

REFERENCE TITLE: pharmacy board; fingerprinting

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2773

Introduced by
Representative Butler

AN ACT

AMENDING SECTION 32-1904, ARIZONA REVISED STATUTES; RELATING TO THE
ARIZONA STATE BOARD OF PHARMACY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1904, Arizona Revised Statutes, is amended to
3 read:

4 32-1904. Powers and duties of board; immunity

5 A. The board shall:

6 1. Make bylaws and adopt rules that are necessary to protect the
7 public and that pertain to the practice of pharmacy, the manufacturing,
8 wholesaling or supplying of drugs, devices, poisons or hazardous
9 substances, the use of pharmacy technicians and support personnel and the
10 lawful performance of its duties.

11 2. Fix standards and requirements to register and reregister
12 pharmacies, except as otherwise specified.

13 3. Investigate compliance as to the quality, label and labeling of
14 all drugs, devices, poisons or hazardous substances and take action
15 necessary to prevent the sale of these if they do not conform to the
16 standards prescribed in this chapter, the official compendium or the
17 federal act.

18 4. Enforce its rules. In so doing, the board or its agents have
19 free access, during the hours reported with the board or the posted hours
20 at the facility, to any pharmacy, manufacturer, wholesaler, third-party
21 logistics provider, nonprescription drug permittee or other establishment
22 in which drugs, devices, poisons or hazardous substances are manufactured,
23 processed, packed or held, or to enter any vehicle being used to transport
24 or hold such drugs, devices, poisons or hazardous substances for the
25 purpose of:

26 (a) Inspecting the establishment or vehicle to determine whether
27 any provisions of this chapter or the federal act are being violated.

28 (b) Securing samples or specimens of any drug, device, poison or
29 hazardous substance after paying or offering to pay for the sample.

30 (c) Detaining or embargoing a drug, device, poison or hazardous
31 substance in accordance with section 32-1994.

32 5. Examine and license as pharmacists and pharmacy interns all
33 qualified applicants as provided by this chapter.

34 6. Require each applicant for an initial license to apply for a
35 fingerprint clearance card pursuant to section 41-1758.03. If an
36 applicant is issued a valid fingerprint clearance card, the applicant
37 shall submit the valid fingerprint clearance card to the board with the
38 completed application. If an applicant applies for a fingerprint
39 clearance card and is denied, the applicant may request that the board
40 consider the application for licensure notwithstanding the absence of a
41 valid fingerprint clearance card. The board, in its discretion, may
42 approve an application for licensure despite the denial of a valid
43 fingerprint clearance card if the board determines that the applicant's
44 criminal history information on which the denial was based does not alone
45 disqualify the applicant from licensure.

1 7. REQUIRE EACH LICENSEE TO POSSESS A VALID FINGERPRINT CLEARANCE
2 CARD ON RENEWAL. THE LICENSEE MAY REQUEST THAT THE BOARD CONSIDER THE
3 APPLICATION FOR LICENSURE RENEWAL NOTWITHSTANDING THE ABSENCE OF A VALID
4 FINGERPRINT CLEARANCE CARD. THE BOARD, IN ITS DISCRETION, MAY APPROVE AN
5 APPLICATION FOR LICENSURE RENEWAL DESPITE THE DENIAL OF A VALID
6 FINGERPRINT CLEARANCE CARD IF THE BOARD DETERMINES THAT THE APPLICANT'S
7 CRIMINAL HISTORY INFORMATION ON WHICH THE DENIAL WAS BASED DOES NOT ALONE
8 DISQUALIFY THE APPLICANT FROM LICENSURE RENEWAL.

9 ~~7.~~ 8. Issue duplicates of lost or destroyed permits on the payment
10 of a fee as prescribed by the board.

11 ~~8.~~ 9. Adopt rules to rehabilitate pharmacists and pharmacy interns
12 as provided by this chapter.

13 ~~9.~~ 10. At least once every three months, notify pharmacies
14 regulated pursuant to this chapter of any modifications on prescription
15 writing privileges of podiatrists, dentists, doctors of medicine,
16 registered nurse practitioners, osteopathic physicians, veterinarians,
17 physician assistants, optometrists and homeopathic physicians of which it
18 receives notification from the state board of podiatry examiners, state
19 board of dental examiners, Arizona medical board, Arizona state board of
20 nursing, Arizona board of osteopathic examiners in medicine and surgery,
21 Arizona state veterinary medical examining board, Arizona regulatory board
22 of physician assistants, state board of optometry or board of homeopathic
23 and integrated medicine examiners.

