



Bill Number: S.B. 1588

Shamp Floor Amendment

Reference to: printed bill

Amendment drafted by: Leg Council

FLOOR AMENDMENT EXPLANATION

Chiropractic Unprofessional Conduct

1. Prescribes that the following actions, occurring in Arizona or elsewhere, constitute unprofessional conduct for the purpose of disciplining a doctor of chiropractic (DC):
 - a) failure to disclose, in writing, to a patient or third-party payor that the DC has a financial interest in a diagnostic or treatment facility, test, good or service when referring a patient for various services, as prescribed;
 - b) knowingly providing a false or misleading statement or information to a patient, third-party payor;
 - c) failure to create and maintain adequate patient records as prescribed;
 - 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) practicing or billing for services under any name other than the name by which the DC is licensed by the Arizona Board of Chiropractic Examiners (Chiropractic Board), including a corporate, business or other licensed health care provider's name, without first notifying the Chiropractic Board in writing;
 - h) 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;
 - i) intentionally viewing a disrobed patient, not related to the patient's complaint, diagnoses or treatment;
 - j) intentionally misrepresenting the effectiveness of a treatment, diagnostic test or device;
 - k) performing prohibited diagnostic procedures as prescribed;
 - l) 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;
 - m) having a professional connection with an unlawful practitioner; misrepresenting oneself as current or past Chiropractic Board personnel or claiming superiority in the practice of chiropractic;

- n) having an action taken against the DC's license in another jurisdiction or having a license renewal denied due to unprofessional conduct;
 - o) directly or indirectly dividing a professional fee for patient referrals as prescribed;
 - p) violating any federal or state law, rule or regulation applicable to the practice of chiropractic;
 - q) habitually using or having habitually used alcohol, narcotics or stimulants to the extent of incapacitating the DC in performing professional duties; and
 - r) filing an anonymous complaint against another DC.
2. Prohibits the Chiropractic Board from adopting any rule that may alter or amend unprofessional conduct, as outlined.

Chiropractic Board Executive Director

3. Requires the Chiropractic Board to terminate the Executive Director for any of the following:
- a) subpoenaing information that is unrelated to a complaint allegation;
 - b) failing to refer to the appropriate law enforcement agency a complaint or information indicating that a DC may have committed a misdemeanor or felony within two business days after receiving the complaint or information; or
 - c) advocating in support or against a legislative proposal in the Executive Director's official capacity before the Chiropractic Board has taken a formal position on the proposal in a public meeting.
4. Requires the Executive Director of the Chiropractic Board to:
- a) ensure the Chiropractic Board follows all applicable laws and rules, and complies with all reporting requirements;
 - b) advise the Chiropractic Board of any contemplated actions that are outside of the Chiropractic Board's authority and to state the Executive Director's concern in open session if the Chiropractic Board disregards the advice provided;
 - c) prepare and maintain a discipline matrix to ensure all licensees are treated consistently based on the specific allegations at issue that:
 - i. briefly outlines material facts of all past cases in which discipline was imposed without identifying any specific DC or complainant other than by potential file number or other reference;
 - ii. specifies the level of discipline imposed; and
 - iii. is available to any DC against whom a complaint has been filed and a formal investigation has been opened, including the DC's counsel; and
 - d) classify complaints pursuant to Chiropractic Board policies to prioritize the allocation of Chiropractic Board resources and the investigation and adjudication of complaints.
5. Prohibits the Executive Director of the Chiropractic Board from:
- a) advocating in support of or against a legislative proposal in the Executive Director's official capacity until the Chiropractic Board has taken a formal position on the proposal in a public meeting; or
 - b) encouraging DC's or the public to support or oppose any legislation.

Chiropractic Board

- 6. Requires each Chiropractic Board member and employee complete on appointment or hire a conflict-of-interest disclosure form, including an attestation that no conflict exists, if applicable.**
- 7. Requires the disclosure form be updated annually.**
- 8. Requires the Chiropractic Board retain all conflict-of-interest disclosure forms and make the disclosure forms and meeting minutes available to the public on request.**
- 9. Requires each Chiropractic Board member and employee to complete on hire or appointment an annual training approved by the Attorney General's Office on the following:**
 - a) conflict-of-interest requirements, processes and disclosure forms, including how Arizona's conflict-of-interest requirements relate to their individual roles and responsibilities;**
 - b) open meetings law requirements; and**
 - c) the Chiropractic Board's authority to investigate complaints and issue subpoenas.**
- 10. Limits the scope of an investigation to the information contained in the initial complaint or the information that the Chiropractic Board has in its possession at the time of the Chiropractic Board's motion to investigate.**
- 11. Prohibits the Chiropractic Board from subpoenaing information related to a licensee's personal finances during an investigation.**
- 12. Requires the Chiropractic Board, if a disciplinary or nondisciplinary order requires a DC to complete continuing education requirements, to provide at least two choices of continuing education provider organizations, boards or associations that can satisfy the required courses.**
- 13. Requires the Chiropractic Board to complete an investigation and initial review within 90 days of receiving a complaint unless it extends the time to investigate.**
- 14. Allows the Chiropractic Board to extend the time to investigate a licensee if:**
 - a) the complaint relates to the improper sexual conduct of a DC; or**
 - b) the DC agrees to the proposed extension and the Chiropractic Board has diligently pursued investigations within the allotted timeframe, as prescribed, for complaints involving allegations or violations of unprofessional conduct or malpractice that implicates patient safety.**
- 15. Requires the Chiropractic Board to make a final decision regarding a complaint of misconduct within 220 days after the complaint is filed if a formal hearing is required.**
- 16. Deems, if the Chiropractic Board has not made a final decision after the 220 days, the complaint is deemed administratively closed.**

17. Entitles a licensee to restitution for all costs incurred relating to an investigation and formal hearing process if the Chiropractic Board acted capriciously against the licensee.
18. Requires the Chiropractic Board refer complaints or information indicating that a DC may have committed a misdemeanor or felony offense to the appropriate law enforcement agency within two business days after receiving the complaint or information.
19. Allows the Chiropractic Board to refer the complaint to law enforcement without obtaining the complainant's consent or substantiating the complaint.
20. Allows the Chiropractic Board to restrict, limit or order a summary suspension of the DC's license pending action by the law enforcement agency if the complaint or information received requires that emergency action be taken to protect public health, safety or welfare.
21. Requires the law enforcement agency that received the complaint or information to inform the Chiropractic Board of the outcome of the law enforcement agency's investigation and whether charges are filed against the DC.
22. Allows the Chiropractic Board to investigate the referred complaint or information to determine if it constitutes a violation of unprofessional conduct.
23. Requires the Chiropractic Board develop policies and procedures for determining when the Board will require a DC to undergo psychosexual evaluations and how the Board will use the evaluation results.
24. Requires, rather than allows the Chiropractic Board to require an applicant for licensure to submit a full set of fingerprints to the Board.
25. Stipulates that, after 90 days, the Chiropractic Board must automatically suspend a license if the licensee does not submit a complete application for renewal and pay the renewal fee.
26. Requires the licensee's renewal license to be backdated to the expiration date of the license if the licensee completes the renewal application and pays the renewal fee within 90 days after the due date.
27. Allows 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 Chiropractic Board.

Naturopathic Physicians Medical Board (Naturopathic Board)

28. Removes the requirement for Executive Director of the Naturopathic Board to:
 - a) ensure that the Naturopathic Board follows all applicable laws and rules and complies with all reporting requirements;
 - b) advise the Naturopathic Board if any contemplated action is beyond the scope of the authority granted to the Board in accordance with the naturopathic medicine statutes;

- c) prepare and maintain a discipline matrix for use by the Naturopathic Board to ensure that all licensees are treated consistently, to the best of the Board's ability, based on the specific allegation at issue, when the Board contemplates imposing any form of discipline; and
 - d) classify, consistent with the naturopathic medicine statutes, each complaint on submission to the Naturopathic Board according to policies adopted by the Naturopathic Board that prioritize the allocation of Board resources and the investigation and adjudication of complaints.
- 29. Removes the authority for the Executive Director of the Naturopathic Board to provide advice on the scope of the Board's authority in executive session.
 - 30. Removes the requirement for the Executive Director of the Naturopathic Board, if the information about the scope of the Naturopathic Board's authority is disregarded, to state potential concerns in an open meeting of the Naturopathic Board.
 - 31. Restores the authorization for the Naturopathic Board to make investigations it deems proper to adequately advise itself with respect to the qualifications of an applicant for a license to practice naturopathic medicine.
 - 32. Removes the limitation on the scope of an investigation, in accordance with a disciplinary action requirement, to the information contained in the initial complaint or the information that the Naturopathic Board has in its possession at the time of the Naturopathic Board's motion to investigate.
 - 33. Restores the restitution of fees to a patient after a period and term of probation that the Naturopathic Board may fix to a naturopathic doctor's license as a disciplinary action after an investigation.
 - 34. Removes the specification that evidence of a criminal violation uncovered during the course of a disciplinary investigation by the Naturopathic Board must be made available to the appropriate criminal justice agency for its consideration within 48 hours after the determination.
 - 35. Removes the statement that, if a court of competent jurisdiction finds that the Naturopathic Board acted capriciously against a licensee without merit and in violation of naturopathic medicine statutes, the adopted rules or the Naturopathic Board's policies or procedures, the licensee is entitled to restitution for all costs incurred related to the matter in the course of the investigation or formal hearing process, or both.

Miscellaneous

- 36. Defines *chiropractic physician* as a natural person who holds a license to practice chiropractic pursuant to chiropractic statute.
- 37. Defines *member* to include a doctor of chiropractic who is employed, contracted or otherwise affiliated with another DC.
- 38. Defines *patient safety* as actions associated with chiropractic care that are taken to prevent errors and adverse effects to patients.
- 39. Adds a statement of legislative intent.

SHAMP FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1588
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

~~[GREEN STRIKEOUT IN BRACKETS]~~ indicates new text removed from statute or previously enacted session law.

~~[Green strikeout in brackets]~~ indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

~~<<Green strikeout in carets>>~~ indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 <<Section 1. Section 32-900, Arizona Revised Statutes, is amended
3 to read:

4 32-900. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Advisory letter" means a nondisciplinary letter to notify a
7 licensee that either:

8 (a) While there is insufficient evidence to support disciplinary
9 action, the board believes that continuation of the activities that led to
10 the investigation may result in further board action against the licensee.

11 (b) The violation is a minor or technical violation that is not of
12 sufficient merit to warrant disciplinary action.

13 (c) The violation is a minor or technical violation, and while the
14 licensee has demonstrated substantial compliance through rehabilitation or
15 remediation that has mitigated the need for disciplinary action, the board
16 believes that repetition of the activities that led to the investigation
17 may result in further board action against the licensee.

18 2. "Board" means the state board of chiropractic examiners.

19 3. "Certification" means that a doctor of chiropractic has been
20 certified by the board in a specialty of chiropractic as provided by law.

21 4. "Chiropractic assistant" means an unlicensed person who has
22 completed an educational training program approved by the board, who
23 assists in basic health care duties in the practice of chiropractic under
24 the supervision of a doctor of chiropractic and who performs delegated
25 duties commensurate with the chiropractic assistant's education and
26 training but who does not evaluate, interpret, design or modify
27 established treatment programs of chiropractic care or violate any
28 statute.

1 5. "Doctor of chiropractic" [OR "CHIROPRACTIC PHYSICIAN"] means a
2 natural person who holds a license to practice chiropractic pursuant to
3 this chapter.

4 6. "License" means a license to practice chiropractic.

5 [7. "MEMBER" INCLUDES A DOCTOR OF CHIROPRACTIC WHO IS EMPLOYED,
6 CONTRACTED OR OTHERWISE AFFILIATED WITH ANOTHER LICENSEE.

