

REFERENCE TITLE: **medical board; committees; fee waiver**

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2740

Introduced by
Representatives Shah: Bliss

AN ACT

AMENDING SECTIONS 32-1436 AND 32-1451, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA MEDICAL BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1436, Arizona Revised Statutes, is amended to
3 read:

4 32-1436. Fees and penalty

5 A. The board, ~~shall~~ by a formal vote, at its annual fall meeting,
6 SHALL establish nonrefundable fees and penalties that do not exceed the
7 following:

8 1. For processing an application for an active license, ~~seven~~
9 ~~hundred dollars~~ \$700.

10 2. For issuance of an active license, ~~seven hundred dollars~~ \$700.

11 3. For an application to reactivate an inactive status license,
12 ~~five hundred dollars~~ \$500.

13 4. For issuance of a duplicate license, ~~fifty dollars~~ \$50.

14 5. For renewal of an active license, ~~seven hundred dollars~~ \$700.

15 6. For late renewal of an active license, an ~~eight hundred dollar~~
16 ~~\$800~~ penalty.

17 7. For annual registration of an approved internship, residency,
18 clinical fellowship program or short-term residency program, ~~fifty dollars~~
19 ~~\$50~~.

20 8. For an annual teaching license at an approved school of medicine
21 or at an approved teaching hospital's accredited graduate medical
22 education program, ~~four hundred dollars~~ \$400.

23 9. For a ~~five-day~~ FIVE-DAY educational teaching permit at an
24 approved school of medicine or at an approved teaching hospital's
25 accredited graduate medical education program, ~~one hundred dollars~~ \$100.

26 10. For locum tenens registration, ~~five hundred dollars~~ \$500.

27 11. For the sale of those copies of the annual medical directory
28 that are not distributed free of charge, ~~thirty dollars~~ \$30.

29 12. For the sale of the annual medical directory on CD-ROM, ~~one~~
30 ~~hundred dollars~~ \$100.

31 13. For the sale of computerized tapes or diskettes not requiring
32 programming, ~~one hundred dollars~~ \$100.

33 14. For verification of a license, ~~ten dollars~~ \$10.

34 15. For a copy of the minutes to board meetings during the current
35 calendar year, ~~twenty-five dollars~~ \$25 for each set of minutes.

36 16. For copying records, documents, letters, minutes, applications
37 and files, ~~one dollar~~ \$1 for the first three pages and ~~twenty-five cents~~
38 ~~\$.25~~ for each additional page.

39 17. For initial and annual registration to dispense drugs and
40 devices, ~~two hundred dollars~~ \$200.

41 18. For renewal applications that the board returns to the licensee
42 for proper completion, a fee that does not exceed the cost of processing
43 the incomplete application.

44 B. The board shall charge additional fees for services that are not
45 required to be provided by this chapter but that the board deems necessary

1 and appropriate to carry out its intent and purpose, except that these
2 fees shall not exceed the actual cost of providing those services.

3 C. Notwithstanding subsection A of this section, the board may
4 return the license renewal fee on special request.

5 D. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE BOARD MAY
6 WAIVE APPLICATION AND LICENSURE FEES FOR A PERSON WHO MEETS ALL OF THE
7 FOLLOWING REQUIREMENTS:

8 1. IS A FIRST-TIME APPLICANT FOR A FULL MEDICAL LICENSE.

9 2. IS IN GOOD ACADEMIC STANDING WITHOUT A CURRENT OR PAST
10 PROBATION.

11 3. HAS SUBMITTED AN ATTESTATION THAT THE PERSON IS CURRENTLY
12 PARTICIPATING IN A GRADUATE MEDICAL EDUCATION PROGRAM IN THIS STATE.

13 ~~D.~~ E. The board shall provide computerized tapes or diskettes free
14 to the management information systems office of the Arizona health care
15 cost containment system.

16 ~~E.~~ F. The fee for minutes provided pursuant to this section
17 includes postage. Annual subscription requests and fees for minutes shall
18 be paid before February 1 of each year. Subscriptions for minutes of
19 board meetings are not available for past years.

20 ~~F.~~ G. The fee for copying provided in this section includes
21 postage. Copying fees for subpoenaed records shall be as prescribed in
22 section 12-351.

23 ~~G.~~ H. The board may collect from the drawer of a dishonored check,
24 draft order or note an amount allowed pursuant to section 44-6852.

