



ARIZONA HOUSE OF REPRESENTATIVES

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SB 1233: chiropractic care; licensure; complaint investigations

Sponsor: Senator Shamp, LD 29

Committee on Health & Human Services

Overview

Establishes actions that constitute unprofessional conduct for a Doctor of Chiropractic (DC). Sets requirements and timeframes for the Arizona Board of Chiropractic Examiners (Board) and the Executive Director of the Board when investigating and reviewing complaints of unprofessional conduct.

History

Established in 1921, the Board was created to protect the health, welfare and safety of the public through the enforcement of the laws governing the practice of chiropractic. The Board accomplishes this by investigating complaints, administering disciplinary actions and establishing education and training standards for the profession (A.R.S. §§ [32-901](#), [32-904](#), [32-921](#), [32-922](#), and [32-931](#)).

Statute lists what actions constitute grounds for disciplinary action of a DC by the Board. Upon the Board's own motion or on receipt of a complaint, is authorized to investigate any information that appears to show that a DC is or may be in violation of the laws and Board rules that govern the practice of chiropractic in Arizona, or that indicates the DC may be mentally or physically unable to safely engage in the practice of chiropractic. The Board must notify the licensee as to the content of the complaint as soon as is reasonable. Any person who reports or provides information to the Board in good faith is not subject to civil damages as a result of that action. The Board may require a licensee under investigation to be interviewed by the Board or its representatives and require a licensee to undergo, at the licensee's expense, any combination of medical, physical or mental examinations that the Board finds necessary to determine the licensee's competence.

If the Board find's based on the information it receives that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the Board may order a summary suspension of a license pending proceedings for revocation or other action. If the Board takes this action, it must serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing within 60 days ([A.R.S. § 32-324](#)).

Provisions

Unprofessional Conduct

1. Deems the following acts, whether occurring in Arizona or elsewhere, as unprofessional conduct for a DC:
 - a) failure to disclose, in writing, to a patient or third-party payor that the DC has a financial interest in any facility, test, good or service when referring a patient for various services, as outlined;

- b) knowingly providing a false or misleading statement or information to a patient, third-party payor or the Board, including staff or a representative of the Board;
 - c) failure to create and maintain, adequate patient records as outlined;
 - d) failure to provide a copy of requested patient records, free of charge, to a patient, patient's authorized agent or a licensed physician;
 - e) misrepresentation of the DC's certification in a specialty area, academic or professional credentials;
 - f) failure to provide documentation of the DC's specialty certification, academic or professional credentials to a patient who requests such documentation;
 - g) suggesting or having sexual contact in the course of patient treatment, or within three months of the last chiropractic service, with an individual with whom a consensual sexual relationship did not exist prior to becoming a patient;
 - h) intentionally viewing a disrobed patient, not related to the patient's complaint, diagnosis or treatment;
 - i) performing prohibited diagnostic procedures as prescribed;
 - j) promoting or using diagnostic testing or treatment for research or experimental purposes without obtaining informed consent and conforming to generally accepted research or experimental criteria;
 - k) having a professional connection with an unlawful practitioner; misrepresenting oneself as current or past Board personnel or claiming superiority in the practice of chiropractic;
 - l) having an action taken against the DC's license in another jurisdiction or having a license renewal denied due to unprofessional conduct;
 - m) directly or indirectly dividing a professional fee for patient referrals as specified;
 - n) violating any federal or state law, rule or regulation applicable to the practice of chiropractic; and
 - o) soliciting, or having the licensee's compensated agent solicit, any person who is not previously known by the licensee or agent and who at the time of solicitation is vulnerable to undue influence, including any person who in the previous 15 days has experienced:
 - i. involvement in a motor vehicle accident;
 - ii. involvement in a work-related accident; or
 - iii. injury by, or as a result of, the actions of another person. (Sec. 2)
2. Forbids the Board from adopting rules that alter or amend unprofessional conduct as set by statute. (Sec. 2)

Executive Board Duties

3. Tasks the Executive Director with:
- a) ensuring that the Board follows all applicable laws and rules and complies with all reporting requirements;
 - b) classifying complaints submitted to the Board pursuant to Board policies to prioritize the allocation of Board resources and the investigation and adjudication of complaints;
 - c) advising the Board of any contemplated actions that are beyond the scope of the Board's authority and to state concerns in open session if the Board disregards the advice provided in executive session; and
 - d) preparing and maintaining a discipline matrix for Board use to ensure all licensees are treated consistently to the best of the Board's ability based on specific allegations at issue when the Board contemplates imposing any form of discipline. (Sec. 3)

4. Requires the matrix to briefly outline material facts of all past cases in which the discipline was imposed without identifying any specific licensee or complainant other than by potential file number or other reference and specify the level of discipline imposed. (Sec. 3)
5. Requires the matrix to be available to any licensee against whom a complaint has been filed and a formal investigation has been opened, including the licensee's counsel. (Sec. 3)

Board Investigations and Initial Review

6. Directs the Board to complete an investigation and initial review within 60 days of receiving a complaint from a patient relating to the improper sexual conduct of a licensee. (Sec. 6)
7. Requires a final decision regarding a complaint of sexual misconduct to be made within 180 days after the complaint is filed if a formal hearing is required. (Sec. 6)
8. Forbids the Board from subpoenaing information related to a licensee's personal finances during an investigation. (Sec. 6)
9. Enables the Board to request an extension of time to investigate a licensee if:
 - a) the complaint relates to sexual misconduct of a licensee; or
 - b) both of the following apply:
 - i. the licensee agrees to the proposed extension; and
 - ii. the Board has diligently pursued investigations within the allotted timeframe, as outlined, for complaints involving allegations or violations of unprofessional conduct or malpractice that implicates patient safety. (Sec. 6)
10. Requires the Board to complete an investigation and initial review within 90 days of receiving a complaint that is not related to sexual misconduct of a licensee. (Sec. 6)
11. Requires a final decision regarding a complaint unrelated to sexual misconduct to be made within 220 days after the complaint is filed if a formal hearing is required. (Sec. 6)
12. Awards a licensee to restitution for all costs incurred relating to an investigation and formal hearing process if the Board acted capriciously against the licensee. (Sec. 6)
13. Requires the Board to report allegations of evidence of criminal wrongdoing to the appropriate criminal justice agency immediately after reviewing a complaint. (Sec. 6)

Miscellaneous

14. Requires, rather than allows the Board to require applicants to submit a full set of fingerprints to the Board in order to determine their eligibility for examination and licensure. (Sec. 4)
15. Requires the Board to automatically suspend a license after 90 days if the licensee does not submit a complete application for renewal and pay the renewal license fee. (Sec. 5)
16. Requires the licensee's renewal license, if the licensee does not complete the renewal application and pay the renewal fee in 90 days, to be backdated to the expiration date of the license. (Sec. 5)
17. Repeals acts that are grounds for disciplinary actions for DCs. (Sec. 6)
18. Permits a facility, business entity, partnership or other form of business in which the majority of ownership is owned by a licensed DC to submit bills under the controlling licensee's individual name or business name without notification to the Board. (Sec. 8)

19. Specifies that the registration requirements and medical records protocols for business entities wishing to offer chiropractic services do not apply to a business entity, partnership or other form of business, the majority ownership of which is owned by a DC. (Sec. 8)
20. Defines *member* and *patient safety*. (Sec. 1)
21. Contains a legislative intent clause. (Sec. 9)
22. Makes technical and conforming changes. (Sec. 1, 3-8)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input checked="" type="checkbox"/> Fiscal Note
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