7 8. "PATIENT SAFETY" MEANS ACTIONS ASSOCIATED WITH CHIROPRACTIC CARE
8 THAT ARE TAKEN TO PREVENT ERRORS AND ADVERSE EFFECTS TO PATIENTS.]

9 ~~[7.]~~ [9.] "Physical medicine modalities" means any physical agent
10 applied to produce therapeutic change to biologic tissues, including
11 thermal, acoustic, noninvasive light, mechanical or electric energy, hot
12 or cold packs, ultrasound, galvanism, microwave, diathermy and electrical
13 stimulation.

14 ~~[8.]~~ [10.] "Therapeutic procedures" means the application of
15 clinical skills and services, including therapeutic exercise, therapeutic
16 activities, manual therapy techniques, massage and structural supports, to
17 improve a patient's neuromusculoskeletal condition.>>

18 <<Sec. 2. Title 32, chapter 8, article 1, Arizona Revised Statutes,
19 is amended by adding section 32-900.01, to read:

20 32-900.01. Unprofessional conduct; board prohibition

21 [A. IN THIS CHAPTER, FOR THE PURPOSES OF DISCIPLINING A DOCTOR OF
22 CHIROPRACTIC, ANY OF THE FOLLOWING, WHETHER OCCURRING IN THIS STATE OR
23 ELSEWHERE, CONSTITUTES UNPROFESSIONAL CONDUCT:

24 1. FAILING TO DISCLOSE, IN WRITING, TO A PATIENT OR A THIRD-PARTY
25 PAYOR THAT THE LICENSEE HAS A FINANCIAL INTEREST IN A DIAGNOSTIC OR
26 TREATMENT FACILITY, TEST, GOOD OR SERVICE WHEN REFERRING A PATIENT FOR A
27 PRESCRIBED DIAGNOSTIC TEST, TREATMENT, GOOD OR SERVICE AND THAT THE
28 DIAGNOSTIC TEST, TREATMENT, GOOD OR SERVICE IS AVAILABLE ON A COMPETITIVE
29 BASIS FROM ANOTHER HEALTH CARE PROVIDER. THIS PARAGRAPH DOES NOT APPLY TO
30 A REFERRAL BY ONE LICENSEE TO ANOTHER WITHIN A GROUP OF LICENSEES WHO
31 PRACTICE TOGETHER. THIS PARAGRAPH APPLIES REGARDLESS OF WHETHER THE
32 REFERRED SERVICE IS PROVIDED AT THE LICENSEE'S PLACE OF PRACTICE OR AT
33 ANOTHER LOCATION.

34 2. KNOWINGLY MAKING A FALSE OR MISLEADING STATEMENT TO A PATIENT OR
35 A THIRD-PARTY PAYOR.

36 3. KNOWINGLY MAKING A FALSE OR MISLEADING STATEMENT, PROVIDING
37 FALSE OR MISLEADING INFORMATION OR OMITTING MATERIAL INFORMATION IN ANY
38 ORAL OR WRITTEN COMMUNICATION, INCLUDING ATTACHMENTS, TO THE BOARD, BOARD
39 STAFF OR A BOARD REPRESENTATIVE OR ON ANY FORM REQUIRED BY THE BOARD.

40 4. KNOWINGLY FILING WITH THE BOARD AN APPLICATION OR OTHER DOCUMENT
41 THAT CONTAINS FALSE OR MISLEADING INFORMATION.

42 5. FAILING TO CREATE AN ADEQUATE PATIENT RECORD THAT INCLUDES THE
43 PATIENT'S HEALTH HISTORY, CLINICAL IMPRESSIONS, EXAMINATION FINDINGS,
44 DIAGNOSTIC RESULTS, X-RAY FILMS OR DIGITAL IMAGING IF TAKEN, X-RAY OR
45 DIGITAL IMAGING REPORTS, A TREATMENT PLAN, NOTES FOR EACH PATIENT VISIT
46 AND A BILLING RECORD. THE NOTES FOR EACH PATIENT VISIT MUST INCLUDE THE
47 PATIENT'S NAME, THE DATE OF SERVICE, THE DOCTOR OF CHIROPRACTIC'S

1 FINDINGS, A DESCRIPTION OF ANY SERVICE RENDERED AND THE NAME OR INITIALS
2 OF THE DOCTOR OF CHIROPRACTIC WHO PROVIDED SERVICES TO THE PATIENT.

3 6. FAILING TO MAINTAIN THE INFORMATION REQUIRED BY PARAGRAPH 5 OF
4 THIS SUBSECTION FOR A PATIENT FOR AT LEAST SIX YEARS AFTER THE LAST
5 TREATMENT DATE OR, FOR A MINOR, SIX YEARS AFTER THE MINOR'S EIGHTEENTH
6 BIRTHDAY.

7 7. FAILING TO PROVIDE WRITTEN NOTICE TO THE BOARD ABOUT HOW TO
8 ACCESS THE PATIENT RECORDS OF A CHIROPRACTIC PRACTICE THAT IS CLOSED BY
9 PROVIDING, AT A MINIMUM, THE PHYSICAL ADDRESS, TELEPHONE NUMBER AND FULL
10 NAME OF A PERSON WHO CAN BE CONTACTED REGARDING WHERE THE RECORDS ARE
11 MAINTAINED FOR AT LEAST SIX YEARS AFTER EACH PATIENT'S LAST TREATMENT DATE
12 OR A MINOR PATIENT'S EIGHTEENTH BIRTHDAY.

13 8. FAILING TO DO ANY OF THE FOLLOWING:

14 (a) RELEASE A COPY OF ALL REQUESTED PATIENT RECORDS AS PRESCRIBED
15 IN PARAGRAPH 5 OF THIS SUBSECTION, INCLUDING THE ORIGINAL OR A DIAGNOSTIC
16 QUALITY RADIOGRAPHIC COPY OF X-RAYS OR DIGITAL IMAGING, TO ANOTHER
17 LICENSED PHYSICIAN, THE PATIENT OR THE PATIENT'S AUTHORIZED AGENT WITHIN
18 TEN BUSINESS DAYS AFTER RECEIVING A WRITTEN REQUEST TO DO SO. THIS
19 SUBDIVISION DOES NOT REQUIRE THE RELEASE OF A PATIENT'S BILLING RECORD TO
20 ANOTHER LICENSED PHYSICIAN.

21 (b) RELEASE A COPY OF ANY SPECIFIED PORTION OR ALL OF A PATIENT'S
22 BILLING RECORD TO THE PATIENT OR THE PATIENT'S AUTHORIZED AGENT WITHIN TEN
23 BUSINESS DAYS AFTER RECEIVING A WRITTEN REQUEST TO DO SO.

24 (c) IN THE CASE OF A PATIENT OR A PATIENT'S AUTHORIZED AGENT WHO
25 HAS VERBALLY REQUESTED THE PATIENT RECORD, PROVIDE THE PATIENT RECORD.

26 (d) RETURN ORIGINAL X-RAYS OR DIGITAL IMAGING TO A LICENSED
27 PHYSICIAN WITHIN TEN BUSINESS DAYS AFTER RECEIVING A WRITTEN REQUEST TO DO
28 SO.

29 (e) PROVIDE COPIES OF PATIENT RECORDS TO ANOTHER LICENSED
30 PHYSICIAN, THE PATIENT OR THE PATIENT'S AUTHORIZED AGENT FREE OF CHARGE IN
31 VIOLATION OF TITLE 12, CHAPTER 13, ARTICLE 7.1.

32 9. REPRESENTING THAT THE LICENSEE HAS CERTIFICATION IN A SPECIALTY
33 AREA IN WHICH THE LICENSEE DOES NOT HAVE CERTIFICATION OR HAS ACADEMIC OR
34 PROFESSIONAL CREDENTIALS THAT THE LICENSEE DOES NOT HAVE.

35 10. FAILING TO PROVIDE TO A PATIENT ON REQUEST DOCUMENTATION OF
36 BEING CERTIFIED BY THE BOARD IN A SPECIALTY AREA OR THE LICENSEE'S
37 ACADEMIC CERTIFICATION, DEGREE OR PROFESSIONAL CREDENTIALS.

38 11. PRACTICING OR BILLING FOR SERVICES UNDER ANY NAME OTHER THAN
39 THE NAME BY WHICH THE DOCTOR OF CHIROPRACTIC IS LICENSED BY THE BOARD,
40 INCLUDING A CORPORATE, BUSINESS OR OTHER LICENSED HEALTH CARE PROVIDER'S
41 NAME, WITHOUT FIRST NOTIFYING THE BOARD IN WRITING.

42 12. SUGGESTING OR HAVING SEXUAL CONTACT, AS DEFINED IN SECTION
43 13-1401, IN THE COURSE OF PATIENT TREATMENT OR WITHIN THREE MONTHS AFTER
44 THE LAST CHIROPRACTIC EXAMINATION, TREATMENT OR CONSULTATION WITH AN
45 INDIVIDUAL WITH WHOM A CONSENSUAL SEXUAL RELATIONSHIP DID NOT EXIST BEFORE
46 THE DOCTOR OF CHIROPRACTIC-PATIENT RELATIONSHIP WAS ESTABLISHED.

1 13. INTENTIONALLY VIEWING A COMPLETELY OR PARTIALLY DISROBED
2 PATIENT IN THE COURSE OF AN EXAMINATION OR TREATMENT IF THE VIEWING IS NOT
3 RELATED TO THE PATIENT'S COMPLAINT, DIAGNOSIS OR TREATMENT UNDER CURRENT
4 PRACTICE STANDARDS.

5 14. INTENTIONALLY MISREPRESENTING THE EFFECTIVENESS OF A TREATMENT,
6 DIAGNOSTIC TEST OR DEVICE.

7 15. PENETRATING A PATIENT'S RECTUM BY A RECTAL PROBE OR DEVICE TO
8 ADMINISTER AN ULTRASOUND, DIATHERMY OR OTHER MODALITY.

9 16. USING IONIZING RADIATION IN VIOLATION OF SECTION 32-2811.

10 17. PROMOTING OR USING DIAGNOSTIC TESTING OR TREATMENT FOR RESEARCH
11 OR EXPERIMENTAL PURPOSES WITHOUT DOING BOTH OF THE FOLLOWING:

12 (a) OBTAINING WRITTEN INFORMED CONSENT FROM THE PATIENT OR THE
13 PATIENT'S AUTHORIZED AGENT BEFORE THE DIAGNOSTIC TEST OR TREATMENT,
14 INCLUDING DISCLOSING TO THE PATIENT OR AUTHORIZED AGENT ANY RESEARCH
15 PROTOCOL, CONTRACT THE LICENSEE HAS WITH RESEARCHERS, IF APPLICABLE, AND
16 INFORMATION ON THE INSTITUTIONAL REVIEW COMMITTEE USED TO ESTABLISH
17 PATIENT PROTECTION.

18 (b) CONFORMING TO GENERALLY ACCEPTED RESEARCH OR EXPERIMENTAL
19 CRITERIA, INCLUDING FOLLOWING PROTOCOLS, MAINTAINING DETAILED RECORDS,
20 PERIODICALLY ANALYZING RESULTS AND PERIODICALLY SUBMITTING TO REVIEW BY A
21 PEER REVIEW COMMITTEE.

22 18. HAVING A PROFESSIONAL CONNECTION WITH AN ILLEGAL PRACTITIONER
23 OF CHIROPRACTIC, MISREPRESENTING ONESELF AS A CURRENT OR PAST BOARD
24 MEMBER, A CURRENT OR PAST BOARD STAFF MEMBER OR A CURRENT OR PAST BOARD
25 CHIROPRACTIC CONSULTANT OR CLAIMING PROFESSIONAL SUPERIORITY IN THE
26 PRACTICE OF CHIROPRACTIC UNDER SECTION 32-925.

27 19. VIOLATING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
28 ACT.

29 20. HABITUALLY USING OR HAVING HABITUALLY USED ALCOHOL, NARCOTICS
30 OR STIMULANTS TO THE EXTENT OF INCAPACITATING THE LICENSEE IN PERFORMING
31 PROFESSIONAL DUTIES.