25 Sec. 2. Section 32-1451, Arizona Revised Statutes, is amended to
26 read:

27 32-1451. Grounds for disciplinary action; duty to report;
28 immunity; proceedings; board action; notice
29 requirements

30 A. The board on its own motion may investigate any evidence that
31 appears to show that a doctor of medicine is or may be medically
32 incompetent, is or may be guilty of unprofessional conduct or is or may be
33 mentally or physically unable safely to engage in the practice of
34 medicine. On written request of a complainant, the board shall review a
35 complaint that has been administratively closed by the executive director
36 and take any action it deems appropriate. Any person may, and a doctor of
37 medicine, the Arizona medical association, a component county society of
38 that association and any health care institution shall, report to the
39 board any information that appears to show that a doctor of medicine is or
40 may be medically incompetent, is or may be guilty of unprofessional
41 conduct or is or may be mentally or physically unable safely to engage in
42 the practice of medicine. The board or the executive director shall
43 notify the doctor OF MEDICINE as to the content of the complaint as soon
44 as reasonable. Any person or entity that reports or provides information
45 to the board in good faith is not subject to an action for civil damages.

1 If requested, the board shall not disclose the name of a person who
 2 supplies information regarding a licensee's drug or alcohol impairment.
 3 It is an act of unprofessional conduct for any doctor of medicine to fail
 4 to report as required by this section. The board shall report any health
 5 care institution that fails to report as required by this section to that
 6 institution's licensing agency.

7 B. The chief executive officer, the medical director or the medical
 8 chief of staff of a health care institution shall inform the board if the
 9 privileges of a doctor OF MEDICINE to practice in that health care
 10 institution are denied, revoked, suspended or limited because of actions
 11 by the doctor OF MEDICINE that appear to show that the doctor OF MEDICINE
 12 is or may be medically incompetent, is or may be guilty of unprofessional
 13 conduct or is or may be mentally or physically unable to safely engage in
 14 the practice of medicine, along with a general statement of the reasons,
 15 including patient chart numbers, that led the health care institution to
 16 take the action. The chief executive officer, the medical director or the
 17 medical chief of staff of a health care institution shall inform the board
 18 if a doctor OF MEDICINE under investigation resigns or if a doctor OF
 19 MEDICINE resigns in lieu of disciplinary action by the health care
 20 institution. Notification shall include a general statement of the
 21 reasons for the resignation, including patient chart numbers. The board
 22 shall inform all appropriate health care institutions in this state as
 23 defined in section 36-401 and the Arizona health care cost containment
 24 system administration of a resignation, denial, revocation, suspension or
 25 limitation, and the general reason for that action, without divulging the
 26 name of the reporting health care institution. A person who reports
 27 information in good faith pursuant to this subsection is not subject to
 28 civil liability.

29 C. The board or, if delegated by the board, the executive director
 30 shall require, at the ~~doctor's~~ DOCTOR OF MEDICINE'S expense, any
 31 combination of mental, physical or oral or written medical competency
 32 examinations and conduct necessary investigations, including
 33 investigational interviews between representatives of the board and the
 34 doctor OF MEDICINE to fully inform itself with respect to any information
 35 filed with the board under subsection A of this section. These
 36 examinations may include biological fluid testing and other examinations
 37 known to detect the presence of alcohol or other drugs. The board or, if
 38 delegated by the board, the executive director may require the doctor OF
 39 MEDICINE, at the ~~doctor's~~ DOCTOR OF MEDICINE'S expense, to undergo
 40 assessment by a ~~board-approved~~ BOARD-APPROVED rehabilitative, retraining
 41 or assessment program. This subsection does not establish a cause of
 42 action against any person, facility or program that conducts an
 43 assessment, examination or investigation in good faith pursuant to this
 44 subsection.

1 D. If the board finds, based on the information it receives under
2 subsections A and B of this section, that the public health, safety or
3 welfare imperatively requires emergency action, and incorporates a finding
4 to that effect in its order, the board may restrict a license or order a
5 summary suspension of a license pending proceedings for revocation or
6 other action. If the board takes action pursuant to this subsection, it
7 shall also serve the licensee with a written notice that states the
8 charges and that the licensee is entitled to a formal hearing before the
9 board or an administrative law judge within sixty days.

