATE REFUSED,
40 REVOKED, SUSPENDED OR RESTRICTED IN ANY REGULATORY JURISDICTION IN THE UNITED
41 STATES OR IN ANOTHER COUNTRY FOR REASONS THAT RELATE TO UNPROFESSIONAL
42 CONDUCT. IF THE BOARD FINDS THAT THE APPLICANT COMMITTED AN ACT OR ENGAGED
43 IN CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION IN THIS
44 STATE, THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT THE CONDUCT HAS
45 BEEN CORRECTED, MONITORED AND RESOLVED. IF THE MATTER HAS NOT BEEN RESOLVED,

1 THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT MITIGATING CIRCUMSTANCES
2 EXIST THAT PREVENT ITS RESOLUTION.

3 8. NOT HAVE VOLUNTARILY SURRENDERED A LICENSE OR CERTIFICATE IN
4 ANOTHER REGULATORY JURISDICTION IN THE UNITED STATES OR ANY OTHER COUNTRY
5 WHILE UNDER INVESTIGATION FOR CONDUCT THAT RELATES TO UNPROFESSIONAL CONDUCT.
6 IF ANOTHER JURISDICTION HAS TAKEN DISCIPLINARY ACTION AGAINST AN APPLICANT,
7 THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT THE CAUSE FOR THE ACTION
8 WAS CORRECTED AND THE MATTER RESOLVED. IF THE MATTER HAS NOT BEEN RESOLVED
9 BY THAT JURISDICTION, THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT
10 MITIGATING CIRCUMSTANCES EXIST THAT PREVENT ITS RESOLUTION.

11 9. NOT HAVE A COMPLAINT, ALLEGATION OR INVESTIGATION PENDING BEFORE
12 ANOTHER REGULATORY JURISDICTION IN THE UNITED STATES OR ANOTHER COUNTRY THAT
13 RELATES TO UNPROFESSIONAL CONDUCT. IF AN APPLICANT HAS ANY SUCH COMPLAINTS,
14 ALLEGATIONS OR INVESTIGATIONS PENDING, THE BOARD SHALL SUSPEND THE
15 APPLICATION PROCESS AND MAY NOT ISSUE OR DENY A LICENSE TO THE APPLICANT
16 UNTIL THE COMPLAINT, ALLEGATION OR INVESTIGATION IS RESOLVED.

17 32-3276. Notice of address and telephone number changes;
18 penalties

19 A. A LICENSEE MUST PROVIDE THE BOARD WITH THE LICENSEE'S CURRENT
20 RESIDENCE ADDRESS AND TELEPHONE NUMBER, OFFICE ADDRESS AND TELEPHONE NUMBER
21 AND PROMPTLY AND IN WRITING INFORM THE BOARD OF EACH CHANGE IN RESIDENCE
22 ADDRESS AND TELEPHONE NUMBER AND OFFICE ADDRESS AND TELEPHONE NUMBER.

23 B. THE BOARD MAY ASSESS THE COSTS INCURRED BY THE BOARD IN LOCATING A
24 LICENSEE AND IMPOSE A PENALTY OF NOT TO EXCEED ONE HUNDRED DOLLARS AGAINST A
25 LICENSEE WHO DOES NOT NOTIFY THE BOARD PURSUANT TO SUBSECTION A WITHIN THIRTY
26 DAYS AFTER THE CHANGE OF ADDRESS OR TELEPHONE NUMBER.

27 32-3277. Expired licenses; reinstatement

28 A. A PERSON WHO DOES NOT RENEW A LICENSE IS INELIGIBLE TO PRACTICE
29 PURSUANT TO THIS CHAPTER.

30 B. THE BOARD MAY REINSTATE AN EXPIRED LICENSE IF THE PERSON SUBMITS AN
31 APPLICATION FOR REINSTATEMENT WITHIN NINETY DAYS AFTER THE EXPIRATION OF THE
32 LICENSE. THE APPLICATION MUST DOCUMENT TO THE BOARD'S SATISFACTION THAT THE
33 APPLICANT HAS MET THE RENEWAL REQUIREMENTS PRESCRIBED BY THIS CHAPTER AND
34 INCLUDE A LATE RENEWAL PENALTY PRESCRIBED BY THE BOARD BY RULE.

35 32-3278. Inactive license

36 A. THE BOARD BY RULE MAY ESTABLISH PROCEDURES FOR A LICENSEE TO DELAY
37 RENEWAL OF THE LICENSE FOR GOOD CAUSE AND TO PLACE THE LICENSEE ON INACTIVE
38 STATUS. A PERSON ON INACTIVE STATUS SHALL NOT PRACTICE BEHAVIORAL HEALTH OR
39 CLAIM TO BE A LICENSEE.

40 B. A LICENSEE ON INACTIVE STATUS MAY REQUEST REINSTATEMENT OF THE
41 LICENSE TO ACTIVE STATUS BY SUBMITTING A LICENSE RENEWAL APPLICATION.

42 32-3279. Probationary and temporary licenses

43 A. IF AN APPLICANT DOES NOT MEET THE BASIC REQUIREMENTS FOR LICENSURE
44 PRESCRIBED IN SECTION 32-3275, THE BOARD MAY ISSUE A PROBATIONARY LICENSE
45 THAT IS SUBJECT TO ANY OF THE FOLLOWING:

- 46 1. A REQUIREMENT THAT THE LICENSEE'S PRACTICE BE SUPERVISED.

- 1 2. A RESTRICTION ON THE LICENSEE'S PRACTICE.
- 2 3. A REQUIREMENT THAT THE LICENSEE BEGIN OR CONTINUE MEDICAL OR
- 3 PSYCHIATRIC TREATMENT.
- 4 4. A REQUIREMENT THAT THE LICENSEE PARTICIPATE IN A SPECIFIED
- 5 REHABILITATION PROGRAM.
- 6 5. A REQUIREMENT THAT THE LICENSEE ABSTAIN FROM ALCOHOL AND OTHER
- 7 DRUGS.
- 8 B. IF THE BOARD OFFERS A PROBATIONARY LICENSE, THE BOARD SHALL NOTIFY
- 9 THE APPLICANT IN WRITING OF THE:
 - 10 1. APPLICANT'S SPECIFIC DEFICIENCIES.
 - 11 2. PROBATIONARY PERIOD.
 - 12 3. APPLICANT'S RIGHT TO REJECT THE TERMS OF PROBATION.
 - 13 4. APPLICANT'S RIGHT TO A HEARING ON THE BOARD'S DENIAL OF THE
 - 14 APPLICATION.
- 15 C. THE BOARD BY RULE MAY PRESCRIBE A PROCEDURE TO ISSUE TEMPORARY
- 16 LICENSES. AT A MINIMUM, THESE RULES MUST INCLUDE THE FOLLOWING PROVISIONS:
 - 17 1. A PERSON ISSUED A TEMPORARY LICENSE MAY PRACTICE BEHAVIORAL HEALTH
 - 18 ONLY UNDER THE DIRECT SUPERVISION OF A LICENSEE.
 - 19 2. A TEMPORARY LICENSE EXPIRES ON THE DATE SPECIFIED BY THE BOARD AND
 - 20 NOT MORE THAN ONE YEAR AFTER THE DATE OF ISSUANCE.
 - 21 3. A TEMPORARY LICENSE MAY CONTAIN RESTRICTIONS AS TO TIME, PLACE AND
 - 22 SUPERVISION THAT THE BOARD DEEMS APPROPRIATE.
 - 23 4. THE BOARD MAY SUMMARILY REVOKE A TEMPORARY LICENSE WITHOUT A
 - 24 HEARING.
 - 25 5. THE BOARD'S DENIAL OF A LICENSURE APPLICATION TERMINATES A
 - 26 TEMPORARY LICENSE.
- 27 32-3280. Fingerprinting
- 28 A. AN APPLICANT FOR LICENSURE UNDER THIS ARTICLE OTHER THAN FOR A
- 29 TEMPORARY LICENSE, MUST SUBMIT A FULL SET OF FINGERPRINTS TO THE BOARD, AT
- 30 THE APPLICANT'S OWN EXPENSE, FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL
- 31 CRIMINAL HISTORY RECORDS CHECK PURSUANT TO SECTION 41-1750 AND P.L. 92-544.
- 32 THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE
- 33 FEDERAL BUREAU OF INVESTIGATION.
- 34 B. AS A CONDITION OF RENEWING A LICENSE, A PERSON LICENSED PURSUANT TO
- 35 THIS CHAPTER WHO HAS NOT PREVIOUSLY DONE SO MUST SUBMIT A FULL SET OF
- 36 FINGERPRINTS TO THE BOARD, AT THE LICENSEES' OWN EXPENSE, FOR THE PURPOSE OF
- 37 OBTAINING A STATE AND FEDERAL CRIMINAL HISTORY RECORDS CHECK PURSUANT TO
- 38 SECTION 41-1750 AND P.L. 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY
- 39 EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION. THE
- 40 BOARD SHALL PROVIDE WRITTEN NOTICE OF THIS REQUIREMENT TO ALL LICENSEES AT
- 41 LEAST SIX MONTHS BEFORE EACH LICENSEE'S EXPIRATION DATE.
- 42 C. THE BOARD SHALL WAIVE THE RECORDS CHECK REQUIRED IN SUBSECTIONS A
- 43 AND B OF THIS SECTION FOR AN APPLICANT OR LICENSEE PROVIDING EVIDENCE
- 44 ACCEPTABLE TO THE BOARD THAT THE APPLICANT OR LICENSEE HOLDS A CURRENT CLASS
- 45 1 OR CLASS 2 FINGERPRINT CLEARANCE CARD ISSUED BY THE DEPARTMENT OF PUBLIC
- 46 SAFETY.