32 21. BEING CONVICTED BY A COURT OF COMPETENT JURISDICTION OF A CLASS
33 1, 2, 3, 4 OR 5 FELONY.

34 22. IN ANY OTHER JURISDICTION, HAVING AN ACTION TAKEN AGAINST THE
35 LICENSEE'S PROFESSIONAL LICENSE, HAVING ANY LIMIT OR RESTRICTION PLACED ON
36 THE LICENSE, HAVING THE LICENSE PLACED ON PROBATION OR SUSPENSION OR
37 REVOKED OR SURRENDERED AS A DISCIPLINARY MEASURE OR HAVING A LICENSE
38 APPLICATION OR LICENSE RENEWAL DENIED FOR A REASON RELATED TO
39 UNPROFESSIONAL CONDUCT.

40 23. DIRECTLY OR INDIRECTLY DIVIDING A PROFESSIONAL FEE FOR PATIENT
41 REFERRALS AMONG HEALTH CARE PROVIDERS OR HEALTH CARE INSTITUTIONS OR
42 BETWEEN PROVIDERS AND INSTITUTIONS OR ENTERING INTO A CONTRACTUAL
43 ARRANGEMENT TO THAT EFFECT. THIS PARAGRAPH DOES NOT PROHIBIT THE MEMBERS
44 OF ANY REGULARLY AND PROPERLY ORGANIZED BUSINESS ENTITY RECOGNIZED BY LAW
45 FROM DIVIDING FEES RECEIVED FOR PROFESSIONAL SERVICES AMONG THEMSELVES AS
46 THEY DETERMINE.

1 24. VIOLATING ANY FEDERAL OR STATE STATUTE, RULE OR REGULATION THAT
2 APPLIES TO THE PRACTICE OF CHIROPRACTIC.

3 25. FILING AN ANONYMOUS COMPLAINT AGAINST ANOTHER LICENSEE.

4 B. THE BOARD MAY NOT ADOPT RULES THAT ALTER OR AMEND UNPROFESSIONAL
5 CONDUCT AS PRESCRIBED IN SUBSECTION A OF THIS SECTION.]>>

6 <<Sec. 3. Section 32-904, Arizona Revised Statutes, is amended to
7 read:

8 32-904. Powers and duties of the board; rules; removal of
9 executive director

10 A. The board may administer oaths, summon witnesses and take
11 testimony on matters within ~~[its]~~ [THE BOARD'S] powers and duties.

12 B. The board shall:

13 1. Adopt a seal, which shall be affixed to licenses issued by the
14 board.

15 2. Adopt rules that are necessary and proper for the enforcement of
16 this chapter.

17 3. Adopt rules regarding chiropractic assistants who assist a
18 doctor of chiropractic, and the board shall determine the qualifications
19 and regulation of chiropractic assistants who are not otherwise licensed
20 by law.

21 4. At least once each fiscal year and before establishing the
22 amount of a fee for the subsequent fiscal year, review the amount of each
23 fee authorized in this chapter in a public hearing.

24 C. A copy of the rules [ADOPTED PURSUANT TO THIS SECTION] shall be
25 filed with the secretary of state ~~[upon]~~ [ON] adoption as provided by law.

26 [D. THE BOARD SHALL TERMINATE THE EXECUTIVE DIRECTOR OF THE BOARD
27 FOR ANY OF THE FOLLOWING:

28 1. SUBPOENAING INFORMATION THAT IS UNRELATED TO A COMPLAINT
29 ALLEGATION.

30 2. FAILING TO REFER TO THE APPROPRIATE LAW ENFORCEMENT AGENCY A
31 COMPLAINT OR INFORMATION INDICATING THAT A LICENSEE OR CERTIFICATE HOLDER
32 MAY HAVE COMMITTED A MISDEMEANOR OR FELONY WITHIN TWO BUSINESS DAYS AFTER
33 RECEIVING THE COMPLAINT OR INFORMATION.

34 3. ADVOCATING IN SUPPORT OR AGAINST A LEGISLATIVE PROPOSAL IN THE
35 EXECUTIVE DIRECTOR'S OFFICIAL CAPACITY BEFORE THE BOARD HAS TAKEN A FORMAL
36 POSITION ON THE PROPOSAL IN A PUBLIC MEETING.

37 E. THE BOARD SHALL DEVELOP POLICIES AND PROCEDURES FOR DETERMINING
38 WHEN THE BOARD WILL REQUIRE A LICENSEE TO UNDERGO PSYCHOSEXUAL EVALUATIONS
39 AND HOW THE BOARD WILL USE THE EVALUATION RESULTS.]>>

40 <<Sec. 4. Title 32, chapter 8, article 1, Arizona Revised Statutes,
41 is amended by adding section 32-904.01, to read:

42 32-904.01. Conflict of interest requirements; annual
43 trainings on conflict of interest, open meetings
44 and board authority

45 [A. EACH BOARD MEMBER AND EMPLOYEE SHALL COMPLETE ON APPOINTMENT OR
46 HIRE A CONFLICT-OF-INTEREST DISCLOSURE FORM, INCLUDING AN ATTESTATION THAT

1 NO CONFLICT EXISTS, IF APPLICABLE, AND SHALL UPDATE THE DISCLOSURE FORM
2 ANNUALLY.

3 B. THE BOARD SHALL RETAIN ALL CONFLICT-OF-INTEREST DISCLOSURE FORMS
4 AND MAKE THE DISCLOSURE FORMS AND MEETING MINUTES AVAILABLE TO THE PUBLIC
5 ON REQUEST.

6 C. EACH BOARD MEMBER AND EMPLOYEE SHALL COMPLETE ON HIRE OR
7 APPOINTMENT AND ANNUALLY A TRAINING APPROVED BY THE ATTORNEY GENERAL'S
8 OFFICE ON THE FOLLOWING:

9 1. CONFLICT-OF-INTEREST REQUIREMENTS, PROCESSES AND DISCLOSURE
10 FORMS, INCLUDING HOW THIS STATE'S CONFLICT-OF-INTEREST REQUIREMENTS RELATE
11 TO THEIR INDIVIDUAL ROLES AND RESPONSIBILITIES.

12 2. OPEN MEETINGS LAW REQUIREMENTS.

13 3. THE BOARD'S AUTHORITY TO INVESTIGATE COMPLAINTS AND ISSUE
14 SUBPOENAS.]>>

15 <<Sec. 5. Section 32-905, Arizona Revised Statutes, is amended to
16 read:

17 32-905. Executive director of board; duties; other personnel;
18 immunity

19 A. Subject to title 41, chapter 4, article 4, the board shall
20 appoint an executive director who is not a member of the board and who
21 shall serve at the pleasure of the board.

22 B. The executive director shall:

23 1. Keep a record of the proceedings of the board.

24 2. Collect all monies due and payable to the board.

25 3. Deposit, pursuant to sections 35-146 and 35-147, all monies
26 received by the board in the board of chiropractic examiners fund.

27 4. Prepare bills for authorized expenditures of the board and
28 obtain warrants from the director of the department of administration for
29 payment of bills.

30 5. Administer oaths.

31 6. Act as custodian of the seal, books, minutes, records and
32 proceedings of the board.

33 7. At the request of the board, do and perform any other duty not
34 prescribed for the executive director elsewhere in this chapter.

35 [8. ENSURE THAT THE BOARD FOLLOWS ALL APPLICABLE LAWS AND RULES AND
36 COMPLIES WITH ALL REPORTING REQUIREMENTS.

37 9. ADVISE THE BOARD IF ANY CONTEMPLATED ACTION IS BEYOND THE SCOPE
38 OF THE AUTHORITY GRANTED TO THE BOARD PURSUANT TO THIS CHAPTER. THE
39 EXECUTIVE DIRECTOR MAY PROVIDE THE ADVICE IN EXECUTIVE SESSION, BUT IF THE
40 INFORMATION IS DISREGARDED BY THE BOARD THE EXECUTIVE DIRECTOR SHALL STATE
41 POTENTIAL CONCERNS IN AN OPEN MEETING OF THE BOARD.

42 10. PREPARE AND MAINTAIN A DISCIPLINE MATRIX FOR USE BY THE BOARD
43 TO ENSURE THAT ALL LICENSEES ARE TREATED CONSISTENTLY, TO THE BEST OF THE
44 BOARD'S ABILITY, BASED ON THE SPECIFIC ALLEGATION AT ISSUE, WHEN THE BOARD
45 CONTEMPLATES IMPOSING ANY FORM OF DISCIPLINE. THE MATRIX MUST BRIEFLY
46 OUTLINE MATERIAL FACTS OF ALL PAST CASES IN WHICH DISCIPLINE WAS IMPOSED
47 WITHOUT IDENTIFYING ANY SPECIFIC LICENSEE OR COMPLAINANT OTHER THAN BY

1 POTENTIAL FILE NUMBER OR OTHER REFERENCE AND MUST SPECIFY THE LEVEL OF
2 DISCIPLINE IMPOSED. THE MATRIX MUST BE AVAILABLE TO ANY LICENSEE AGAINST
3 WHOM A COMPLAINT HAS BEEN FILED AND A FORMAL INVESTIGATION HAS BEEN
4 OPENED, INCLUDING THE LICENSEE'S COUNSEL.

5 11. CONSISTENT WITH THIS CHAPTER, CLASSIFY EACH COMPLAINT ON
6 SUBMISSION TO THE BOARD ACCORDING TO POLICIES ADOPTED BY THE BOARD THAT
7 PRIORITIZE THE ALLOCATION OF BOARD RESOURCES AND THE INVESTIGATION AND
8 ADJUDICATION OF COMPLAINTS.

9 C. THE EXECUTIVE DIRECTOR MAY NOT:

10 1. ADVOCATE IN SUPPORT OF OR AGAINST A LEGISLATIVE PROPOSAL IN THE
11 EXECUTIVE DIRECTOR'S OFFICIAL CAPACITY UNTIL THE BOARD HAS TAKEN A FORMAL
12 POSITION ON THE PROPOSAL IN A PUBLIC MEETING.

13 2. ENCOURAGE LICENSEES OR THE PUBLIC TO SUPPORT OR OPPOSE ANY
14 LEGISLATION.]

15 ~~[C.]~~ [D.] Subject to title 41, chapter 4, article 4, the board may
16 employ other personnel as it deems necessary to carry out the purposes of
17 this chapter.

18 ~~[D.]~~ [E.] The executive director and ~~[a-]~~ [ANY] person acting
19 pursuant to the executive director's direction ~~[+s]~~ [ARE] personally
20 immune from civil liability for all actions taken in good faith pursuant
21 to this chapter.>>

22 <<Sec. 6. Section 32-921, Arizona Revised Statutes, is amended to
23 read:

24 32-921. Application for license; qualifications of applicant;
25 fee; background investigations

26 A. A person who wishes to practice chiropractic in this state shall
27 submit a complete application to the board at least forty-five days before
28 the next scheduled examinations on a form and in the manner prescribed by
29 the board.

30 B. To be eligible for an examination and licensure, the applicant
31 shall:

32 1. Be a graduate of a chiropractic college that both:

33 (a) Is accredited by or has status with the council on chiropractic
34 education or is accredited by an accrediting agency recognized by the
35 United States department of education or the council on postsecondary
36 accreditation.

37 (b) Teaches a resident course of four years of not less than nine
38 months each year, or the equivalent of thirty-six months of continuous
39 study, and that comprises not less than four thousand credit hours of
40 resident study required to receive a degree of doctor of chiropractic
41 (D.C.).

42 2. Be physically and mentally able to practice chiropractic
43 skillfully and safely.

44 3. Have a certificate of attainment for part I and part II and a
45 score of three hundred seventy-five or more on part III or IV of the
46 examination conducted by the national board of chiropractic examiners.