10 E. If, after completing its investigation, the board finds that the
11 information provided pursuant to subsection A of this section is not of
12 sufficient seriousness to merit disciplinary action against the license of
13 the doctor OF MEDICINE, the board or a board committee may take any of the
14 following actions:

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

17 2. Require the licensee to complete designated continuing medical
18 education courses.

19 3. File an advisory letter. The licensee may file a written
20 response with the board within thirty days after receiving the advisory
21 letter.

22 F. If the board finds that it can take rehabilitative or
23 disciplinary action without the presence of the doctor OF MEDICINE at a
24 formal interview, it may enter into a consent agreement with the doctor OF
25 MEDICINE to limit or restrict the ~~doctor's~~ DOCTOR OF MEDICINE'S practice
26 or to rehabilitate the doctor OF MEDICINE in order to protect the public
27 and ensure the ~~doctor's~~ DOCTOR OF MEDICINE'S ability to safely engage in
28 the practice of medicine. The board may also require the doctor OF
29 MEDICINE to successfully complete a board approved rehabilitative,
30 retraining or assessment program at the ~~doctor's~~ DOCTOR OF MEDICINE'S own
31 expense.

32 G. The board shall not disclose the name of the person who provided
33 information regarding a licensee's drug or alcohol impairment or the name
34 of the person who files a complaint if that person requests anonymity.

35 H. If after completing its investigation the board believes that
36 the information is or may be true, it may request a formal interview with
37 the doctor OF MEDICINE. If the doctor OF MEDICINE refuses the invitation
38 for a formal interview or accepts and the results indicate that grounds
39 may exist for revocation or suspension of the ~~doctor's~~ DOCTOR OF
40 MEDICINE'S license for more than twelve months, the board shall issue a
41 formal complaint and order that a hearing be held pursuant to title 41,
42 chapter 6, article 10. If after completing a formal interview the board
43 finds that the protection of the public requires emergency action, it may
44 order a summary suspension of the license pending formal revocation
45 proceedings or other action authorized by this section.

1 I. If after completing the formal interview the board finds the
2 information provided under subsection A of this section is not of
3 sufficient seriousness to merit suspension for more than twelve months or
4 revocation of the license, it may take the following actions:
5 1. Dismiss if, in the opinion of the board, the complaint is
6 without merit.
7 2. Require the licensee to complete designated continuing medical
8 education courses.
9 3. File an advisory letter. The licensee may file a written
10 response with the board within thirty days after the licensee receives the
11 advisory letter.
12 4. Enter into an agreement with the doctor OF MEDICINE to restrict or
13 limit the ~~doctor's~~ DOCTOR OF MEDICINE'S practice or professional
14 activities or to rehabilitate, retrain or assess the doctor OF MEDICINE in
15 order to protect the public and ensure the ~~doctor's~~ DOCTOR OF MEDICINE'S
16 ability to safely engage in the practice of medicine. The board may also
17 require the doctor OF MEDICINE to successfully complete a ~~board-approved~~
18 BOARD-APPROVED rehabilitative, retraining or assessment program at the
19 ~~doctor's~~ DOCTOR OF MEDICINE'S own expense pursuant to subsection F of this
20 section.
21 5. File a letter of reprimand.
22 6. Issue a decree of censure. A decree of censure is an official
23 action against the ~~doctor's~~ DOCTOR OF MEDICINE'S license and may include a
24 requirement for restitution of fees to a patient resulting from violations
25 of this chapter or rules adopted under this chapter.
26 7. Fix a period and terms of probation best adapted to protect the
27 public health and safety and rehabilitate or educate the doctor OF
28 MEDICINE concerned. Probation may include temporary suspension for not ~~to~~
29 ~~exceed~~ MORE THAN twelve months, restriction of the ~~doctor's~~ DOCTOR OF
30 MEDICINE'S license to practice medicine, a requirement for restitution of
31 fees to a patient or education or rehabilitation at the licensee's own
32 expense. If a licensee fails to comply with the terms of probation, the
33 board shall serve the licensee with a written notice that states that the
34 licensee is subject to a formal hearing based on the information
35 considered by the board at the formal interview and any other acts or
36 conduct alleged to be in violation of this chapter or rules adopted by the
37 board pursuant to this chapter, including noncompliance with the term of
38 probation, a consent agreement or a stipulated agreement. A licensee
39 shall pay the costs associated with probation monitoring each year during
40 which the licensee is on probation. The board may adjust this amount on
41 an annual basis. The board may allow a licensee to make payments on an
42 installment plan if a financial hardship occurs. A licensee who does not
43 pay these costs within thirty days after the due date prescribed by the
44 board violates the terms of probation.