1 Sec. 16. Delayed repeal

2 Section 32-3281, Arizona Revised Statutes, is repealed from and after
3 June 30, 2004.

4 Sec. 17. Title 32, chapter 33, article 4, Arizona Revised Statutes, is
5 amended by adding a new section 32-3281, to read:

6 32-3281. Disciplinary action; hearings; civil penalty; appeal

7 A. A CREDENTIALING COMMITTEE, ON ITS OWN MOTION OR ON A COMPLAINT, MAY
8 INVESTIGATE ANY EVIDENCE THAT APPEARS TO SHOW THAT A LICENSEE IS OR MAY BE
9 INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE
10 MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIORAL
11 HEALTH. AS PART OF ITS INVESTIGATION, A CREDENTIALING COMMITTEE MAY HOLD AN
12 INVESTIGATIONAL MEETING PURSUANT TO THIS CHAPTER. ANY PERSON MAY, AND A
13 LICENSEE AND ANY ENTITY LICENSED BY THE OFFICE OF BEHAVIORAL HEALTH LICENSURE
14 SHALL, REPORT TO THE BOARD ANY INFORMATION THAT WOULD CAUSE A REASONABLE
15 LICENSEE TO BELIEVE THAT ANOTHER LICENSEE IS GUILTY OF UNPROFESSIONAL CONDUCT
16 OR IS PHYSICALLY OR MENTALLY UNABLE TO PROVIDE BEHAVIORAL HEALTH SERVICES
17 COMPETENTLY OR SAFELY. ANY PERSON OR ENTITY THAT REPORTS OR PROVIDES
18 INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL
19 DAMAGES. IT IS AN ACT OF UNPROFESSIONAL CONDUCT FOR ANY LICENSEE TO FAIL TO
20 REPORT AS REQUIRED BY THIS SECTION. THE BOARD SHALL REPORT TO THE OFFICE OF
21 BEHAVIORAL HEALTH LICENSURE IN THE DEPARTMENT OF HEALTH SERVICES ANY ENTITY
22 LICENSED BY THE OFFICE OF BEHAVIORAL HEALTH LICENSURE THAT FAILS TO REPORT AS
23 REQUIRED BY THIS SECTION.

24 B. A CREDENTIALING COMMITTEE SHALL REQUIRE ANY COMBINATION OF MENTAL,
25 PHYSICAL OR ORAL OR WRITTEN COMPETENCY EXAMINATIONS, AT THE LICENSEES' OWN
26 EXPENSE, AND CONDUCT NECESSARY INVESTIGATIONS, INCLUDING INVESTIGATIONAL
27 INTERVIEWS BETWEEN REPRESENTATIVES OF THE BOARD AND THE LICENSEE, TO FULLY
28 INFORM ITSELF WITH RESPECT TO ANY INFORMATION FILED WITH THE BOARD UNDER
29 SUBSECTION A OF THIS SECTION. THESE EXAMINATIONS MAY INCLUDE BIOLOGICAL
30 FLUID TESTING. THE CREDENTIALING COMMITTEE MAY REQUIRE THE LICENSEE, AT THE
31 LICENSEE'S EXPENSE, TO UNDERGO ASSESSMENT BY A REHABILITATIVE, RETRAINING OR
32 ASSESSMENT PROGRAM APPROVED BY THE CREDENTIALING COMMITTEE.

33 C. IF THE BOARD FINDS, BASED ON THE INFORMATION RECEIVED PURSUANT TO
34 SUBSECTION A OR B OF THIS SECTION, THAT THE PUBLIC HEALTH, SAFETY OR WELFARE
35 IMPERATIVELY REQUIRES EMERGENCY ACTION, AND INCORPORATES A FINDING TO THAT
36 EFFECT IN ITS ORDER, THE BOARD MAY RESTRICT, LIMIT OR ORDER A SUMMARY
37 SUSPENSION OF A LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION.
38 IF THE BOARD TAKES ACTION PURSUANT TO THIS SUBSECTION, IT MUST ALSO SERVE THE
39 LICENSEE WITH A WRITTEN NOTICE THAT STATES THE CHARGES AND THAT THE LICENSEE
40 IS ENTITLED TO A FORMAL HEARING BEFORE THE BOARD OR AN ADMINISTRATIVE LAW
41 JUDGE WITHIN SIXTY DAYS.

42 D. IF AFTER COMPLETING AN INVESTIGATIONAL MEETING THE CREDENTIALING
43 COMMITTEE FINDS THAT THE INFORMATION PROVIDED IS NOT OF SUFFICIENT
44 SERIOUSNESS TO MERIT DISCIPLINARY ACTION AGAINST THE LICENSEE, THE
45 CREDENTIALING COMMITTEE SHALL RECOMMEND EITHER OF THE FOLLOWING ACTIONS TO
46 THE BOARD:

- 1 1. DISMISS IF, IN THE OPINION OF THE CREDENTIALING COMMITTEE, THE
2 COMPLAINT IS WITHOUT MERIT.
- 3 2. FILE A LETTER OF CONCERN AND DISMISS THE COMPLAINT.
- 4 E. IF AFTER COMPLETING ITS INVESTIGATION THE CREDENTIALING COMMITTEE
5 BELIEVES THAT THE INFORMATION IS OR MAY BE TRUE, THE CREDENTIALING COMMITTEE
6 CAN RECOMMEND THAT THE BOARD ENTER INTO A CONSENT AGREEMENT WITH THE LICENSEE
7 TO LIMIT OR RESTRICT THE LICENSEE'S PRACTICE OR TO REHABILITATE THE LICENSEE,
8 PROTECT THE PUBLIC AND ENSURE THE LICENSEE'S ABILITY TO SAFELY ENGAGE IN THE
9 PRACTICE OF BEHAVIORAL HEALTH. A CONSENT AGREEMENT MAY ALSO REQUIRE THE
10 LICENSEE TO SUCCESSFULLY COMPLETE A BOARD APPROVED REHABILITATIVE, RETRAINING
11 OR ASSESSMENT PROGRAM.
- 12 F. IF ON RECEIPT OF A CREDENTIALING COMMITTEE'S RECOMMENDATION THE
13 BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO SUBSECTION A OF THIS
14 SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT DIRECT ACTION AGAINST THE
15 LICENSEE, THE BOARD MAY TAKE EITHER OF THE FOLLOWING ACTIONS:
- 16 1. DISMISS IF, IN THE OPINION OF THE BOARD, THE COMPLAINT IS WITHOUT
17 MERIT.
- 18 2. FILE A LETTER OF CONCERN AND DISMISS THE COMPLAINT. THE LICENSEE
19 MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER THE
20 LICENSEE RECEIVES THE LETTER OF CONCERN.
- 21 G. IF ON RECEIPT OF A CREDENTIALING COMMITTEE'S RECOMMENDATION THE
22 BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO SUBSECTION A OF THIS
23 SECTION IS OR MAY BE TRUE, THE BOARD MAY ENTER INTO AN AGREEMENT WITH THE
24 LICENSEE TO LIMIT OR RESTRICT THE LICENSEE'S PRACTICE OR TO REHABILITATE THE
25 LICENSEE, PROTECT THE PUBLIC AND ENSURE THE LICENSEE'S ABILITY TO SAFELY
26 ENGAGE IN THE PRACTICE OF BEHAVIORAL HEALTH. THE BOARD MAY ALSO REQUIRE THE
27 LICENSEE TO SUCCESSFULLY COMPLETE A BOARD APPROVED REHABILITATIVE, RETRAINING
28 OR ASSESSMENT PROGRAM.
- 29 H. IF ON RECEIPT OF A CREDENTIALING COMMITTEE'S RECOMMENDATION THE
30 BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO SUBSECTION A OF THIS
31 SECTION IS OR MAY BE TRUE, THE BOARD MAY REQUEST A FORMAL INTERVIEW WITH THE
32 LICENSEE. IF THE LICENSEE REFUSES THE INVITATION FOR A FORMAL INTERVIEW OR
33 ACCEPTS AND THE RESULTS INDICATE THAT GROUNDS MAY EXIST FOR REVOCATION OR
34 SUSPENSION OF THE LICENSEE'S LICENSE FOR MORE THAN TWELVE MONTHS, THE BOARD
35 SHALL ISSUE A FORMAL COMPLAINT AND ORDER THAT A HEARING BE HELD PURSUANT TO
36 TITLE 41, CHAPTER 6, ARTICLE 10. IF AFTER COMPLETING A FORMAL INTERVIEW THE
37 BOARD FINDS THAT THE PROTECTION OF THE PUBLIC REQUIRES EMERGENCY ACTION, THE
38 BOARD MAY ORDER A SUMMARY SUSPENSION OF THE LICENSEE'S LICENSE PENDING FORMAL
39 REVOCATION PROCEEDINGS OR OTHER ACTION AUTHORIZED BY THIS SECTION.
- 40 I. IF AFTER COMPLETING THE FORMAL INTERVIEW THE BOARD FINDS THE
41 INFORMATION PROVIDED IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT SUSPENSION FOR
42 MORE THAN TWELVE MONTHS OR REVOCATION OF THE LICENSE, THE BOARD MAY TAKE THE
43 FOLLOWING ACTIONS:
- 44 1. DISMISS IF, IN THE OPINION OF THE BOARD, THE INFORMATION IS WITHOUT
45 MERIT.

1 2. FILE A LETTER OF CONCERN AND DISMISS THE COMPLAINT. THE LICENSEE
2 MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER THE
3 LICENSEE RECEIVES THE LETTER OF CONCERN.

4 3. ISSUE A DECREE OF CENSURE. A DECREE OF CENSURE IS AN OFFICIAL
5 ACTION AGAINST THE LICENSEE'S LICENSE AND MAY INCLUDE A REQUIREMENT FOR
6 RESTITUTION OF FEES TO A CLIENT RESULTING FROM VIOLATIONS OF THIS CHAPTER OR
7 RULES ADOPTED PURSUANT TO THIS CHAPTER.

8 4. FIX A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE
9 PUBLIC HEALTH AND SAFETY AND REHABILITATE OR EDUCATE THE LICENSEE CONCERNED.
10 PROBATION MAY INCLUDE TEMPORARY SUSPENSION NOT TO EXCEED TWELVE MONTHS,
11 RESTRICTION OF THE LICENSEE'S LICENSE TO PRACTICE BEHAVIORAL HEALTH, A
12 REQUIREMENT FOR RESTITUTION OF FEES TO A CLIENT OR EDUCATION OR
13 REHABILITATION AT THE LICENSEE'S OWN EXPENSE. IF A LICENSEE FAILS TO COMPLY
14 WITH THE TERMS OF PROBATION, THE BOARD SHALL SERVE THE LICENSEE WITH A
15 WRITTEN NOTICE THAT STATES THAT THE LICENSEE IS SUBJECT TO A FORMAL HEARING
16 BASED ON THE INFORMATION CONSIDERED BY THE BOARD AT THE FORMAL INTERVIEW AND
17 ANY OTHER ACTS OR CONDUCT ALLEGED TO BE IN VIOLATION OF THIS CHAPTER OR RULES
18 ADOPTED BY THE BOARD PURSUANT TO THIS CHAPTER, INCLUDING NONCOMPLIANCE WITH
19 THE TERMS OF PROBATION OR A CONSENT AGREEMENT.

20 J. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED IN SUBSECTION A OR
21 H OF THIS SECTION WARRANTS SUSPENSION OR REVOCATION OF A LICENSE ISSUED UNDER
22 THIS CHAPTER, THE BOARD SHALL INITIATE FORMAL PROCEEDINGS PURSUANT TO TITLE
23 41, CHAPTER 6, ARTICLE 10.

24 K. IN A FORMAL INTERVIEW PURSUANT TO SUBSECTION H OF THIS SECTION OR
25 IN A HEARING PURSUANT TO SUBSECTION J OF THIS SECTION, THE BOARD IN ADDITION
26 TO ANY OTHER ACTION MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND
27 DOLLARS FOR EACH VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS
28 CHAPTER.

29 L. A LETTER OF CONCERN IS A PUBLIC DOCUMENT.

30 M. A LICENSEE WHO AFTER A FORMAL HEARING IS FOUND BY THE BOARD TO BE
31 GUILTY OF UNPROFESSIONAL CONDUCT, TO BE MENTALLY OR PHYSICALLY UNABLE TO
32 SAFELY ENGAGE IN THE PRACTICE OF BEHAVIORAL HEALTH OR TO BE PROFESSIONALLY
33 INCOMPETENT IS SUBJECT TO CENSURE, PROBATION AS PROVIDED IN THIS SECTION,
34 SUSPENSION OF LICENSE OR REVOCATION OF LICENSE OR ANY COMBINATION OF THESE,
35 INCLUDING A STAY OF ACTION, AND FOR A PERIOD OF TIME OR PERMANENTLY AND UNDER
36 CONDITIONS AS THE BOARD DEEMS APPROPRIATE FOR THE PROTECTION OF THE PUBLIC
37 HEALTH AND SAFETY AND JUST IN THE CIRCUMSTANCE. THE BOARD MAY CHARGE ALL
38 COSTS INCURRED IN THE COURSE OF THE INVESTIGATION AND FORMAL HEARING TO THE
39 LICENSEE IT FINDS IS IN VIOLATION OF THIS CHAPTER. THE BOARD SHALL DEPOSIT,
40 PURSUANT TO SECTIONS 35-146 AND 35-147, MONIES COLLECTED PURSUANT TO THIS
41 SUBSECTION IN THE BOARD OF BEHAVIORAL HEALTH EXAMINERS FUND ESTABLISHED BY
42 SECTION 32-3254.