1 C. The board may refuse to give an examination or may deny
2 licensure to an applicant who:

3 1. Fails to qualify for an examination or licensure under
4 subsection B of this section.

5 2. Has had a license to practice chiropractic refused, revoked,
6 suspended or restricted by a regulatory board in this or any other
7 jurisdiction for any act that constitutes unprofessional conduct pursuant
8 to this chapter.

9 3. Is currently under investigation by a regulatory board in this
10 or any other jurisdiction for an act that constitutes unprofessional
11 conduct pursuant to this chapter.

12 4. Has surrendered a license to practice chiropractic in lieu of
13 disciplinary action by a regulatory board in this or any other
14 jurisdiction for an act that constitutes unprofessional conduct pursuant
15 to this chapter.

16 5. Has engaged in any conduct that constitutes grounds for
17 disciplinary action pursuant to section ~~[32-924]~~ [32-900.01] or board
18 rules.

19 D. On applying, the applicant shall pay to the executive director
20 of the board a nonrefundable fee of not more than \$325 as established by
21 the board. The board shall keep a register of all applicants and the
22 result of each examination.

23 E. In order to determine an applicant's eligibility for examination
24 and licensure, the board ~~[may]~~ [SHALL] require the applicant to submit a
25 full set of fingerprints to the board. The board shall submit the
26 fingerprints to the department of public safety for the purpose of
27 obtaining a state and federal criminal records check pursuant to section
28 41-1750 and Public Law 92-544. The department of public safety may
29 exchange this fingerprint data with the federal bureau of investigation.
30 The board shall charge each applicant a fee that is necessary to cover the
31 cost of the investigation. The board shall forward this fee to the
32 department of public safety.>>

33 <<Sec. 7. Section 32-923, Arizona Revised Statutes, is amended to
34 read:

35 32-923. Change of address; annual renewal fee; failure to
36 renew; waivers; definition

37 A. ~~[Every]~~ [EACH] person who is licensed pursuant to this chapter
38 shall notify the board in writing of any change in residence or office
39 address and telephone number within thirty days after that change. The
40 board shall impose a penalty of \$50 on a licensee who does not notify the
41 board as required by this subsection.

42 B. Except as provided in section 32-4301, ~~[every]~~ [EACH] person who
43 is licensed to practice chiropractic in this state shall annually make a
44 renewal application to the board before the last day of the licensee's
45 birth month after original issuance of a license and shall pay a renewal
46 license fee of not more than \$225 as established by the board. The
47 renewal application shall be made on a form and in a manner prescribed by

1 the board. At least thirty days before the renewal application and
2 renewal fee are due, the board shall send by first class mail a renewal
3 application and notice requiring license renewal and payment of the
4 renewal fee.

5 C. The board shall administratively suspend a license automatically
6 [AFTER NINETY DAYS] if the licensee does not submit a complete application
7 for renewal and pay the renewal license fee as required by this section.
8 [IF THE LICENSEE COMPLETES THE RENEWAL APPLICATION AND PAYS THE RENEWAL
9 LICENSE FEE WITHIN NINETY DAYS AFTER THE DUE DATE, THE LICENSEE'S RENEWAL
10 LICENSE SHALL BE BACKDATED TO THE EXPIRATION DATE OF THE LICENSE.]

11 D. The board may reinstate a license if the person completes an
12 application for reinstatement as prescribed by the board, complies with
13 the continuing education requirements for each year that the license was
14 suspended, pays the annual renewal license fee for each year that the
15 license was suspended and pays an additional fee of \$200. An applicant
16 who does not request reinstatement within two years after the date of
17 suspension shall apply for a license as a new candidate pursuant to
18 section 32-921 or 32-922.01.

19 E. The board may waive the annual renewal license fee if a licensee
20 presents evidence satisfactory to the board that the licensee has
21 permanently retired from the practice of chiropractic and has paid all
22 fees required by this chapter before the waiver.

23 F. During the period of waiver the retired licensee shall not
24 engage in the practice of chiropractic. A violation of this subsection
25 subjects the retired licensee to the same penalties as are imposed in this
26 chapter on a person who practices chiropractic without a license.

27 G. The board may reinstate a retired licensee to active practice on
28 payment of the annual renewal license fee and presentation of evidence
29 satisfactory to the board that the retired licensee is professionally able
30 to engage in the practice of chiropractic and still possesses the
31 professional knowledge required. After a hearing, the board may refuse to
32 reinstate a retired licensee to active practice under this subsection on
33 any of the grounds prescribed in section [32-924] [32-900.01].

34 H. For the purposes of this section, "administratively suspend"
35 means a nondisciplinary action that is imposed for failure to renew a
36 license and that requires the licensee to suspend practice until renewal
37 requirements are met.>>

38 <<Sec. 8. Section 32-924, Arizona Revised Statutes, is amended to
39 read:

40 32-924. Complaints; investigations; hearing; civil penalty

41 [A. The following are grounds for disciplinary action, regardless
42 of where they occur:

43 1. Employment of fraud or deception in securing a license.

44 2. Practicing chiropractic under a false or assumed name.

45 3. Impersonating another practitioner.

46 4. Habitual use of alcohol, narcotics or stimulants to the extent
47 of incapacitating the licensee for the performance of professional duties.

- 1 ~~5. Unprofessional or dishonorable conduct of a character likely to~~
2 ~~deceive or defraud the public or tending to discredit the profession.~~
- 3 ~~6. Conviction of a misdemeanor involving moral turpitude or of a~~
4 ~~felony.~~
- 5 ~~7. Gross malpractice, repeated malpractice or any malpractice~~
6 ~~resulting in the death of a patient.~~
- 7 ~~8. Representing that a manifestly incurable condition can be~~
8 ~~permanently cured, or that a curable condition can be cured within a~~
9 ~~stated time, if this is not true.~~
- 10 ~~9. Offering, undertaking or agreeing to cure or treat a condition~~
11 ~~by a secret means, method, device or instrumentality.~~
- 12 ~~10. Refusing to divulge to the board on demand the means, method,~~
13 ~~device or instrumentality used in the treatment of a condition.~~
- 14 ~~11. Giving or receiving or aiding or abetting the giving or~~
15 ~~receiving of rebates, either directly or indirectly.~~
- 16 ~~12. Acting or assuming to act as a member of the board if this is~~
17 ~~not true.~~
- 18 ~~13. Advertising in a false, deceptive or misleading manner.~~
- 19 ~~14. Having had a license refused, revoked or suspended by any other~~
20 ~~state or country, unless it can be shown that the action was not taken for~~
21 ~~reasons that relate to the ability to safely and skillfully practice~~
22 ~~chiropractic or to any act of unprofessional conduct.~~
- 23 ~~15. Any conduct or practice contrary to recognized standards in~~
24 ~~chiropractic or any conduct or practice that constitutes a danger to the~~
25 ~~health, welfare or safety of the patient or the public or any conduct,~~
26 ~~practice or condition that impairs the ability of the licensee to safely~~
27 ~~and skillfully practice chiropractic.~~
- 28 ~~16. Violating or attempting to violate, directly or indirectly, or~~
29 ~~assisting in or abetting the violation of or conspiring to violate any of~~
30 ~~the provisions of this chapter or any board order.~~
- 31 ~~17. Failing to sign the physician's name, wherever required, in any~~
32 ~~capacity as "chiropractic doctor", "chiropractic physician" or "doctor of~~
33 ~~chiropractic" or failing to use and affix the initials "D.C." after the~~
34 ~~physician's name.~~
- 35 ~~18. Failing to place or cause to be placed the word or words~~
36 ~~"chiropractic", "chiropractor", "chiropractic doctor" or "chiropractic~~
37 ~~physician" in any sign or advertising media.~~
- 38 ~~19. Using physical medicine modalities and therapeutic procedures~~
39 ~~without passing an examination in that subject and without being certified~~
40 ~~in that specialty by the board.~~
- 41 ~~20. Using acupuncture without passing an examination in that subject~~
42 ~~and without being certified in that specialty by the board.~~
- 43 ~~21. Engaging in sexual intercourse or oral sexual contact with a~~
44 ~~patient in the course of treatment.~~
- 45 ~~22. Billing or otherwise charging a patient or third-party payor for~~
46 ~~services, appliances, tests, equipment, an x-ray examination or other~~
47 ~~procedures not actually provided.~~

1 ~~23. Intentionally misrepresenting to or omitting a material fact~~
2 ~~from the patient or third-party payor concerning charges, services,~~
3 ~~appliances, tests, equipment, an x-ray examination or other procedures~~
4 ~~offered or provided.~~

5 ~~24. Advertising chiropractic services, appliances, tests, equipment,~~
6 ~~x-ray examinations or other procedures for a specified price without also~~
7 ~~specifying the services, procedures or items included in the advertised~~
8 ~~price.~~

9 ~~25. Advertising chiropractic services, appliances, tests, equipment,~~
10 ~~x-ray examinations or other procedures as free without also disclosing~~
11 ~~what services or items are included in the advertised service or item.~~

12 ~~26. Billing or charging a patient or third-party payor a higher~~
13 ~~price than the advertised price in effect at the time the services,~~
14 ~~appliances, tests, equipment, x-ray examinations or other procedures were~~
15 ~~provided.~~

16 ~~27. Advertising a specialty or procedure that requires a separate~~
17 ~~examination or certificate of specialty, unless the licensee has satisfied~~
18 ~~the applicable requirements of this chapter.~~

19 ~~28. Solicitation by the licensee or by the licensee's compensated~~
20 ~~agent of any person who is not previously known by the licensee or the~~
21 ~~licensee's agent, and who at the time of the solicitation is vulnerable to~~
22 ~~undue influence, including any person known to have experienced any of the~~
23 ~~following within the last fifteen days:~~

24 ~~(a) Involvement in a motor vehicle accident.~~

25 ~~(b) Involvement in a work-related accident.~~

26 ~~(c) Injury by, or as the result of actions of, another person.~~

27 ~~8.] [A.]~~ The board on its own motion or on receipt of a complaint
28 may investigate any information that appears to show that a doctor of
29 chiropractic is or may be in violation of this chapter or board rules or
30 is or may be mentally or physically unable to safely engage in the
31 practice of chiropractic. The board shall notify the licensee as to the
32 content of the complaint as soon as is reasonable. Any person who reports
33 or provides information to the board in good faith is not subject to civil
34 damages as a result of that action. [THE SCOPE OF AN INVESTIGATION
35 PURSUANT TO THIS SECTION IS LIMITED TO THE INFORMATION CONTAINED IN THE
36 INITIAL COMPLAINT OR THE INFORMATION THAT THE BOARD HAS IN ITS POSSESSION
37 AT THE TIME OF THE BOARD'S MOTION TO INVESTIGATE.]

38 ~~[C.] [B.]~~ The board may require a licensee [WHO IS] under
39 investigation pursuant to this section to be interviewed by the board or
40 its representatives. The board may require a licensee who is under
41 investigation pursuant to this section to undergo, at the licensee's
42 expense, any combination of medical, physical or mental examinations that
43 the board finds necessary to determine the licensee's competence.

44 ~~[D.] [C.]~~ If the board finds based on the information it receives
45 under subsections ~~[B-]~~ [A] and ~~[D-]~~ [B] of this section that the public
46 health, safety or welfare imperatively requires emergency action, and
47 incorporates a finding to that effect in its order, the board may order a

1 summary suspension of a license pending proceedings for revocation or
2 other action. If the board takes this action, ~~[(t)]~~ [THE BOARD] shall also
3 serve the licensee with a written notice that states the charges and that
4 the licensee is entitled to a formal hearing within sixty days.

5 ~~[F.]~~ [D.] If, after completing its investigation, the board finds
6 that the information provided pursuant to this section is not of
7 sufficient seriousness to merit disciplinary action against the licensee,
8 ~~[(t)]~~ [THE BOARD] may take any of the following actions:

9 1. Dismiss the complaint if in the board's opinion the information
10 is without merit or does not warrant sanction of the licensee.