1 J. If the board finds that the information provided in subsection A
2 of this section warrants suspension or revocation of a license issued
3 under this chapter, it shall initiate formal proceedings pursuant to title
4 41, chapter 6, article 10.

5 K. In a formal interview pursuant to subsection H of this section
6 or in a hearing pursuant to subsection J of this section, the board in
7 addition to any other action may impose a civil penalty in the amount of
8 ~~not less than one thousand dollars nor~~ AT LEAST \$1,000 AND NOT more than
9 ~~ten thousand dollars~~ \$10,000 for each violation of this chapter or a rule
10 adopted under this chapter.

11 L. An advisory letter is a public document.

12 M. Any doctor of medicine who after a formal hearing is found by
13 the board to be guilty of unprofessional conduct, to be mentally or
14 physically unable safely to engage in the practice of medicine or to be
15 medically incompetent is subject to censure, probation as provided in this
16 section, suspension of license or revocation of license or any combination
17 of these, including a stay of action, and for a period of time or
18 permanently and under conditions as the board deems appropriate for the
19 protection of the public health and safety and just in the
20 circumstance. The board may charge the costs of formal hearings to the
21 licensee who it finds to be in violation of this chapter.

22 N. If the ARIZONA MEDICAL board acts to modify any doctor of
23 medicine's prescription writing privileges, the ARIZONA MEDICAL board
24 shall immediately notify the ARIZONA state board of pharmacy of the
25 modification.

26 O. If the board, during the course of any investigation, determines
27 that a criminal violation may have occurred involving the delivery of
28 health care, it shall make the evidence of violations available to the
29 appropriate criminal justice agency for its consideration.

30 P. The board may divide into review committees of ~~not less than~~ AT
31 LEAST three members, including a public member. The committees:

32 1. Shall review complaints not dismissed by the executive director
33 and may take the following actions:

34 ~~1.~~ (a) Dismiss the complaint if a committee determines that the
35 complaint is without merit.

36 ~~2.~~ (b) Issue an advisory letter. The licensee may file a written
37 response with the board within thirty days after the licensee receives the
38 advisory letter.

39 ~~3.~~ (c) Conduct a formal interview pursuant to subsection H of this
40 section. This includes initiating formal proceedings pursuant to
41 subsection J of this section and imposing civil penalties pursuant to
42 subsection K of this section.

43 ~~4.~~ (d) Refer the matter for further review by the full board.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

- 2. MAY:
 - (a) GRANT AND DENY LICENSES.
 - (b) ISSUE AND LIFT BOARD ORDERS.

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

R. Notice of a complaint and hearing is effective by a true copy of it being sent by certified mail to the ~~doctor's~~ DOCTOR OF MEDICINE'S last known address of record in the board's files. Notice of the complaint and hearing is complete on the date of its deposit in the mail. The board shall begin a formal hearing within one hundred twenty days ~~of~~ AFTER that date.

S. A physician who submits an independent medical examination pursuant to an order by a court or pursuant to section 23-1026 is not subject to a complaint for unprofessional conduct unless, in the case of a court-ordered examination, the complaint is made or referred by a court to the board, or in the case of an examination conducted pursuant to section 23-1026, the complaint alleges unprofessional conduct based on some act other than a disagreement with the findings and opinions expressed by the physician as a result of the examination. For the purposes of this subsection, "independent medical examination" means a professional analysis of medical status that is based on a person's past and present physical, medical and psychiatric history and conducted by a licensee or group of licensees on a contract basis for a court or for a workers' compensation carrier, self-insured employer or claims processing representative if the examination was conducted pursuant to section 23-1026.

T. The board may accept the surrender of an active license from a person who admits in writing to any of the following:

- 1. Being unable to safely engage in the practice of medicine.
- 2. Having committed an act of unprofessional conduct.
- 3. Having violated this chapter or a board rule.

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

V. In determining the appropriate action under this section, the board may consider a direct or indirect competitive relationship between the complainant and the respondent as a mitigating factor.