43 N. IF THE BOARD DURING THE COURSE OF ANY INVESTIGATION DETERMINES THAT
44 A CRIMINAL VIOLATION MAY HAVE OCCURRED INVOLVING THE DELIVERY OF BEHAVIORAL
45 HEALTH SERVICES, THE BOARD SHALL MAKE THE EVIDENCE OF VIOLATIONS AVAILABLE TO
46 THE APPROPRIATE CRIMINAL JUSTICE AGENCY FOR ITS CONSIDERATION.

1 O. THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
2 ALL MONIES COLLECTED FROM CIVIL PENALTIES PAID PURSUANT TO THIS CHAPTER IN
3 THE STATE GENERAL FUND.

4 P. NOTICE OF A COMPLAINT AND HEARING IS EFFECTIVE BY A TRUE COPY OF
5 THE NOTICE BEING SENT BY CERTIFIED MAIL TO THE LICENSEE'S LAST KNOWN ADDRESS
6 OF RECORD IN THE BOARD'S FILES. NOTICE OF THE COMPLAINT AND HEARING IS
7 COMPLETE ON THE DATE OF ITS DEPOSIT IN THE MAIL.

8 Q. IN DETERMINING THE APPROPRIATE DISCIPLINARY ACTION UNDER THIS
9 SECTION, THE BOARD SHALL CONSIDER ALL PREVIOUS NONDISCIPLINARY AND
10 DISCIPLINARY ACTIONS AGAINST A LICENSEE.

11 R. THE BOARD MAY DEFER ACTION WITH REGARD TO AN IMPAIRED LICENSEE WHO
12 VOLUNTARILY SIGNS AN AGREEMENT, IN A FORM SATISFACTORY TO THE BOARD, AGREEING
13 TO PRACTICE RESTRICTIONS AND TREATMENT AND MONITORING PROGRAMS DEEMED
14 NECESSARY BY THE BOARD TO PROTECT THE PUBLIC HEALTH AND SAFETY. A LICENSEE
15 WHO IS IMPAIRED AND WHO DOES NOT AGREE TO ENTER INTO AN AGREEMENT WITH THE
16 BOARD IS SUBJECT TO OTHER ACTION AS PROVIDED PURSUANT TO THIS CHAPTER.

17 S. SUBJECT TO AN ORDER DULY ENTERED BY THE BOARD, A PERSON WHOSE
18 LICENSE TO PRACTICE BEHAVIORAL HEALTH HAS BEEN SUSPENDED OR RESTRICTED
19 PURSUANT TO THIS CHAPTER, WHETHER VOLUNTARILY OR BY ACTION OF THE BOARD, MAY
20 AT REASONABLE INTERVALS APPLY TO THE BOARD FOR REINSTATEMENT OF THE LICENSE.
21 THE PERSON SHALL SUBMIT THE APPLICATION IN WRITING AND IN THE FORM PRESCRIBED
22 BY THE BOARD. AFTER CONDUCTING AN INVESTIGATION AND HEARING, THE BOARD MAY
23 GRANT OR DENY THE APPLICATION OR MODIFY THE ORIGINAL FINDING TO REFLECT ANY
24 CIRCUMSTANCES THAT HAVE CHANGED SUFFICIENTLY TO WARRANT MODIFICATION. THE
25 BOARD MAY REQUIRE THE APPLICANT TO PASS AN EXAMINATION, COMPLETE BOARD
26 IMPOSED CONTINUING EDUCATION REQUIREMENTS OR ANY OTHER SANCTIONS THE BOARD
27 DEEMS APPROPRIATE FOR REENTRY INTO THE PRACTICE OF BEHAVIORAL HEALTH.

28 T. A PERSON WHOSE LICENSE IS REVOKED, SUSPENDED OR NOT RENEWED MUST
29 RETURN THE LICENSE TO THE OFFICES OF THE BOARD WITHIN TEN DAYS AFTER NOTICE
30 OF THAT ACTION.

31 U. THE BOARD MAY ENFORCE A CIVIL PENALTY IMPOSED PURSUANT TO THIS
32 SECTION IN THE SUPERIOR COURT IN MARICOPA COUNTY.

33 Sec. 18. Section 32-3282, Arizona Revised Statutes, is amended to
34 read:

35 32-3282. Right to examine and copy evidence; summoning
36 witnesses and documents; taking testimony; right to
37 counsel

38 A. In connection with ~~an investigation by a credentialing committee on~~
39 ~~its own motion, the~~ INFORMATION RECEIVED PURSUANT TO SECTION 32-3281,
40 SUBSECTION A, THE BOARD OR A credentialing committee or ~~its~~ THE BOARD'S OR
41 COMMITTEE'S authorized agents or employees at all reasonable times shall have
42 access to, for the purpose of examination, and the right to copy any
43 PSYCHOTHERAPY NOTES, documents, reports, records or ~~any~~ other physical
44 evidence of any person being investigated, or the reports, records and any
45 other documents maintained by and in possession of any hospital, clinic,
46 physician's office, laboratory, pharmacy or health care institution as

1 defined in section 36-401 or any other public or private agency, if the
2 PSYCHOTHERAPY NOTES, documents, reports, records or evidence relate TO THE
3 UNAUTHORIZED PRACTICE OF BEHAVIORAL HEALTH OR to the competence,
4 unprofessional ~~practice~~ CONDUCT or mental or physical ability of a ~~certified~~
5 ~~behavioral health professional~~ LICENSEE to safely practice.

6 B. For the purpose of all investigations and proceedings conducted by
7 a credentialing committee:

8 1. The BOARD OR A credentialing committee on its own initiative ~~or on~~
9 ~~application of any person involved in the investigation~~ may issue subpoenas
10 compelling the attendance and testimony of witnesses or demanding the
11 production for examination or copying of documents or any other physical
12 evidence if the evidence relates TO THE UNAUTHORIZED PRACTICE OF BEHAVIORAL
13 HEALTH OR to the competence, unprofessional ~~practice~~ CONDUCT or mental or
14 physical ability of a ~~certified behavioral health professional~~ LICENSEE to
15 safely practice. Within five days after the service of a subpoena on any
16 person requiring the production of any evidence in ~~his~~ THAT PERSON'S
17 possession or under ~~his~~ THAT PERSON'S control, the person may petition THE
18 BOARD OR the credentialing committee to revoke, limit or modify the
19 subpoena. The BOARD OR THE credentialing committee shall revoke, limit or
20 modify a subpoena if in its opinion the evidence required does not relate to
21 unlawful practices covered by this chapter or is not relevant to the charge
22 ~~which~~ THAT is the subject matter of the hearing or investigation or the
23 subpoena does not describe with sufficient particularity the physical
24 evidence required to be produced. ANY MEMBER OF THE BOARD OR A CREDENTIALING
25 COMMITTEE AND ANY AGENT DESIGNATED BY THE BOARD MAY ADMINISTER OATHS, EXAMINE
26 WITNESSES AND RECEIVE EVIDENCE.

27 2. Any person appearing before the BOARD OR A credentialing committee
28 may be represented by counsel.

29 3. The superior court, on application by the BOARD OR A credentialing
30 committee or by the person subpoenaed, has jurisdiction to issue an order
31 either:

32 (a) Requiring the person to appear before the BOARD OR A credentialing
33 committee or the authorized agent to produce evidence relating to the matter
34 under investigation.