11 2. Issue an advisory letter. An advisory letter is a
12 nondisciplinary action and is a public document.

13 3. Issue a nondisciplinary order requiring the licensee to complete
14 a prescribed number of hours of continuing education in an area or areas
15 prescribed by the board to provide the licensee with the necessary
16 understanding of current developments, skills, procedures or treatment.
17 ~~[Failure to complete a nondisciplinary order requiring continuing~~
18 ~~education is a violation of subsection A, paragraph 16 of this section.~~

19 ~~F.]~~ [E.] The board may request a formal interview with the
20 licensee concerned. At a formal interview the board may receive and
21 consider pertinent documents and sworn statements of persons who may be
22 called as witnesses in a formal hearing. [THE BOARD MAY NOT SUBPOENA
23 INFORMATION RELATED TO A LICENSEE'S PERSONAL FINANCES.] Legal counsel may
24 be present and participate in the formal interview. If the licensee
25 refuses the request or if the licensee accepts the request and the results
26 of the interview indicate suspension or revocation of the license may be
27 in order, the board shall issue a complaint and order that a hearing be
28 held pursuant to title 41, chapter 6, article 10. If, after the formal
29 interview, the board finds that the information provided pursuant to this
30 section is true but is not of sufficient seriousness to merit suspension
31 or revocation of the license, ~~[(t)]~~ [THE BOARD] may take any of the
32 following actions:

33 1. Dismiss the complaint if in the board's opinion the information
34 is without merit or does not warrant sanction of the licensee.

35 2. Issue an advisory letter. An advisory letter is a
36 nondisciplinary action and is a public document.

37 3. Issue an order to cease and desist.

38 4. Issue a letter of concern.

39 5. Issue an order of censure. An order of censure is an official
40 action against the licensee and may include a requirement for restitution
41 of fees to a patient resulting from a violation of this chapter or board
42 rules.

43 6. Fix a period and terms of probation best adapted to protect the
44 public health and safety and to rehabilitate or educate the licensee. Any
45 costs incidental to the terms of probation are at the licensee's own
46 expense. Probation may include restrictions on the licensee's license to
47 practice chiropractic.

1 7. Impose a civil penalty of not more than ~~[one thousand dollars]~~
2 [\$1,000] for each violation of this chapter.

3 8. Refuse to renew a license.

4 9. Issue a disciplinary or nondisciplinary order requiring the
5 licensee to complete a prescribed number of hours of continuing education
6 in an area or areas prescribed by the board to provide the licensee with
7 the necessary understanding of current developments, skills, procedures or
8 treatment. [IF A DISCIPLINARY OR NONDISCIPLINARY ORDER REQUIRES A
9 LICENSEE TO COMPLETE CONTINUING EDUCATION REQUIREMENTS, THE BOARD SHALL
10 PROVIDE AT LEAST TWO CHOICES OF CONTINUING EDUCATION PROVIDER
11 ORGANIZATIONS, BOARDS OR ASSOCIATIONS THAT CAN SATISFY THE REQUIRED
12 COURSES.]

13 F. THE BOARD MAY EXTEND THE TIME TO INVESTIGATE A LICENSEE IF
14 EITHER OF THE FOLLOWING APPLIES:

15 1. THE COMPLAINT RELATED TO THE IMPROPER SEXUAL CONDUCT OF THE
16 LICENSEE.]

17 2. BOTH OF THE FOLLOWING APPLY:

18 (a) THE LICENSEE AGREES TO THE PROPOSED EXTENSION.]

19 (b) THE BOARD HAS DILIGENTLY PURSUED AN INVESTIGATION WITHIN THE
20 TIME FRAME PRESCRIBED PURSUANT TO THIS CHAPTER FOR COMPLAINTS INVOLVING
21 ALLEGATIONS OR VIOLATIONS OF UNPROFESSIONAL CONDUCT OR MALPRACTICE THAT
22 IMPLICATES PATIENT SAFETY.]

23 G. UNLESS THE BOARD EXTENDS THE TIME TO INVESTIGATE PURSUANT TO
24 SUBSECTION F OF THIS SECTION, AN INVESTIGATION AND INITIAL REVIEW OF A
25 COMPLAINT SHALL BE COMPLETED WITHIN NINETY DAYS AFTER THE COMPLAINT IS
26 FILED. IF THE BOARD DETERMINES THAT A FORMAL HEARING IS REQUIRED, THE
27 BOARD SHALL MAKE A FINAL DECISION WITHIN TWO HUNDRED TWENTY DAYS AFTER THE
28 COMPLAINT IS FILED. IF THE BOARD HAS NOT MADE A FINAL DECISION ON A
29 COMPLAINT AFTER TWO HUNDRED TWENTY DAYS, THE COMPLAINT IS DEEMED
30 ADMINISTRATIVELY CLOSED.]

31 ~~[G.]~~ [H.] If the board believes the charge is of such magnitude as
32 to warrant suspension or revocation of the license, the board shall
33 immediately initiate formal revocation or suspension proceedings pursuant
34 to title 41, chapter 6, article 10. The board shall notify a licensee of
35 a complaint and hearing by certified mail addressed to the licensee's last
36 known address on record in the board's files. The notice of a complaint
37 and hearing is effective on the date of its deposit in the mail. The
38 board shall hold a formal hearing within one hundred eighty days after
39 that date.

40 ~~[H.]~~ [I.] If the licensee wishes to be present at the formal
41 hearing in person or by representation, or both, the licensee shall file
42 with the board a written answer to the charges in the complaint. A
43 licensee who has been notified of a complaint pursuant to this section
44 shall file with the board a written response not more than twenty days
45 after service of the complaint and the notice of hearing. If the licensee
46 fails to file an answer in writing, it is deemed an admission of the act

1 or acts charged in the complaint and notice of hearing and the board may
2 take disciplinary action pursuant to this chapter without a hearing.

3 ~~[F.]~~ [J.] Any licensee who, after a hearing, is found to be in
4 violation of this chapter or board rules or is found to be mentally or
5 physically unable to safely engage in the practice of chiropractic is
6 subject to any combination of those disciplinary actions identified in
7 subsection F of this section or suspension or revocation of the license.
8 In addition, the board may order the licensee to pay restitution or all
9 costs incurred in the course of the investigation and formal hearing in
10 the matter, or both.

11 [K. IF A COURT OF COMPETENT JURISDICTION FINDS THAT THE BOARD ACTED
12 CAPRICIOUSLY AGAINST A LICENSEE WITHOUT MERIT AND IN VIOLATION OF THIS
13 CHAPTER, THE RULES ADOPTED PURSUANT TO THIS CHAPTER OR THE BOARD'S
14 POLICIES OR PROCEDURES, THE LICENSEE IS ENTITLED TO RESTITUTION FOR ALL
15 COSTS INCURRED RELATING TO THE MATTER IN THE COURSE OF THE INVESTIGATION
16 OR THE FORMAL HEARING PROCESS, OR BOTH.]

17 ~~[G.]~~ [L.] The board shall report allegations of evidence of
18 criminal wrongdoing to the appropriate criminal justice agency.

19 ~~[K.]~~ [M.] The board may accept the surrender of an active license
20 from a licensee who admits in writing to having violated this chapter or
21 board rules.

22 ~~[I. For the purposes of this section, "solicitation" includes~~
23 ~~contact in person, by telephone, telegraph or telefacsimile or by other~~
24 ~~communication directed to a specific recipient and includes any written~~
25 ~~form of communication directed to a specific recipient.]]>>~~

26 <<Sec. 9. Title 32, chapter 8, article 2, Arizona Revised Statutes,
27 is amended by adding section 32-924.01, to read:

28 32-924.01. Criminal complaints; referrals; time frame; board
29 notification

30 [A. IF THE BOARD RECEIVES A COMPLAINT OR INFORMATION INDICATING
31 THAT A LICENSEE OR CERTIFICATE HOLDER MAY HAVE COMMITTED A MISDEMEANOR OR
32 FELONY OFFENSE, THE BOARD SHALL REFER THE MATTER TO THE APPROPRIATE LAW
33 ENFORCEMENT AGENCY WITHIN TWO BUSINESS DAYS AFTER RECEIVING THE COMPLAINT
34 OR INFORMATION. THE BOARD DOES NOT NEED TO OBTAIN THE COMPLAINANT'S
35 CONSENT OR TO SUBSTANTIATE THE COMPLAINT BEFORE REFERRING THE COMPLAINT TO
36 LAW ENFORCEMENT. IF THE BOARD FINDS, BASED ON THE COMPLAINT OR
37 INFORMATION THAT THE BOARD REFERS TO A LAW ENFORCEMENT AGENCY, THAT THE
38 PUBLIC HEALTH, SAFETY OR WELFARE REQUIRES EMERGENCY ACTION, THE BOARD MAY
39 RESTRICT, LIMIT OR ORDER A SUMMARY SUSPENSION OF THE LICENSEE'S LICENSE OR
40 CERTIFICATE HOLDER'S CERTIFICATE PENDING ACTION BY THE LAW ENFORCEMENT
41 AGENCY.]

42 B. THE LAW ENFORCEMENT AGENCY THAT RECEIVES THE COMPLAINT OR
43 INFORMATION PURSUANT TO SUBSECTION A OF THIS SECTION SHALL INFORM THE
44 BOARD OF THE OUTCOME OF THE LAW ENFORCEMENT AGENCY'S INVESTIGATION AND
45 WHETHER CHARGES ARE FILED AGAINST THE LICENSEE OR CERTIFICATE HOLDER WHO
46 IS THE SUBJECT OF THE COMPLAINT. CONCURRENT WITH THE LAW ENFORCEMENT
47 AGENCY'S INVESTIGATION, THE BOARD MAY INVESTIGATE WHETHER THE COMPLAINT OR

1 INFORMATION THAT WAS REFERRED TO THE LAW ENFORCEMENT AGENCY CONSTITUTES A
2 VIOLATION OF UNPROFESSIONAL CONDUCT PURSUANT TO SECTION 32-900.01 AGAINST
3 THE LICENSEE OR CERTIFICATE HOLDER WHO IS THE SUBJECT OF THE COMPLAINT.]>>

4 <<Sec. 10. Section 32-929, Arizona Revised Statutes, is amended to
5 read:

6 32-929. Right to examine and copy evidence; summoning
7 witnesses and documents; taking testimony; right to
8 counsel; court orders; confidentiality

9 A. [EXCEPT AS PROVIDED IN SECTION 32-924, SUBSECTION E.] in
10 connection with an investigation by the board on its own motion, the board
11 or its duly authorized agents or employees shall at all reasonable times
12 have access to, for the purpose of examination, and the right to copy any
13 documents, reports, records or any other physical evidence of any person
14 being investigated, or the reports, records and any other documents
15 maintained by and in possession of any hospital, clinic, physician's
16 office, laboratory, pharmacy or any other public or private agency, and
17 any health care institution as defined in section 36-401, if such
18 documents, reports, records or evidence relate to chiropractic competence,
19 unprofessional conduct or the mental or physical ability of a doctor of
20 chiropractic to safely practice chiropractic.

21 B. For the purpose of all investigations and proceedings conducted
22 by the board:

23 1. [EXCEPT AS PROVIDED IN SECTION 32-924, SUBSECTION E.] the board
24 on its own initiative, or [upon] [ON] application of any person involved
25 in the investigation, may issue subpoenas compelling the attendance and
26 testimony of witnesses~~[,]~~ or demanding the production for examination or
27 copying of documents or any other physical evidence if such evidence
28 relates to chiropractic competence, unprofessional conduct or the mental
29 or physical ability of a doctor of chiropractic to safely practice
30 chiropractic. Within five days after the service of a subpoena on any
31 person requiring the production of any evidence in ~~[his]~~ [THE PERSON'S]
32 possession or under ~~[his]~~ [THE PERSON'S] control, ~~[such]~~ [THE] person may
33 petition the board to revoke, limit or modify the subpoena. The board
34 shall revoke, limit or modify such [A] subpoena if in its opinion the
35 evidence required does not relate to unlawful practices covered by this
36 chapter, is not relevant to the charge ~~[which]~~ [THAT] is the subject
37 matter of the hearing or investigation or does not describe with
38 sufficient particularity the physical evidence whose production is
39 required.