24 ~~10.~~ 11. Charge a permittee a fee, as determined by the board, for
25 an inspection if the permittee requests the inspection.

26 ~~11.~~ 12. Issue only one active or open license per individual.

27 ~~12.~~ 13. Allow a licensee to regress to a lower level license on
28 written explanation and review by the board for discussion, determination
29 and possible action.

30 ~~13.~~ 14. Open an investigation only if the identifying information
31 regarding a complainant is provided or the information provided is
32 sufficient to conduct an investigation.

33 ~~14.~~ 15. Provide notice to an applicant, licensee or permittee
34 using only the information provided to the board through the board's
35 licensing database.

36 B. The board may:

37 1. Employ chemists, compliance officers, clerical help and other
38 employees subject to title 41, chapter 4, article 4 and provide laboratory
39 facilities for the proper conduct of its business.

40 2. Provide, by educating and informing the licensees and the
41 public, assistance in curtailing abuse in the use of drugs, devices,
42 poisons and hazardous substances.

43 3. Approve or reject the manner of storage and security of drugs,
44 devices, poisons and hazardous substances.

- 1 4. Accept monies and services to assist in enforcing this chapter
2 from other than licensees:
- 3 (a) For performing inspections and other board functions.
4 (b) For the cost of copies of the pharmacy and controlled
5 substances laws, the annual report of the board and other information from
6 the board.
- 7 5. Adopt rules for professional conduct appropriate to the
8 establishment and maintenance of a high standard of integrity and dignity
9 in the profession of pharmacy.
- 10 6. Grant permission to deviate from a state requirement for
11 modernization of pharmacy practice, experimentation or technological
12 advances.
- 13 7. Adopt rules for the training and practice of pharmacy interns,
14 pharmacy technicians and support personnel.
- 15 8. Investigate alleged violations of this chapter, conduct hearings
16 in respect to violations, subpoena witnesses and take such action as it
17 deems necessary to revoke or suspend a license or a permit, place a
18 licensee or permittee on probation or warn a licensee or permittee under
19 this chapter or to bring notice of violations to the county attorney of
20 the county in which a violation took place or to the attorney general.
- 21 9. By rule, approve colleges or schools of pharmacy.
- 22 10. By rule, approve programs of practical experience, clinical
23 programs, internship training programs, programs of remedial academic work
24 and preliminary equivalency examinations as provided by this chapter.
- 25 11. Assist in the continuing education of pharmacists and pharmacy
26 interns.
- 27 12. Issue inactive status licenses as provided by this chapter.
- 28 13. Accept monies and services from the federal government or
29 others for educational, research or other purposes pertaining to the
30 enforcement of this chapter.
- 31 14. By rule, except from the application of all or any part of this
32 chapter any material, compound, mixture or preparation containing any
33 stimulant or depressant substance included in section 13-3401, paragraph
34 6, subdivision (c) or (d) from the definition of dangerous drug if the
35 material, compound, mixture or preparation contains one or more active
36 medicinal ingredients not having a stimulant or depressant effect on the
37 central nervous system, provided that such admixtures are included in such
38 combinations, quantity, proportion or concentration as to vitiate the
39 potential for abuse of the substances that do have a stimulant or
40 depressant effect on the central nervous system.
- 41 15. Adopt rules for the revocation, suspension or reinstatement of
42 licenses or permits or the probation of licensees or permittees as
43 provided by this chapter.

1 16. Issue a certificate of free sale to any person that is licensed
2 by the board as a manufacturer for the purpose of manufacturing or
3 distributing food supplements or dietary supplements as defined in rule by
4 the board and that wants to sell food supplements or dietary supplements
5 domestically or internationally. The application shall contain all of the
6 following:

7 (a) The applicant's name, address, email address, telephone and fax
8 number.

9 (b) The product's full, common or usual name.

10 (c) A copy of the label for each product listed. If the product is
11 to be exported in bulk and a label is not available, the applicant shall
12 include a certificate of composition.

13 (d) The country of export, if applicable.

14 (e) The number of certificates of free sale requested.

15 17. Establish an inspection process to issue certificates of free
16 sale or good manufacturing practice certifications. The board shall
17 establish in rule:

18 (a) A fee to issue certificates of free sale.