35 (b) Revoking, limiting or modifying the subpoena if in the court's
36 opinion the evidence demanded does not relate to unlawful practices covered
37 by this chapter or is not relevant to grounds for disciplinary action ~~which~~
38 THAT are the subject matter of the hearing or investigation or the subpoena
39 does not describe with sufficient particularity the physical evidence
40 required to be produced. Any failure to obey an order of the court may be
41 punished by the court as contempt.

42 C. Records, including clinical records, reports, files or other
43 reports or oral statements relating to examinations, findings or treatments
44 of clients, any information from which a client or ~~his~~ THE CLIENT'S family
45 might be identified or information received and records kept by THE BOARD OR

1 a credentialing committee as a result of the investigation procedure
2 prescribed by this chapter are not available to the public.

3 D. ~~Nothing in~~ This section ~~or~~ AND any other ~~provision of~~ law making
4 THAT MAKES communications between a ~~certified behavioral health professional~~
5 LICENSEE and ~~his~~ THE LICENSEE'S client a privileged communication ~~applies~~
6 DOES NOT APPLY to investigations or proceedings conducted pursuant to this
7 chapter. The BOARD AND A credentialing committee and ~~its~~ THE BOARD'S AND
8 COMMITTEE'S employees, agents and representatives shall keep in confidence
9 the names of any clients whose records are reviewed during the course of
10 investigations and proceedings pursuant to this chapter.

11 Sec. 19. Section 32-3283, Arizona Revised Statutes, is amended to
12 read:

13 32-3283. Privileged communications; clients with legal
14 guardians; treatment decisions

15 A. In any legal action a ~~certified behavioral health professional~~
16 LICENSEE shall not, without the consent of ~~his~~ THE LICENSEE'S client, be
17 examined as to any communication made by the client to ~~him~~ THE LICENSEE or as
18 to any such knowledge obtained with respect to personnel dealing with the
19 client. Unless the client has waived the behavioral health
20 professional-client privilege in writing or in court testimony, a ~~behavioral~~
21 ~~health professional shall~~ LICENSEE IS not ~~be~~ required to divulge, ~~nor~~ AND
22 shall ~~he~~ NOT voluntarily divulge, information ~~which he~~ THAT THE LICENSEE
23 received by reason of the confidential nature of ~~his~~ THE LICENSEE'S practice
24 as a behavioral health professional except that ~~he~~ THE LICENSEE shall divulge
25 to the board any information it subpoenas in connection with an
26 investigation, public hearing or other proceeding. The behavioral health
27 professional-client privilege ~~shall~~ DOES not extend to cases in which the
28 ~~behavioral health professional~~ LICENSEE has a:

29 1. Duty to report nonaccidental injuries and physical neglect of
30 minors as required by section 13-3620.

31 2. DUTY TO REPORT UNPROFESSIONAL CONDUCT BY ANOTHER LICENSEE PURSUANT
32 TO THIS CHAPTER.

33 3. DUTY TO INFORM VICTIMS AND APPROPRIATE AUTHORITIES THAT A CLIENT'S
34 CONDITION INDICATES A CLEAR AND IMMINENT DANGER TO THE CLIENT OR OTHERS
35 PURSUANT TO THIS CHAPTER.

36 B. A CLIENT'S LEGAL GUARDIAN MAY MAKE TREATMENT DECISIONS ON BEHALF OF
37 THE CLIENT, EXCEPT THAT THE CLIENT RECEIVING SERVICES IS THE DECISION MAKER
38 FOR ISSUES:

39 1. THAT DIRECTLY AFFECT THE CLIENT'S PHYSICAL OR EMOTIONAL SAFETY,
40 SUCH AS SEXUAL OR OTHER EXPLOITATIVE RELATIONSHIPS.

41 2. THAT THE GUARDIAN AGREES TO SPECIFICALLY RESERVE TO THE CLIENT.

42 3. WHERE THE RIGHT TO SEEK BEHAVIORAL HEALTH SERVICES WITHOUT PARENTAL
43 OR GUARDIAN CONSENT IS ESTABLISHED BY STATE OR FEDERAL LAW.

44 Sec. 20. Section 32-3284, Arizona Revised Statutes, is amended to
45 read:

46 32-3284. Cease and desist orders; injunctions

1 A. The board or a credentialing committee may issue a cease and desist
2 order or request that an injunction be issued by the superior court ~~against a~~
3 ~~person who is not certified pursuant to this chapter and represents himself~~
4 ~~as a certified behavioral health professional or who continues to represent~~
5 ~~himself as a certified behavioral health professional while his certificate~~
6 ~~is expired, suspended or revoked~~ TO STOP A PERSON FROM ENGAGING IN THE
7 UNAUTHORIZED PRACTICE OF BEHAVIORAL HEALTH OR FROM VIOLATING OR THREATENING
8 TO VIOLATE A STATUTE, RULE OR ORDER THAT THE BOARD HAS ISSUED OR IS EMPOWERED
9 TO ENFORCE. IF THE BOARD SEEKS AN INJUNCTION TO STOP THE UNAUTHORIZED
10 PRACTICE OF BEHAVIORAL HEALTH, IT IS SUFFICIENT TO CHARGE THAT THE RESPONDENT
11 ON A DAY CERTAIN IN A NAMED COUNTY ENGAGED IN THE PRACTICE OF BEHAVIORAL
12 HEALTH WITHOUT A LICENSE AND WITHOUT BEING EXEMPT FROM THE LICENSURE
13 REQUIREMENTS OF THIS CHAPTER. IT IS NOT NECESSARY TO SHOW SPECIFIC DAMAGES
14 OR INJURY. THE CEASE AND DESIST ORDER MUST STATE THE REASON FOR ITS ISSUANCE
15 AND GIVE NOTICE OF THE PERSON'S RIGHT TO REQUEST A HEARING UNDER APPLICABLE
16 PROCEDURES PRESCRIBED IN TITLE 41, CHAPTER 6, ARTICLE 10.

17 B. VIOLATION OF AN INJUNCTION SHALL BE PUNISHED AS FOR CONTEMPT OF
18 COURT.

19 Sec. 21. Section 32-3286, Arizona Revised Statutes, is amended to
20 read:

21 32-3286. Unlawful practice; unlawful use of title; violation;
22 classification; civil penalty; exception

23 ~~A. A person who is not certified pursuant to this chapter and~~
24 ~~represents himself as a certified behavioral health professional or who~~
25 ~~continues to represent himself as a certified behavioral health professional~~
26 ~~while his certificate is expired, suspended or revoked or who while certified~~
27 ~~violates this chapter, rules adopted pursuant to this chapter or a lawful~~
28 ~~order of the board or a credentialing committee is guilty of a class 2~~
29 ~~misdemeanor.~~

30 A. EXCEPT AS PRESCRIBED IN SECTION 32-3271, A PERSON NOT LICENSED
31 PURSUANT TO THIS CHAPTER SHALL NOT ENGAGE IN THE PRACTICE OF BEHAVIORAL
32 HEALTH.