40 2. Any person appearing before the board may be represented by
41 counsel.

42 3. The superior court, [upon] [ON] application by the board or by
43 the person subpoenaed, shall have jurisdiction to issue an order either:

44 (a) Requiring ~~[such]~~ [THE] person to appear before the board or the
45 duly authorized agent to produce evidence relating to the matter under
46 investigation.

1 (b) Revoking, limiting or modifying the subpoena if in the court's
2 opinion the evidence demanded does not relate to unlawful practices
3 covered by this chapter, is not relevant to the grounds for censure,
4 suspension, revocation, fines or refusal to issue a license pursuant to
5 section ~~[32-924 which]~~ [32-900.01 THAT] is the subject matter of the
6 hearing or investigation, or does not describe with sufficient
7 particularity the evidence whose production is required. Any failure to
8 obey such [AN] order of the court may be punished by ~~[such]~~ [THE] court as
9 contempt.

10 C. Patient records, including clinical records, medical reports,
11 laboratory statements and reports, any file, film, any other report or
12 oral statement relating to examinations, findings or treatment of
13 patients, any information from which a patient or ~~[his]~~ [THE PATIENT'S]
14 family might be identified or information received and records kept by the
15 board as a result of the investigation procedure outlined in this chapter
16 are not available to the public.

17 D. ~~[Nothing in]~~ This section ~~[or]~~ [AND] any other provision of law
18 ~~[making]~~ [THAT MAKES] communications between a chiropractic physician and
19 ~~[his]~~ [THE CHIROPRACTIC PHYSICIAN'S] patient a privileged communication
20 ~~[applies]~~ [DO NOT APPLY] to investigations or proceedings conducted
21 pursuant to this chapter. The board and its employees, agents and
22 representatives shall keep in confidence the names of any patients whose
23 records are reviewed during the course of investigations and proceedings
24 pursuant to this chapter.>>

25 <<Sec. 11. Section 32-934, Arizona Revised Statutes, is amended to
26 read:

27 32-934. Business entities; registration; fees; medical
28 records protocol; civil penalty; exemptions;
29 violation; classification

30 A. A business entity may not offer chiropractic services pursuant
31 to this chapter unless:

32 1. The entity is registered with the board pursuant to this section
33 and rules adopted pursuant to this chapter.

34 2. The services are conducted by a doctor of chiropractic ~~[who is~~
35 ~~licensed pursuant to this chapter]~~.

36 B. The business entity must file a registration application and pay
37 a fee as prescribed by the board by rule.

38 C. Registration expires on June 1 of each year. A business entity
39 that wishes to renew a registration must submit an application for renewal
40 as prescribed by the board on an annual basis before the expiration date
41 and pay a renewal fee as prescribed by the board by rule. The board shall
42 prorate the renewal fee for the first year registration renewal based on
43 the first day of the month that the business entity was registered with
44 the board. An entity that fails to renew the registration before the
45 expiration date is subject to a late fee as prescribed by the board by
46 rule.

1 D. A business entity must notify the board in writing within thirty
2 days after any change:

3 1. In the entity's name, address or telephone number.

4 2. In the entity's officers or directors.

5 3. In the name of any doctor of chiropractic who is authorized to
6 provide and who is responsible for providing or supervising the provision
7 of chiropractic services in any facility.

8 E. The board shall impose a civil penalty as prescribed by the
9 board by rule on a business entity that does not notify the board as
10 required by subsection D of this section.

11 F. A business entity must comply with this chapter and board rules.

12 G. A business entity must establish a written protocol for the
13 secure storage, transfer and access of the medical records of the business
14 entity's patients. This protocol must include, at a minimum, procedures
15 for:

16 1. Notifying patients of the future locations of their records if
17 the business entity terminates or sells the practice.

18 2. Disposing of unclaimed medical records.

19 3. The timely response to requests by patients or their
20 representatives for copies of their records.

21 H. A business entity must notify the board within thirty days after
22 the entity's dissolution or the closing or relocation of any facility and
23 must disclose to the board the entity's procedure by which its patients
24 may obtain their records.

25 I. The board may impose discipline consistent with this chapter if
26 an entity violates any statute or board rule.

27 J. The board shall deposit, pursuant to sections 35-146 and 35-147,
28 civil penalties collected pursuant to this section in the state general
29 fund.

30 K. This section does not apply to:

31 1. A facility [OR A BUSINESS ENTITY, PARTNERSHIP OR OTHER FORM OF
32 BUSINESS, THE MAJORITY OWNERSHIP OF WHICH IS] owned by a person who is
33 licensed pursuant to this chapter.

34 2. A sole proprietorship or partnership that consists of persons
35 who are licensed pursuant to this chapter.

36 3. A professional corporation or professional limited liability
37 company, the shares of which are owned by persons who are licensed
38 pursuant to this chapter.

39 4. An administrator or executor of the estate of a deceased doctor
40 of chiropractic or a person who is legally authorized to act for a doctor
41 of chiropractic who has been adjudicated to be mentally incompetent for
42 not more than one year after the date of the doctor of chiropractic's
43 death or incapacitation.

44 5. A health care institution that is licensed pursuant to title 36.

45 6. A health professional who is not licensed pursuant to this
46 chapter but who acts within the scope of practice as prescribed by the
47 health professional's regulatory board.

1 [L. A BUSINESS ENTITY THAT IS EXEMPT PURSUANT TO SUBSECTION K OF
2 THIS SECTION MAY SUBMIT BILLS UNDER EITHER THE CONTROLLING LICENSEE'S
3 INDIVIDUAL NAME OR THE BUSINESS ENTITY'S NAME WITHOUT NOTIFYING THE
4 BOARD.]

5 ~~[L.]~~ [M.] A business entity that offers chiropractic services
6 pursuant to this chapter without complying with the registration
7 requirements of this section is guilty of a class 6 felony.>>

8 Sec. 12. Section 32-1504, Arizona Revised Statutes, is amended to
9 read:

10 32-1504. Powers and duties

11 A. The board shall:

12 1. Adopt rules that are necessary or proper for the administration
13 of this chapter.

14 2. Administer and enforce all provisions of this chapter and all
15 rules adopted by the board under the authority granted by this chapter.

16 3. Adopt rules regarding the qualifications of medical assistants
17 who assist doctors of naturopathic medicine and shall determine the
18 qualifications of medical assistants who are not otherwise regulated.

19 4. Adopt rules for the approval of schools of naturopathic
20 medicine. The board may incorporate by reference the accrediting
21 standards for naturopathic medical schools published by accrediting
22 agencies recognized by the United States department of education or
23 recognized by the council for higher education accreditation.

24 5. Adopt rules relating to clinical, internship, preceptorship and
25 postdoctoral training programs, naturopathic graduate medical education
26 and naturopathic continuing medical education programs. The rules for
27 naturopathic continuing medical education programs shall require at least
28 ten hours each year directly related to pharmacotherapeutics.

29 6. Periodically inspect and evaluate clinical, internship,
30 preceptorship and postdoctoral training programs and naturopathic graduate
31 medical education programs and randomly evaluate naturopathic continuing
32 medical education programs.

33 7. Adopt rules relating to the dispensing of natural substances,
34 drugs and devices.

35 8. Adopt rules necessary for the safe administration of intravenous
36 nutrients. These rules shall identify and exclude substances that do not
37 meet the criteria of nutrients suitable for intravenous administration.

38 9. Adopt and use a seal.

39 10. Have the full and free exchange of information with the
40 licensing and disciplinary boards of other states and countries and with
41 the American association of naturopathic physicians, the Arizona
42 naturopathic medical association, the association of naturopathic medical
43 colleges, the federation of naturopathic medical licensing boards and the
44 naturopathic medical societies of other states, districts and territories
45 of the United States or other countries.

1 B. The board may:

2 1. Adopt rules that prescribe annual continuing medical education
3 for the renewal of licenses issued under this chapter.

4 2. Employ permanent or temporary personnel it deems necessary to
5 carry out the purposes of this chapter and designate their duties.

6 3. Adopt rules relating to naturopathic medical specialties and
7 determine the qualifications of doctors of naturopathic medicine who may
8 represent or hold themselves out as being specialists.

9 4. If reasonable cause exists to believe that the competency of an
10 applicant or a person who is regulated by the board is in question,
11 require that person to undergo any combination of physical, mental,
12 biological fluid and laboratory tests.

13 5. Be a dues paying member of national organizations that support
14 licensing agencies in their licensing and regulatory duties and pay the
15 travel expenses involved for a designated board member or the executive
16 director to represent the board at the annual meeting of these
17 organizations.

18 6. Adopt rules for conducting licensing examinations required by
19 this chapter.

20 7. Delegate to the executive director the board's authority
21 pursuant to sections 32-1509 and 32-1551.

22 C. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE BOARD
23 IS NOT ENTITLED TO A NATUROPATHIC DOCTOR'S PROPRIETARY FORMULA OR TRADE
24 SECRET AS DEFINED IN SECTION 44-401 FOR THE PURPOSES OF IMPLEMENTING OR
25 ENFORCING ANY PROVISION OF THIS CHAPTER. THE BOARD SHALL CONFORM ITS
26 RULES TO BE CONSISTENT WITH THIS SUBSECTION. THIS SUBSECTION DOES NOT
27 PREVENT A PATIENT FROM HAVING ACCESS TO THE LIST OF INGREDIENTS FOR ANY
28 METHOD OF TREATMENT PROVIDED TO THE PATIENT.

29 ~~<<Sec. 2. Section 32-1509, Arizona Revised Statutes, is amended to~~
30 ~~read:~~

31 ~~32-1509. Executive director; compensation; duties~~

32 ~~A. Subject to title 41, chapter 4, article 4, the board shall~~
33 ~~appoint an executive director who serves at the pleasure of the~~
34 ~~board. The executive director shall not be a board member and shall not~~
35 ~~have any financial interests in the practice of naturopathic medicine or~~
36 ~~the training of naturopathic physicians. The board may authorize the~~
37 ~~executive director to represent the board and to vote on behalf of the~~
38 ~~board at meetings of national organizations of which the board is a dues~~
39 ~~paying member.~~

40 ~~B. The executive director and other board staff are eligible to~~
41 ~~receive compensation as determined pursuant to section 38-611.~~

42 ~~C. The executive director or that person's designee shall:~~

43 ~~1. Subject to title 41, chapter 4, article 4 and, as applicable,~~
44 ~~articles 5 and 6, employ, evaluate, dismiss, discipline and direct~~
45 ~~professional, clerical, technical, investigative and administrative~~
46 ~~personnel necessary to carry on the work of the board.~~

