

Senate Engrossed

health professionals; complaints; investigations

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SENATE BILL 1568

AN ACT

AMENDING SECTION 32-3223, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3229.01; RELATING TO HEALTH PROFESSIONALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-3223, Arizona Revised Statutes, is amended to
3 read:

4 32-3223. Health profession regulatory boards; nondisciplinary
5 confidential monitoring programs

6 A. Each health profession regulatory board ~~may~~ SHALL establish a
7 nondisciplinary confidential program, ~~including enrollment criteria for~~
8 ~~participation in the program,~~ AND PROVIDE ALL LICENSEES WITH THE
9 OPPORTUNITY TO PARTICIPATE IN A NONDISCIPLINARY CONFIDENTIAL PROGRAM for
10 ~~the~~ monitoring of a licensee or certificate holder who has been reported
11 to or who voluntarily reports to the licensee's or certificate holder's
12 regulatory board and who may be chemically dependent or have a substance
13 misuse history or who may have a medical, psychiatric, psychological or
14 behavioral health disorder that may impact the licensee's or certificate
15 holder's ability to safely practice or perform health care tasks.

16 B. A program established pursuant to subsection A of this section
17 may include education, intervention, therapeutic treatment and
18 posttreatment monitoring and support. The licensee or certificate holder
19 is responsible for the costs associated with any treatment, rehabilitation
20 or monitoring under a program established pursuant to subsection A of this
21 section. The health profession regulatory board and the licensee or
22 certificate holder may agree to enter into a nondisciplinary confidential
23 stipulated agreement for participation in a program established pursuant
24 to subsection A of this section. ON OR BEFORE JANUARY 1, 2023, EACH
25 HEALTH PROFESSION REGULATORY BOARD SHALL ESTABLISH THE ELIGIBILITY
26 CRITERIA REQUIRED TO ENTER INTO A NONDISCIPLINARY CONFIDENTIAL PROGRAM
27 THROUGH A PUBLISHED POLICY OR RULEMAKING. THIS SECTION DOES NOT PROHIBIT
28 A HEALTH PROFESSION REGULATORY BOARD FROM ENGAGING ANOTHER HEALTH
29 PROFESSION REGULATORY BOARD OR A PRIVATE ENTITY TO IMPLEMENT A TREATMENT
30 PROGRAM DESCRIBED IN THIS SECTION.

31 C. The HEALTH PROFESSION REGULATORY board may take further action,
32 INCLUDING DISCIPLINARY ACTION, if the licensee or certificate holder
33 refuses to enter into a nondisciplinary confidential stipulated agreement
34 with the board or fails to comply with the agreement's terms. The
35 confidentiality requirements of this section do not apply if the licensee
36 or certificate holder does not comply with the stipulated agreement.

37 Sec. 2. Title 32, chapter 32, article 1, Arizona Revised Statutes,
38 is amended by adding section 32-3229.01, to read:

39 32-3229.01. Health profession regulatory boards; complaints;
40 investigations; complainant confidentiality;
41 exceptions; notice

42 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A HEALTH
43 PROFESSION REGULATORY BOARD SHALL REQUIRE COMPLAINANTS TO IDENTIFY
44 THEMSELVES IN THE COMPLAINT AND MAKE THEMSELVES AVAILABLE FOR AN
45 EVIDENTIARY INTERVIEW. COMPLAINANTS MAY REQUEST THAT THEIR IDENTITY
46 REMAIN CONFIDENTIAL DURING THE PRELIMINARY INVESTIGATORY PROCESS.

1 NOTWITHSTANDING A COMPLAINANT'S REQUEST TO REMAIN CONFIDENTIAL DURING THE
2 PRELIMINARY INVESTIGATORY PROCESS, IF THE INVESTIGATORY PROCESS RESULTS IN
3 A DETERMINATION THAT A VIOLATION OF LAW MAY HAVE OCCURRED, THE RESPONDENT
4 IS ENTITLED TO THE COMPLETE INVESTIGATORY FILE, INCLUDING THE IDENTITY OF
5 THE COMPLAINANT FOR PURPOSES OF PROVIDING A COMPREHENSIVE RESPONSE TO THE
6 COMPLAINT. THE HEALTH PROFESSION REGULATORY BOARD MAY TAKE ACTION ON A
7 COMPLAINT IF THE PATIENT OR COMPLAINANT DOES NOT COMPLY WITH THE BOARD'S
8 INVESTIGATION IF THE BOARD HAS SUFFICIENT EVIDENCE OF A VIOLATION OF LAW.
9 IT IS AN ACT OF UNPROFESSIONAL CONDUCT FOR ANY LICENSEE, PERMITTEE OR
10 CERTIFICATE HOLDER OF ANY HEALTH PROFESSION REGULATORY BOARD TO FILE A
11 FALSE OR FRAUDULENT COMPLAINT OR REPORT WITH A HEALTH PROFESSION
12 REGULATORY BOARD.