33 B. A PERSON NOT LICENSED PURSUANT TO THIS CHAPTER SHALL NOT USE ANY OF
34 THE FOLLOWING DESIGNATIONS OR ANY OTHER DESIGNATION THAT INDICATES LICENSURE
35 STATUS, INCLUDING ABBREVIATIONS, OR CLAIM TO BE LICENSED PURSUANT TO THIS
36 CHAPTER:

- 37 1. LICENSED PROFESSIONAL COUNSELOR.
- 38 2. LICENSED ASSOCIATE COUNSELOR.
- 39 3. LICENSED MARRIAGE AND FAMILY THERAPIST.
- 40 4. LICENSED ASSOCIATE MARRIAGE AND FAMILY THERAPIST.
- 41 5. LICENSED CLINICAL SOCIAL WORKER.
- 42 6. LICENSED MASTER SOCIAL WORKER.
- 43 7. LICENSED BACCALAUREATE SOCIAL WORKER.
- 44 8. LICENSED INDEPENDENT SUBSTANCE ABUSE COUNSELOR.
- 45 9. LICENSED ASSOCIATE SUBSTANCE ABUSE COUNSELOR.
- 46 10. LICENSED SUBSTANCE ABUSE TECHNICIAN.

1 C. A PERSON WHO VIOLATES THIS CHAPTER OR BOARD RULES BY ENGAGING IN
2 THE UNLICENSED PRACTICE OF BEHAVIORAL HEALTH OR CLAIMING TO BE LICENSED
3 PURSUANT TO THIS CHAPTER IS GUILTY OF A CLASS 2 MISDEMEANOR AND IS SUBJECT TO
4 A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE.

5 ~~B.~~ D. Each day that a violation is committed constitutes a separate
6 offense.

7 ~~C.~~ E. All fees received for services described in this section shall
8 be refunded by the person found guilty pursuant to this section.

9 F. NOTWITHSTANDING SUBSECTION A OF THIS SECTION AND BASED ON
10 CIRCUMSTANCES PRESENTED TO THE BOARD, THE BOARD MAY SANCTION A PERSON'S
11 FAILURE TO TIMELY RENEW A LICENSE WHILE CONTINUING TO ENGAGE IN THE PRACTICE
12 OF BEHAVIORAL HEALTH AS AN ADMINISTRATIVE VIOLATION RATHER THAN AS A
13 VIOLATION OF THIS SECTION OR GROUNDS FOR UNPROFESSIONAL CONDUCT AND MAY
14 IMPOSE A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS. THE BOARD
15 SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, MONIES COLLECTED
16 PURSUANT TO THIS SUBSECTION IN THE STATE GENERAL FUND.

17 Sec. 22. Section 32-3291, Arizona Revised Statutes, is amended to
18 read:

19 32-3291. Licensed baccalaureate social worker; licensure;
20 qualifications

21 A. A person who ~~desires~~ WISHES to be ~~certified~~ LICENSED by the board
22 to engage in THE PRACTICE OF social work ~~practice~~ as a ~~certified~~ LICENSED
23 baccalaureate social worker shall ~~satisfy all of the following requirements:~~

24 1. Furnish evidence satisfactory to the social work credentialing
25 committee that the person has earned a baccalaureate degree in social work
26 from a regionally accredited college or university in a program accredited by
27 the council on social work education or a degree from a foreign school based
28 on a program of study ~~which~~ THAT the board determines is substantially
29 equivalent.

30 2. Pass an examination approved by the social work credentialing
31 committee.

32 ~~3. Pay the prescribed fee.~~

33 B. A LICENSED BACCALAUREATE SOCIAL WORKER SHALL ONLY ENGAGE IN
34 CLINICAL PRACTICE UNDER DIRECT SUPERVISION AS PRESCRIBED BY THE BOARD.

35 C. A LICENSED BACCALAUREATE SOCIAL WORKER SHALL ONLY ENGAGE IN
36 NONCLINICAL PRACTICE UNDER DIRECT SUPERVISION AS PRESCRIBED BY THE BOARD
37 UNLESS THE LICENSED BACCALAUREATE SOCIAL WORKER HAS OBTAINED TWO YEARS OF
38 SUPERVISED WORK EXPERIENCE ACCEPTABLE TO THE BOARD.

39 Sec. 23. Section 32-3292, Arizona Revised Statutes, is amended to
40 read:

41 32-3292. Licensed master social worker; licensure;
42 qualifications

43 A. A person who ~~desires~~ WISHES to be ~~certified~~ LICENSED by the board
44 to engage in THE PRACTICE OF social work ~~practice~~ as a ~~certified~~ LICENSED
45 master social worker shall ~~satisfy all of the following requirements:~~

1 1. Furnish evidence satisfactory to the social work credentialing
2 committee that the person has earned a master's or higher degree in social
3 work from a regionally accredited college or university in a program
4 accredited by the council on social work education or a degree from a foreign
5 school based on a program of study ~~which~~ THAT the board determines is
6 substantially equivalent.

7 2. Pass an examination approved by the social work credentialing
8 committee.

9 ~~3. Pay the prescribed fee.~~

10 B. A LICENSED MASTER SOCIAL WORKER SHALL ONLY ENGAGE IN CLINICAL
11 PRACTICE UNDER DIRECT SUPERVISION AS PRESCRIBED BY THE BOARD.

12 Sec. 24. Section 32-3293, Arizona Revised Statutes, is amended to
13 read:

14 32-3293. Licensed clinical social worker; licensure;
15 qualifications

16 ~~A.~~ A person who ~~desires~~ WISHES to be ~~certified~~ LICENSED BY THE BOARD
17 to engage in ~~independent~~ THE PRACTICE OF social work ~~practice~~ as a ~~certified~~
18 ~~independent~~ LICENSED CLINICAL social worker shall ~~satisfy all of the~~
19 ~~following requirements:~~

20 1. Furnish evidence satisfactory to the social work credentialing
21 committee that the person has:

22 (a) Earned a master's or higher degree in social work from a
23 regionally accredited college or university in a program accredited by the
24 council on social work education or a degree from a foreign school based on a
25 program of study ~~which~~ THAT the board determines is substantially equivalent.

26 (b) RECEIVED at least two years of full-time or the equivalent
27 part-time post-master's degree experience under ~~professional~~ supervision
28 satisfactory to the social work credentialing committee.

29 2. Pass an examination approved by the social work credentialing
30 committee.

31 ~~3. Pay the prescribed fee.~~

32 ~~B. A certified independent social worker examination shall require~~
33 ~~demonstration of knowledge and skills in:~~

34 ~~1. Psychotherapy, including diagnosis, evaluation and treatment~~
35 ~~methods.~~

36 ~~2. Community services and social planning.~~

37 ~~3. Research or administration.~~

38 ~~C. A certified social worker shall be a certified independent social~~
39 ~~worker in order to practice social work independently.~~

40 Sec. 25. Delayed repeal

41 Section 32-3294, Arizona Revised Statutes, is repealed from and after
42 June 30, 2004.

43 Sec. 26. Section 32-3301, Arizona Revised Statutes, is amended to
44 read:

45 32-3301. Licensed professional counselor; licensure;
46 requirements

1 A. A person who ~~desires~~ WISHES to be ~~certified~~ LICENSED by the board
2 to engage in the practice of professional counseling as a ~~certified~~ LICENSED
3 professional counselor shall ~~satisfy all of the following requirements:~~

4 1. Meet the education requirements of subsection B and the work
5 experience requirements of subsection C.

6 2. Pass an examination approved by the counseling credentialing
7 committee.

8 ~~3. Pay the prescribed fee.~~

9 B. An applicant for ~~certification~~ LICENSURE shall furnish evidence
10 satisfactory to the counseling credentialing committee that the person has
11 received either of the following:

12 1. A master's degree or higher degree with a major emphasis in
13 counseling from a regionally accredited college or university in a program of
14 study that includes a minimum of forty-eight semester credit hours or the
15 equivalent in a curriculum approved by the counseling credentialing
16 committee. BEGINNING ON JANUARY 1, 2008, THE PROGRAM OF STUDY MUST INCLUDE A
17 MINIMUM OF SIXTY SEMESTER CREDIT HOURS OR THE EQUIVALENT IN A CURRICULUM
18 APPROVED BY THE COUNSELING CREDENTIALING COMMITTEE.