- 1 ~~2. As directed by the board, prepare and submit recommendations to~~
2 ~~the board for amendments to this chapter for consideration by the~~
3 ~~legislature.~~
- 4 ~~3. Subject to title 41, chapter 4, article 4, employ medical~~
5 ~~consultants and agents necessary to conduct investigations, gather~~
6 ~~information and perform those duties the executive director determines are~~
7 ~~necessary and appropriate to enforce this chapter.~~
- 8 ~~4. Issue licenses and certificates pursuant to section 32-1526 to~~
9 ~~applicants who meet the requirements of this chapter.~~
- 10 ~~5. Maintain a record of board actions and proceedings, including~~
11 ~~the issuance, denial, renewal, suspension or revocation of licenses and~~
12 ~~certificates.~~
- 13 ~~6. Manage the board's offices.~~
- 14 ~~7. Prepare minutes, records, reports, registries, directories,~~
15 ~~books and newsletters and record all board transactions and orders.~~
- 16 ~~8. Collect all monies due and payable to the board.~~
- 17 ~~9. Pay all bills for authorized expenditures of the board and its~~
18 ~~staff.~~
- 19 ~~10. Prepare an annual budget.~~
- 20 ~~11. Submit a copy of the budget each year to the governor, the~~
21 ~~speaker of the house of representatives and the president of the senate.~~
- 22 ~~12. Initiate an investigation if evidence appears to demonstrate~~
23 ~~that a person licensed or certified by the board may be engaged in~~
24 ~~unprofessional conduct or may be medically incompetent or mentally or~~
25 ~~physically unable to safely practice medicine.~~
- 26 ~~13. Issue subpoenas if necessary to compel the attendance and~~
27 ~~testimony of witnesses and the production of books, records, documents and~~
28 ~~other evidence.~~
- 29 ~~14. Sign and execute and provide assistance to the attorney general~~
30 ~~in preparing disciplinary orders, rehabilitative orders and notices of~~
31 ~~hearings as directed by the board.~~
- 32 ~~15. Enter into contracts for goods and services pursuant to title~~
33 ~~41, chapter 23 that are necessary to carry out board policies and~~
34 ~~directives.~~
- 35 ~~16. Execute board directives.~~
- 36 ~~17. Represent the board with the federal government, other states~~
37 ~~or jurisdictions of the United States, this state, political subdivisions~~
38 ~~of this state, the news media and the public.~~
- 39 ~~18. Maintain a roster of all persons who are licensed or certified~~
40 ~~under this chapter that indicates:~~
 - 41 ~~(a) The person's name.~~
 - 42 ~~(b) The person's current address of record.~~
 - 43 ~~(c) The date of issuance and the number of the person's license or~~
44 ~~certificate.~~
 - 45 ~~(d) The status of the person's license or certificate.~~
- 46 ~~19. Maintain an accurate account of all receipts, expenditures and~~
47 ~~refunds granted pursuant to this chapter.~~

1 ~~20. Report dispensing and prescribing restrictions imposed by the~~
2 ~~board against doctors of naturopathic medicine to other state and federal~~
3 ~~regulatory agencies.~~

4 ~~21. Affix the seal of the board to necessary documents. The~~
5 ~~imprint of the seal with the signature of the executive director is~~
6 ~~evidence of official board action.~~

7 ~~22. On behalf of the board, enter into stipulated agreements with~~
8 ~~persons who are under the jurisdiction of the board for the treatment,~~
9 ~~rehabilitation and monitoring of chemical substance abuse or misuse.~~

10 ~~23. Review all complaints filed pursuant to section 32-1551. If~~
11 ~~delegated by the board, the executive director may dismiss complaints.~~

12 ~~24. If delegated by the board, refer cases directly to a formal~~
13 ~~interview or a formal hearing.~~

14 ~~25. If delegated by the board, enter into a consent agreement if~~
15 ~~there is evidence of danger to the public health and safety.~~

16 ~~26. If delegated by the board, grant uncontested requests for~~
17 ~~retired status or cancellation of a license.~~

18 ~~27. Perform all other duties required by the board.~~

19 ~~D. Medical consultants and agents appointed pursuant to subsection~~
20 ~~C, paragraph 3 of this section are eligible to receive compensation~~
21 ~~determined by the executive director of not more than \$200 for each day of~~
22 ~~service.~~

23 ~~E. A person who is aggrieved by an action taken by the executive~~
24 ~~director may request a board review of that action by filing with the~~
25 ~~board a written request within thirty days after that person has been~~
26 ~~notified of the action. Notification shall be by personal delivery or~~
27 ~~certified mail to the person's last known address on file with the board.~~
28 ~~The board shall review the decision at its next regularly scheduled~~
29 ~~meeting and either approve, modify or reject the executive director's~~
30 ~~action.~~

31 ~~F. THE EXECUTIVE DIRECTOR SHALL:~~

32 ~~1. ENSURE THAT THE BOARD FOLLOWS ALL APPLICABLE LAWS AND RULES AND~~
33 ~~COMPLIES WITH ALL REPORTING REQUIREMENTS.~~

34 ~~2. ADVISE THE BOARD IF ANY CONTEMPLATED ACTION IS BEYOND THE SCOPE~~
35 ~~OF THE AUTHORITY GRANTED TO THE BOARD PURSUANT TO THIS CHAPTER. THE~~
36 ~~EXECUTIVE DIRECTOR MAY PROVIDE THE ADVICE IN EXECUTIVE SESSION, BUT IF THE~~
37 ~~INFORMATION IS DISREGARDED BY THE BOARD THE EXECUTIVE DIRECTOR SHALL STATE~~
38 ~~POTENTIAL CONCERNS IN AN OPEN MEETING OF THE BOARD.~~

39 ~~3. PREPARE AND MAINTAIN A DISCIPLINE MATRIX FOR USE BY THE BOARD TO~~
40 ~~ENSURE THAT ALL LICENSEES ARE TREATED CONSISTENTLY, TO THE BEST OF THE~~
41 ~~BOARD'S ABILITY, BASED ON THE SPECIFIC ALLEGATION AT ISSUE, WHEN THE BOARD~~
42 ~~CONTEMPLATES IMPOSING ANY FORM OF DISCIPLINE. THE MATRIX MUST BRIEFLY~~
43 ~~OUTLINE MATERIAL FACTS OF ALL PAST CASES IN WHICH DISCIPLINE WAS IMPOSED~~
44 ~~WITHOUT IDENTIFYING ANY SPECIFIC LICENSEE OR COMPLAINANT OTHER THAN BY~~
45 ~~POTENTIAL FILE NUMBER OR OTHER REFERENCE AND MUST SPECIFY THE LEVEL OF~~
46 ~~DISCIPLINE IMPOSED. THE MATRIX MUST BE AVAILABLE TO ANY LICENSEE AGAINST~~

1 ~~WHOM A COMPLAINT HAS BEEN FILED AND A FORMAL INVESTIGATION HAS BEEN~~
2 ~~OPENED, INCLUDING THE LICENSEE'S COUNSEL.~~

3 ~~4. CONSISTENT WITH THIS CHAPTER, CLASSIFY EACH COMPLAINT ON~~
4 ~~SUBMISSION TO THE BOARD ACCORDING TO POLICIES ADOPTED BY THE BOARD THAT~~
5 ~~PRIORITIZE THE ALLOCATION OF BOARD RESOURCES AND THE INVESTIGATION AND~~
6 ~~ADJUDICATION OF COMPLAINTS.>>~~

7 ~~<<Sec. 3. Section 32-1522, Arizona Revised Statutes, is amended to~~
8 ~~read:~~

9 ~~32-1522. Basic qualifications for license~~

10 ~~A. To be eligible for a license to practice naturopathic medicine~~
11 ~~pursuant to this chapter, the applicant shall:~~

12 ~~1. Be a graduate of an approved school of naturopathic medicine.~~

13 ~~2. Have satisfactorily completed an approved internship,~~
14 ~~preceptorship or clinical training program in naturopathic medicine.~~

15 ~~3. Be physically and mentally fit to practice as a doctor of~~
16 ~~naturopathic medicine.~~

17 ~~4. Not be guilty of any act of unprofessional conduct or any other~~
18 ~~conduct that would be grounds for refusal, suspension or revocation of a~~
19 ~~license under this chapter.~~

20 ~~5. Not have had a license to practice any profession refused,~~
21 ~~revoked or suspended by any other state, district or territory of the~~
22 ~~United States or another country for reasons that relate to the~~
23 ~~applicant's ability to skillfully and safely practice as a physician in~~
24 ~~this state.~~

25 ~~6. File a completed application pursuant to section 32-1524 and~~
26 ~~meet the examination requirements provided for in section 32-1525.~~

27 ~~B. The board may:~~

28 ~~1. require an applicant to submit credentials or other written or~~
29 ~~oral proof.~~

30 ~~2. Make investigations it deems proper to adequately advise itself~~
31 ~~with respect to the qualifications of an applicant.~~

32 ~~C. Within ninety days after it receives a completed application for~~
33 ~~initial licensure, the board shall issue a license if the application~~
34 ~~demonstrates to the board's satisfaction that the applicant complies with~~
35 ~~this chapter and board rules.>>~~

36 ~~<<Sec. 4. Section 32-1551, Arizona Revised Statutes, is amended to~~
37 ~~read:~~

38 ~~32-1551. Disciplinary action; duty to report; investigatory~~
39 ~~powers; immunity; hearing; appeal; notice;~~
40 ~~restitution~~

41 ~~A. The board on its own motion may investigate any evidence that~~
42 ~~appears to show that a doctor of naturopathic medicine is or may be~~
43 ~~medically incompetent, is or may be guilty of unprofessional conduct or is~~
44 ~~or may be mentally or physically unable to engage safely in the practice~~
45 ~~of naturopathic medicine. Any person may, and a doctor of naturopathic~~
46 ~~medicine, the Arizona naturopathic medical association, a component~~
47 ~~society of that association and any health care institution shall, report~~

~~1 to the board any information that appears to show that a doctor of
2 naturopathic medicine is or may be medically incompetent, is or may be
3 guilty of unprofessional conduct or is or may be mentally or physically
4 unable to engage safely in the practice of naturopathic medicine. The
5 board or the executive director shall notify the doctor as to the content
6 of the complaint as soon as reasonable. Any person or entity that reports
7 or provides information to the board in good faith is not subject to an
8 action for civil damages. If requested, the board shall not disclose the
9 name of a person who supplies information regarding a licensee's drug or
10 alcohol impairment. It is an act of unprofessional conduct for any doctor
11 of naturopathic medicine to fail to report as required by this
12 section. The board shall report any health care institution that fails to
13 report as required by this section to that institution's licensing agency.~~

~~14 B. THE SCOPE OF AN INVESTIGATION PURSUANT TO THIS SECTION IS
15 LIMITED TO THE INFORMATION CONTAINED IN THE INITIAL COMPLAINT OR THE
16 INFORMATION THAT THE BOARD HAS IN ITS POSSESSION AT THE TIME OF THE
17 BOARD'S MOTION TO INVESTIGATE.~~

~~18 B. C. The board or, if delegated by the board, the executive
19 director shall require any combination of mental, physical or oral or
20 written medical competency examinations and conduct necessary
21 investigations including investigational interviews between
22 representatives of the board and the doctor to fully inform itself with
23 respect to any information filed with the board under this section. These
24 examinations may include biological fluid testing and psychological or
25 psychiatric evaluation. The board or, if delegated by the board, the
26 executive director may require the doctor, at the doctor's expense, to
27 undergo assessment by a board approved rehabilitative, retraining or
28 assessment program.~~

~~29 C. D. If the board finds, based on the information it receives
30 under this section, that the public health, safety or welfare imperatively
31 requires emergency action, and incorporates a finding to that effect in
32 its order, the board may restrict, limit or order a summary suspension of
33 a license pending proceedings for revocation or other action. If the
34 board takes action pursuant to this subsection it shall also serve the
35 licensee with a written notice that states the charges and that the
36 licensee is entitled to a formal hearing before the board or an
37 administrative law judge.~~

~~38 D. E. If, after completing its investigation, the board finds that
39 the information provided pursuant to subsection A of this section is not
40 of sufficient seriousness to merit disciplinary action against the license
41 of the doctor, the board may take any of the following actions:~~

~~42 1. Dismiss if, in the opinion of the board, the information is
43 without merit.~~

~~44 2. File a letter of concern.~~

~~45 3. Issue a nondisciplinary order requiring the licensee to complete
46 a prescribed number of hours of continuing education in an area or areas~~

1 ~~prescribed by the board to provide the licensee with the necessary~~
2 ~~understanding of current developments, skills, procedures or treatment.~~