19 (b) A fee to issue good manufacturing practice certifications.

20 (c) An annual inspection fee.

21 18. Delegate to the executive director the authority to:

22 (a) If the president or vice president of the board concurs after
23 reviewing the case, enter into an interim consent agreement with a
24 licensee or permittee if there is evidence that a restriction against the
25 license or permit is needed to mitigate danger to the public health and
26 safety. The board may subsequently formally adopt the interim consent
27 agreement with any modifications the board deems necessary.

28 (b) Take no action or dismiss a complaint that has insufficient
29 evidence that a violation of statute or rule governing the practice of
30 pharmacy occurred.

31 (c) Request an applicant or licensee to provide court documents and
32 police reports if the applicant or licensee has been charged with or
33 convicted of a criminal offense. The executive director may do either of
34 the following if the applicant or licensee fails to provide the requested
35 documents to the board within thirty business days after the request:

36 (i) Close the application, deem the application fee forfeited and
37 not consider a new application complete unless the requested documents are
38 submitted with the application.

39 (ii) Notify the licensee of an opportunity for a hearing in
40 accordance with section 41-1061 to consider suspension of the licensee.

41 (d) Pursuant to section 36-2604, subsection B, review prescription
42 information collected pursuant to title 36, chapter 28, article 1.

1 C. At each regularly scheduled board meeting, the executive
2 director shall provide to the board a list of the executive director's
3 actions taken pursuant to subsection B, paragraph 18, subdivisions ~~(a)~~,
4 ~~(c)~~ and ~~(d)~~ (b) AND (c) of this section since the last board meeting.

5 D. The board may issue nondisciplinary civil penalties or delegate
6 to the executive director the authority to issue nondisciplinary civil
7 penalties. The nondisciplinary civil penalties shall be prescribed by the
8 board in rule and issued using a board-approved form. If a licensee or
9 permittee fails to pay a nondisciplinary civil penalty that the board has
10 imposed on it, the board shall hold a hearing on the matter. In addition
11 to any other nondisciplinary civil penalty adopted by the board, either of
12 the following acts or omissions that is not an imminent threat to the
13 public health and safety is subject to a nondisciplinary civil penalty:

14 1. An occurrence of either of the following:

15 (a) Failing to submit a remodel application before remodeling a
16 permitted facility.

17 (b) Failing to notify the board of the relocation of a business.

18 2. The occurrence of any of the following violations or any of the
19 violations adopted by the board in rule, with three or more violations
20 being presented to the board as a complaint:

21 (a) The licensee or permittee fails to update the licensee's or
22 permittee's online profile within ten days after a change in contact
23 information, address, telephone number or email address.

24 (b) The licensee fails to update the licensee's online profile
25 within ten days after a change in employment.

26 (c) The licensee fails to complete the required continuing
27 education for a license renewal.

28 (d) The licensee fails to update the licensee's online profile to
29 reflect a new pharmacist in charge within fourteen days after the position
30 change.

31 (e) The permittee fails to update the permittee's online profile to
32 reflect a new designated representative within ten days after the position
33 change.

34 (f) The licensee or permittee fails to notify the board of a new
35 criminal charge, arrest or conviction against the licensee or permittee in
36 this state or any other jurisdiction.

37 (g) The licensee or permittee fails to notify the board of a
38 disciplinary action taken against the licensee or permittee by another
39 regulating agency in this state or any other jurisdiction.

40 (h) ~~A~~ THE licensee or permittee fails to renew a license or permit
41 within sixty days after the license or permit expires. If more than sixty
42 days have lapsed after the expiration of a license or permit, the licensee
43 or permittee shall appear before the board.

44 (i) A new pharmacist in charge fails to conduct a controlled
45 substance inventory within ten days after starting the position.

1 (j) A person fails to obtain a permit before shipping into this
2 state anything that requires a permit pursuant to this chapter.

3 (k) Any other violations of statute or rule that the board or the
4 board's designee deems appropriate for a nondisciplinary civil penalty.

5 E. The board shall develop substantive policy statements pursuant
6 to section 41-1091 for each specific licensing and regulatory authority
7 the board delegates to the executive director.

8 F. The executive director and other personnel or agents of the
9 board are not subject to civil liability for any act done or proceeding
10 undertaken or performed in good faith and in furtherance of the purposes
11 of this chapter.