19 2. A master's degree or higher degree with a major emphasis in
20 counseling from a program accredited by the council for the accreditation of
21 counseling and related educational programs or the national council on
22 rehabilitation education THAT INCLUDES A MINIMUM OF FORTY-EIGHT CREDIT HOURS
23 OR THE EQUIVALENT. BEGINNING ON JANUARY 1, 2008, THE PROGRAM MUST INCLUDE A
24 MINIMUM OF SIXTY SEMESTER CREDIT HOURS.

25 C. An applicant for ~~certification~~ LICENSURE shall furnish evidence
26 satisfactory to the counseling credentialing committee that the applicant has
27 received ~~either of the following:~~

28 ~~1. If the applicant is complying with the education requirements of~~
29 ~~subsection B, paragraph 1, at least two years of full-time or the equivalent~~
30 ~~part-time post-master's degree work experience in the practice of~~
31 ~~professional counseling, including at least one year under the supervision of~~
32 ~~a certified professional counselor or a person who satisfies the education~~
33 ~~and experience requirements for certification as a certified professional~~
34 ~~counselor APPROVED BY THE CREDENTIALING COMMITTEE. An applicant may use a~~
35 ~~doctoral-clinical internship to satisfy the requirement for one year of WORK~~
36 ~~experience under supervision.~~

37 ~~2. If the applicant is complying with the education requirements of~~
38 ~~subsection B, paragraph 2, at least one year of full-time or the equivalent~~
39 ~~part-time post-master's degree work experience in the practice of~~
40 ~~professional counseling under the supervision of a certified professional~~
41 ~~counselor or a person who satisfies the education and work experience~~
42 ~~requirements for certification as a certified professional counselor. A~~
43 ~~doctoral-clinical internship does not satisfy the requirement for one year of~~
44 ~~work experience.~~

45 D. An applicant who is deficient in curricular areas OR CREDIT HOURS
46 required pursuant to subsection B, ~~paragraph 1~~ PARAGRAPH 1 OR 2 may satisfy

1 the curriculum AND CREDIT HOURS requirements of ~~that paragraph~~ THOSE
2 PARAGRAPHS by successfully completing post-master's degree course work.

3 E. An applicant who completed a degree before July 1, 1989 and whose
4 course of study did not include a practicum may substitute a one year
5 doctoral-clinical internship or an additional year of documented
6 post-master's degree work experience in order to satisfy the requirements of
7 subsection B, paragraph 1. ~~The credentialing committee may also waive the~~
8 ~~forty eight semester credit hours or equivalent credit hours requirement of~~
9 ~~subsection B, paragraph 1.~~

10 Sec. 27. Delayed repeal

11 Section 32-3302, Arizona Revised Statutes, is repealed from and after
12 June 30, 2004.

13 Sec. 28. Section 32-3303, Arizona Revised Statutes, is amended to
14 read:

15 32-3303. Licensed associate counselor; licensure; requirements;
16 supervision

17 A. A person who ~~desires~~ WISHES to be ~~certified by the board~~ LICENSED
18 BY THE BOARD TO ENGAGE IN THE PRACTICE OF PROFESSIONAL COUNSELING as a
19 ~~certified~~ LICENSED associate counselor shall satisfy the requirements of
20 section 32-3301, ~~subsection A, paragraphs 2 and 3 and~~ subsections B, D and E
21 AND PASS AN EXAMINATION APPROVED BY THE COUNSELING CREDENTIALING COMMITTEE.

22 B. A ~~certified~~ LICENSED associate counselor shall ~~not~~ ONLY practice
23 ~~unless~~ under the direct supervision ~~of a certified or licensed behavioral~~
24 ~~health professional~~ AS PRESCRIBED BY THE BOARD.

25 Sec. 29. Section 32-3311, Arizona Revised Statutes, is amended to
26 read:

27 32-3311. Licensed marriage and family therapist; qualifications

28 A. A person who ~~desires~~ WISHES to ~~provide marriage and family therapy~~
29 BE LICENSED BY THE BOARD TO ENGAGE IN THE PRACTICE OF MARRIAGE AND FAMILY
30 THERAPY as a ~~certified~~ LICENSED marriage and family therapist shall ~~satisfy~~
31 ~~all of the following requirements:~~

32 ~~1.~~ furnish evidence satisfactory to the ~~marriage and family therapy~~
33 ~~credentialing committee~~ BOARD that the person has:

34 ~~(a)~~ 1. Earned a master's or doctorate degree in behavioral science,
35 including, but not limited to, marriage and family therapy, psychology,
36 sociology, counseling and social work, granted by a regionally accredited
37 college or university in a program accredited by the commission on
38 accreditation for marriage and family therapy education or a degree based on
39 a program of study ~~which~~ THAT the board determines is substantially
40 equivalent.

41 ~~(b)~~ 2. Completed two years of full-time or the equivalent part-time
42 post-master's degree experience in the ~~provision~~ PRACTICE of marriage and
43 family therapy under supervision as approved by the marriage and family
44 therapy credentialing committee including a minimum of one thousand hours of
45 clinical experience with couples and families.

1 ~~2.~~ 3. ~~Pass~~ PASSED an examination approved by the marriage and family
2 therapy credentialing committee.

3 ~~3. Pay the prescribed fee.~~

4 B. The curriculum for the master's or doctorate degree in behavioral
5 science accepted by the board pursuant to subsection A, paragraph
6 ~~1, subdivision (a),~~ shall include a specified number of graduate courses as
7 approved by the marriage and family therapy credentialing committee and shall
8 be consistent with national standards of marriage and family therapy. Part
9 of this course of study may be taken in a post-master's degree program as
10 approved by the marriage and family therapy credentialing committee.

11 C. The one thousand hours of clinical experience required by
12 subsection A, paragraph ~~1, subdivision (b),~~ 2 shall include a combination of
13 two hundred hours of group or individual supervision in the ~~provision~~
14 PRACTICE of marriage and family therapy, ~~a minimum of one hundred hours of~~
15 ~~which shall be individual supervision.~~ The one thousand hours may include
16 one year in an approved marriage and family internship program.

17 Sec. 30. Delayed repeal

18 Section 32-3312, Arizona Revised Statutes, is repealed from and after
19 June 30, 2004.

20 Sec. 31. Section 32-3313, Arizona Revised Statutes, is amended to
21 read:

22 ~~32-3313.~~ 32-3313. Licensed associate marriage and family therapist;
23 licensure; requirements; supervision

24 A. A person who ~~desires~~ WISHES to be ~~certified~~ LICENSED BY THE BOARD
25 TO ENGAGE IN THE PRACTICE OF MARRIAGE AND FAMILY THERAPY as ~~an~~ A LICENSED
26 associate marriage and family therapist shall satisfy the requirements of
27 section 32-3311, subsection A, ~~paragraph 1, subdivision (a), subsection A,~~
28 paragraphs ~~2 and 1~~ AND 3 and ~~subsections~~ SUBSECTION B ~~and C.~~

29 B. A ~~certified~~ LICENSED associate marriage and family therapist shall
30 ~~not ONLY~~ practice ~~unless~~ under the direct supervision ~~of a certified or~~
31 ~~licensed behavioral health professional~~ AS PRESCRIBED BY THE BOARD.