3 ~~E. F. If the board finds that it can take rehabilitative or~~
4 ~~disciplinary action without the presence of the doctor at a formal~~
5 ~~interview, it may enter into a consent agreement with the doctor to limit~~
6 ~~or restrict the doctor's practice or to rehabilitate the doctor in order~~
7 ~~to protect the public and ensure the doctor's ability to safely engage in~~
8 ~~the practice of naturopathic medicine. The board may also require the~~
9 ~~doctor to successfully complete a board approved rehabilitative,~~
10 ~~retraining or assessment program.~~

11 ~~F. G. If after completing its investigation the board believes~~
12 ~~that the information is or may be true, it may request a formal interview~~
13 ~~with the doctor. If the doctor refuses the invitation or accepts and the~~
14 ~~results indicate that grounds may exist for revocation or suspension of~~
15 ~~the doctor's license for more than twelve months, the board may issue a~~
16 ~~formal complaint and order that a hearing be held pursuant to title 41,~~
17 ~~chapter 6, article 10. If after completing a formal interview the board~~
18 ~~finds the information provided under this section is not of sufficient~~
19 ~~seriousness to merit suspension for more than twelve months or revocation~~
20 ~~of the license, it may take the following actions:~~

21 ~~1. Dismiss if, in the opinion of the board, the complaint is~~
22 ~~without merit.~~

23 ~~2. File a letter of concern.~~

24 ~~3. File a letter of reprimand.~~

25 ~~4. Issue a decree of censure. A decree of censure is an official~~
26 ~~action against the doctor's license and may include a requirement for~~
27 ~~restitution of fees to a patient resulting from violations of this chapter~~
28 ~~or rules adopted under this chapter.~~

29 ~~5. Fix a period and terms of probation best adapted to protect the~~
30 ~~public health and safety and rehabilitate or educate the doctor~~
31 ~~concerned. Probation may include temporary license suspension for not to~~
32 ~~exceed twelve months, restriction of the doctor's license to practice~~
33 ~~naturopathic medicine, OR a requirement for restitution of fees to a~~
34 ~~patient or education or rehabilitation at the licensee's own expense. If~~
35 ~~a licensee fails to comply with the terms of probation, the board shall~~
36 ~~serve the licensee with a written notice that states that the licensee is~~
37 ~~subject to a formal hearing based on the information considered by the~~
38 ~~board at the formal interview and any other acts or conduct alleged to be~~
39 ~~in violation of this chapter or rules adopted by the board pursuant to~~
40 ~~this chapter including noncompliance with the terms of probation, a~~
41 ~~consent agreement or a stipulated agreement.~~

42 ~~6. Enter into an agreement with the doctor to restrict or limit the~~
43 ~~doctor's practice or medical activities in order to rehabilitate, retrain~~
44 ~~or assess the doctor, protect the public and ensure the physician's~~
45 ~~ability to safely engage in the practice of naturopathic medicine. The~~
46 ~~board may also require the doctor to successfully complete a board~~

1 ~~approved rehabilitative, retraining or assessment program at the doctor's~~
2 ~~own expense pursuant to subsection E-F of this section.~~

3 ~~7. Issue a nondisciplinary order requiring the licensee to complete~~
4 ~~a prescribed number of hours of continuing education in an area or areas~~
5 ~~prescribed by the board to provide the licensee with the necessary~~
6 ~~understanding of current developments, skills, procedures or treatment.~~

7 ~~G. H. If the board finds that the information provided in an~~
8 ~~investigation warrants suspension or revocation of a license issued under~~
9 ~~this chapter, it must initiate formal proceedings pursuant to title 41,~~
10 ~~chapter 6, article 10.~~

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

20 ~~I. J. If the naturopathic physicians MEDICAL board of medical~~
21 ~~examiners acts to modify any doctor's prescription writing privileges, it~~
22 ~~shall immediately notify the Arizona state board of pharmacy of the~~
23 ~~modification.~~

24 ~~J. K. If the board, during the course of any investigation,~~
25 ~~determines that a criminal violation may have occurred involving the~~
26 ~~delivery of health care, it THE BOARD shall make the evidence of~~
27 ~~violations available to the appropriate criminal justice agency for its~~
28 ~~consideration WITHIN FORTY-EIGHT HOURS AFTER THE DETERMINATION.~~

29 ~~K. L. The board shall deposit, pursuant to sections 35-146 and~~
30 ~~35-147, all monies collected from civil penalties paid pursuant to this~~
31 ~~chapter in the state general fund.~~

32 ~~L. M. Notice of a complaint and hearing is effective by a true~~
33 ~~copy of it being sent by certified mail to the doctor's last known address~~
34 ~~of record in the board's files. Notice of the complaint and hearing is~~
35 ~~complete on the date of its deposit in the mail.~~

36 ~~M. N. The board may accept the surrender of an active license from~~
37 ~~a person who admits in writing to any of the following:~~

38 ~~1. Being unable to safely engage in the practice of naturopathic~~
39 ~~medicine.~~

40 ~~2. Having committed an act of unprofessional conduct.~~

41 ~~3. Having violated this chapter or a board rule.~~

42 ~~N. O. The board may administer the oath to all witnesses and shall~~
43 ~~keep a written transcript of all oral testimony submitted at the hearing~~
44 ~~and the original or a copy of all other evidence submitted. The board may~~
45 ~~waive the technical rules of evidence at any hearing conducted under this~~
46 ~~section.~~

1 ~~0. P. Except as provided in section 41-1092.08, subsection H, an~~
2 ~~appeal to the superior court in Maricopa county may be taken from~~
3 ~~decisions of the board pursuant to title 12, chapter 7, article 6.~~

4 ~~Q. IF A COURT OF COMPETENT JURISDICTION FINDS THAT THE BOARD ACTED~~
5 ~~CAPRICIOUSLY AGAINST A LICENSEE WITHOUT MERIT AND IN VIOLATION OF THIS~~
6 ~~CHAPTER, THE RULES ADOPTED PURSUANT TO THIS CHAPTER OR THE BOARD'S~~
7 ~~POLICIES OR PROCEDURES, THE LICENSEE IS ENTITLED TO RESTITUTION FOR ALL~~
8 ~~COSTS INCURRED RELATING TO THE MATTER IN THE COURSE OF THE INVESTIGATION~~
9 ~~OR THE FORMAL HEARING PROCESS, OR BOTH.>>~~

10 ~~<<Sec. 5. Section 32-1551.01, Arizona Revised Statutes, is amended~~
11 ~~to read:~~

12 ~~32-1551.01. Right to examine and copy evidence; witnesses;~~
13 ~~documents; testimony; representation~~

14 ~~A. In connection with the investigation by the board on its own~~
15 ~~motion, or as the result of information received pursuant to section~~
16 ~~32-1551, the board or its duly authorized agents or employees at all~~
17 ~~reasonable times may examine and copy any documents, reports, records or~~
18 ~~other physical evidence of the person it is investigating or that is in~~
19 ~~possession of any hospital, clinic, physician's office, laboratory,~~
20 ~~pharmacy, public or private agency, health care institution as defined in~~
21 ~~section 36-401 and health care provider and that relates to medical~~
22 ~~competence, unprofessional conduct or the mental or physical ability of a~~
23 ~~licensee to safely practice naturopathic medicine.~~

24 ~~B. For the purpose of all investigations and proceedings conducted~~
25 ~~by the board:~~

26 ~~1. THE SCOPE OF AN INVESTIGATION PURSUANT TO THIS SECTION IS~~
27 ~~LIMITED TO THE INFORMATION CONTAINED IN THE INITIAL COMPLAINT OR THE~~
28 ~~INFORMATION THAT THE BOARD HAS IN ITS POSSESSION AT THE TIME OF THE~~
29 ~~BOARD'S MOTION TO INVESTIGATE.~~

30 ~~1. 2. The board on its own initiative or on application of any~~
31 ~~person involved in the investigation may issue subpoenas to require the~~
32 ~~attendance and testimony of witnesses or to demand the production for~~
33 ~~examination or copying of documents or any other physical evidence that~~
34 ~~relates to medical competence, unprofessional conduct or the mental or~~
35 ~~physical ability of a licensee to safely practice naturopathic medicine.~~
36 ~~Within five days after a person is served with a subpoena that person may~~
37 ~~petition the board to revoke, limit or modify the subpoena. The board~~
38 ~~shall do so if in its opinion the evidence required does not relate to~~
39 ~~unlawful practices covered by this chapter, is not relevant to the charge~~
40 ~~that is the subject matter of the hearing or investigation or does not~~
41 ~~describe with sufficient particularity the physical evidence required to~~
42 ~~be produced. Any member of the board or any agent designated by the board~~
43 ~~may administer oaths or affirmations, examine witnesses and receive~~
44 ~~evidence.~~

45 ~~2. 3. Any person appearing before the board may be represented by~~
46 ~~counsel.~~

~~3. 4. On application by the board or by the person subpoenaed, the superior court may issue an order to either:~~

~~(a) Require the subpoenaed person to appear before the board or the duly authorized agent to produce evidence relating to the matter under investigation.~~

~~(b) Revoke, limit or modify the subpoena if in the court's opinion the evidence demanded does not relate to unlawful practices covered by this chapter, is not relevant to the charge that is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence whose production is required.~~

~~C. Patient records, including clinical records, medical reports, laboratory statements and reports, any file, film, other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or the patient's family might be identified and any information received and records or reports kept by the board as a result of the investigation procedure outlined in this chapter are not available to the public.~~

~~D. This section and any other law making communications between a physician and a physician's patient privileged does not apply to investigations or proceedings conducted pursuant to this chapter. The board and its employees, agents and representatives must keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.~~

~~E. Hospital records, medical staff records, medical staff review committee records and testimony concerning these records and proceedings related to the creation of these records are not available to the public, must be kept confidential by the board and are subject to the same provisions concerning discovery and use in legal actions as are the original records in the possession and control of hospitals, their medical staffs and their medical staff review committees. The board shall use such records and testimony during the course of investigations and proceedings pursuant to this chapter.~~

~~F. The court may find a person who does not comply with a subpoena issued pursuant to this section in contempt of court.>>~~

<<Sec. 13. Legislative intent

[A. The legislature intends to hold the state board of chiropractic examiners accountable for its failure to protect the health, welfare and safety of the public by adequately enforcing the statutes governing the practice of chiropractic.

B. This act aligns with the auditor general's special audit findings from December 20, 2024, following a resolution by the joint legislative audit committee on February 12, 2024, that include:

1. Ensuring that subpoenas issued for complaint investigations are directly relevant to the complaint.

2. Consistently enforcing all applicable statutes and rules.

3. Properly managing and reporting allegations of criminal activity.

1 4. Processing complaints efficiently and effectively.
2 5. Ensuring that board practices, communications with licensees and
3 the public and all related actions are lawful and do not include legal
4 advice or misinformation.
5 6. Eliminating redundancies by streamlining board functions and
6 reducing overlap with other state agencies.
7 7. Terminating abuses of power and mismanagement while ensuring
8 accountability.
9 8. Requiring immediate reporting of criminal misconduct to law
10 enforcement with penalties for noncompliance.
11 9. Ensuring that the board operates transparently and strictly
12 adheres to its mandate of public protection.
13 C. The legislature also intends to prevent other health profession
14 regulatory boards from restricting access to care or engaging in arbitrary
15 and capricious actions that harm licensed health professionals and
16 patients in this state, including:
17 1. Interfering with the confidential nature of a health
18 professional's proprietary formulas or trade secrets.
19 2. Committing repeated violations of the sacred patient-physician
20 relationship.
21 3. Promoting antitrust agendas.
22 4. Violating the privacy of patient medical information without
23 authorization.
24 D. The legislature reaffirms that the primary responsibility of
25 state health profession regulatory boards is to protect the public from
26 potential harm. Any activities beyond this mandate should be handled by
27 the private sector or other state agencies with appropriate jurisdiction.
28 Deviations from this mandate will not be tolerated.]]>>

29 Enroll and engross to conform

30 Amend title to conform

JANAE SHAMP

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C: MH