13 B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE
14 INVESTIGATION OF A COMPLAINT BY ANY HEALTH PROFESSION REGULATORY BOARD
15 AGAINST A PERMITTEE, CERTIFICATE HOLDER OR LICENSEE SHALL BE SUBMITTED FOR
16 BOARD REVIEW OR ADMINISTRATIVELY DISMISSED, IF UNSUBSTANTIATED, WITHIN ONE
17 HUNDRED EIGHTY DAYS AFTER THE BOARD RECEIVES THE COMPLAINT REGARDLESS OF
18 WHETHER THE COMPLAINT IS FILED ON THE BOARD'S OWN MOTION OR BY A
19 THIRD-PARTY COMPLAINANT. IF THE COMPLAINT INVESTIGATION CANNOT BE
20 REASONABLY COMPLETED WITHIN ONE HUNDRED EIGHTY DAYS DUE TO THE COMPLEXITY
21 OF THE MATTER AND THE RESPONDENT HAS NOT REQUESTED ADDITIONAL TIME TO
22 RESPOND, THE HEALTH PROFESSION REGULATORY BOARD IS ALLOWED AN ADDITIONAL
23 ONE HUNDRED DAYS TO COMPLETE ITS REVIEW AND PROCEED WITH THE
24 ADMINISTRATIVE PROCEDURE TO SUBMIT THE COMPLAINT FOR BOARD REVIEW OR
25 ADMINISTRATIVELY DISMISS THE COMPLAINT WITHOUT PREJUDICE. IF A HEALTH
26 PROFESSION REGULATORY BOARD ADMINISTRATIVELY DISMISSES A COMPLAINT WITHOUT
27 PREJUDICE, THE COMPLAINANT'S TIMELINE IS SUSPENDED UNTIL THE BOARD HAS
28 ADDITIONAL EVIDENCE, INFORMATION OR TESTIMONY TO REOPEN THE INVESTIGATION
29 AND CONCLUDE THE INVESTIGATION WITH THE AVAILABLE OPTIONS PRESCRIBED FOR
30 EACH HEALTH PROFESSION REGULATORY BOARD. THIS SUBSECTION DOES NOT EXTEND
31 THE TIME ALLOWED FOR ANY HEALTH PROFESSION REGULATORY BOARD TO ACT ON A
32 COMPLAINT OR INVESTIGATE UNPROFESSIONAL CONDUCT. A HEALTH PROFESSION
33 REGULATORY BOARD MAY NOT REPORT AN ADMINISTRATIVE DISMISSAL OR
34 NONDISCIPLINARY ACTION TO THE NATIONAL PRACTITIONER DATA BANK.

35 C. BEFORE INTERVIEWING ANY RESPONDENT TO A COMPLAINT, THE HEALTH
36 PROFESSION REGULATORY BOARD SHALL PROVIDE THE RESPONDENT WITH A WRITTEN
37 NOTICE THAT THE RESPONDENT HAS THE RIGHT TO BE REPRESENTED BY COUNSEL AND
38 SHALL BE PROVIDED WITH A REASONABLE PERIOD OF TIME OF AT LEAST TEN
39 BUSINESS DAYS TO RETAIN COUNSEL OR PROVIDE A RESPONSE WITHOUT THE
40 ASSISTANCE OF COUNSEL BEFORE ANSWERING ANY QUESTIONS. THE WRITTEN NOTICE
41 SHALL ALSO INFORM THE RESPONDENT THAT ANY STATEMENTS MADE DURING AN
42 INTERVIEW MAY BE USED AGAINST THE RESPONDENT BY THE HEALTH PROFESSION
43 REGULATORY BOARD. A LICENSEE, PERMITTEE OR CERTIFICATE HOLDER MAY WAIVE
44 THIS NOTICE BY SIGNING A WAIVER OF NOTICE.