32 Sec. 32. Delayed repeal

33 Title 32, chapter 33, article 8, Arizona Revised Statutes, is repealed
34 from and after June 30, 2004.

35 Sec. 33. Title 32, chapter 33, Arizona Revised Statutes, is amended by
36 adding a new article 8, to read:

37 ARTICLE 8. SUBSTANCE ABUSE COUNSELING

38 ~~32-3321.~~ 32-3321. Licensed substance abuse technician; associate
39 substance abuse counselor; licensed independent
40 substance abuse counselor; licensure;
41 qualifications; supervision

42 A. A PERSON WHO WISHES TO BE LICENSED BY THE BOARD TO ENGAGE IN THE
43 PRACTICE OF SUBSTANCE ABUSE COUNSELING AS A LICENSED SUBSTANCE ABUSE
44 TECHNICIAN SHALL PRESENT EVIDENCE SATISFACTORY TO THE BOARD THAT THE PERSON
45 HAS:

1 1. RECEIVED AN ASSOCIATE OF APPLIED SCIENCE DEGREE IN CHEMICAL
2 DEPENDENCY WITH AN EMPHASIS ON COUNSELING, AS DETERMINED BY THE SUBSTANCE
3 ABUSE CREDENTIALING COMMITTEE, FROM A REGIONALLY ACCREDITED COLLEGE OR
4 UNIVERSITY.

5 2. PASSED AN EXAMINATION APPROVED BY THE SUBSTANCE ABUSE CREDENTIALING
6 COMMITTEE.

7 B. A LICENSED SUBSTANCE ABUSE TECHNICIAN SHALL ONLY PRACTICE UNDER
8 DIRECT SUPERVISION AS PRESCRIBED BY THE BOARD.

9 C. THE BOARD MAY WAIVE THE EDUCATION REQUIREMENT FOR AN APPLICANT
10 REQUESTING LICENSURE AS A SUBSTANCE ABUSE TECHNICIAN IF THE APPLICANT
11 PROVIDES SERVICES PURSUANT TO CONTRACTS OR GRANTS WITH THE FEDERAL GOVERNMENT
12 UNDER THE AUTHORITY OF P.L. 93-638, 25 UNITED STATES CODE SECTIONS 450
13 THROUGH 450(n) OR P.L. 94-437, 25 UNITED STATES CODE SECTIONS 1601 THROUGH
14 1683. A PERSON WHO BECOMES LICENSED AS A SUBSTANCE ABUSE TECHNICIAN PURSUANT
15 TO THIS SUBSECTION SHALL ONLY PROVIDE SUBSTANCE ABUSE SERVICES TO THOSE
16 ELIGIBLE FOR SERVICES PURSUANT TO P.L. 93-638, 25 UNITED STATES CODE SECTIONS
17 450 THROUGH 450(n) OR P.L. 94-437, 25 UNITED STATES CODE SECTION 1601 THROUGH
18 1683.

19 D. A PERSON WHO WISHES TO BE LICENSED BY THE BOARD TO ENGAGE IN THE
20 PRACTICE OF SUBSTANCE ABUSE COUNSELING AS A LICENSED ASSOCIATE SUBSTANCE
21 ABUSE COUNSELOR SHALL PRESENT EVIDENCE SATISFACTORY TO THE BOARD THAT THE
22 PERSON HAS:

23 1. RECEIVED ONE OF THE FOLLOWING:

24 (a) A BACHELOR'S DEGREE IN A BEHAVIORAL SCIENCE WITH AN EMPHASIS ON
25 COUNSELING, AS DETERMINED BY THE SUBSTANCE ABUSE CREDENTIALING COMMITTEE,
26 FROM A REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY AND PRESENT EVIDENCE
27 SATISFACTORY TO THAT CREDENTIALING COMMITTEE THAT THE APPLICANT HAS RECEIVED
28 AT LEAST TWO YEARS OF WORK EXPERIENCE IN SUBSTANCE ABUSE COUNSELING UNDER
29 SUPERVISION APPROVED BY THE SUBSTANCE ABUSE CREDENTIALING COMMITTEE.

30 (b) A MASTER'S DEGREE OR A HIGHER DEGREE IN A BEHAVIORAL SCIENCE WITH
31 AN EMPHASIS ON COUNSELING, AS DETERMINED BY THE SUBSTANCE ABUSE CREDENTIALING
32 COMMITTEE, FROM A REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY.

33 2. PASSED AN EXAMINATION APPROVED BY THE SUBSTANCE ABUSE CREDENTIALING
34 COMMITTEE.

35 E. A LICENSED ASSOCIATE SUBSTANCE ABUSE COUNSELOR SHALL ONLY PRACTICE
36 UNDER DIRECT SUPERVISION AS PRESCRIBED BY THE BOARD.

37 F. A PERSON WHO WISHES TO BE LICENSED BY THE BOARD TO ENGAGE IN THE
38 PRACTICE OF SUBSTANCE ABUSE COUNSELING AS A LICENSED INDEPENDENT SUBSTANCE
39 ABUSE COUNSELOR SHALL:

40 1. HAVE RECEIVED A MASTER'S DEGREE OR HIGHER DEGREE IN A BEHAVIORAL
41 SCIENCE WITH AN EMPHASIS ON COUNSELING, AS DETERMINED BY THE SUBSTANCE ABUSE
42 CREDENTIALING COMMITTEE, FROM A REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY.

43 2. PRESENT EVIDENCE SATISFACTORY TO THE SUBSTANCE ABUSE CREDENTIALING
44 COMMITTEE THAT THE APPLICANT HAS RECEIVED AT LEAST TWO YEARS OF WORK
45 EXPERIENCE IN SUBSTANCE ABUSE COUNSELING UNDER SUPERVISION APPROVED BY THAT
46 COMMITTEE.

1 by the board of behavioral health examiners by rule for certification as a
2 certified substance abuse counselor.

3 Sec. 38. Social workers, professional counselors, marriage and
4 family therapists and substance abuse counselors:
5 status

6 Beginning on the effective date of this act and ending on June 30,
7 2004, the board of behavioral health examiners shall waive the examination
8 requirements of title 32, chapter 33, Arizona Revised Statutes, for an
9 applicant requesting certification as a certified baccalaureate social
10 worker, certified master social worker, certified independent social worker,
11 certified associate counselor, certified professional counselor, certified
12 associate marriage and family therapist, certified marriage and family
13 therapist or certified substance abuse counselor if the applicant meets all
14 of the following requirements:

15 1. Submits evidence satisfactory to the appropriate credentialing
16 committee that the applicant meets all other certification requirements.

17 2. Has been actively engaged in the practice of the behavioral health
18 profession for which the applicant is seeking certification and has work
19 experience that includes two years of full-time or the equivalent part-time
20 experience within a five year period immediately preceding the effective date
21 of this act.

22 3. Has obtained all of the required work experience in Arizona.

23 4. Has received the degree required for the level of certification
24 sought on or before June 30, 1998.

25 5. Pays the prescribed fee pursuant to title 32, chapter 33, Arizona
26 Revised Statutes.

27 Sec. 39. Exemption from rule making

28 The board of behavioral health professionals is exempt from the rule
29 making requirements of title 41, chapter 6, Arizona Revised Statutes, for one
30 year after June 30, 2004.

31 Sec. 40. Effective date

32 A. Sections 13-1418, 28-3005, 28-3153, 28-3315, 32-3251, 32-3252,
33 32,3253, 32-3261, 32-3262, 32-3271, 32-3272, 32-3273, 32-3274, 32-3282,
34 32-3283, 32-3284, 32-3286, 32-3291, 32-3292, 32-3293, 32-3301, 32-3303,
35 32-3311 and 32-3313, Arizona Revised Statutes, as amended by this act, and
36 sections 32-3275 through 32-3281 and 32-3321, Arizona Revised Statutes, as
37 added by this act, are effective from and after June 30, 2004.

38 B. Section 10 of this act, relating to the heading change and section
39 34 of this act, relating to the transfer to licensure status of current
40 certificate holders, are effective from and after June 30, 2004.

H.B. 2206

APPROVED BY THE GOVERNOR APRIL 16, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2003.