

REFERENCE TITLE: occupational therapy board; omnibus

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

## **SB 1128**

Introduced by  
Senator O'Halleran

### AN ACT

AMENDING SECTIONS 32-3401, 32-3403, 32-3404, 32-3405, 32-3422, 32-3423, 32-3424, 32-3426, 32-3427, 32-3428, 32-3429, 32-3430, 32-3441 AND 32-3442, ARIZONA REVISED STATUTES; CHANGING THE ARTICLE HEADING OF TITLE 32, CHAPTER 34, ARTICLE 2, ARIZONA REVISED STATUTES, TO "LICENSURE"; REPEALING SECTION 32-3421, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 34, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-3421; RELATING TO THE BOARD OF OCCUPATIONAL THERAPY EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-3401, Arizona Revised Statutes, is amended to  
3 read:

4 32-3401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Board" means the board of occupational therapy examiners.

7 2. "Consultation" means the act or procedure of exchanging ideas or  
8 information or providing professional advice TO ANOTHER HEALTH PROFESSIONAL  
9 OR RESPONSIBLE PARTY REGARDING THE PROVISION OF OCCUPATIONAL THERAPY  
10 SERVICES.

11 ~~3. "Direct supervision" means that the supervising occupational~~  
12 ~~therapist is on the premises at all times while a limited permittee is~~  
13 ~~performing occupational therapy services or when an unlicensed person is~~  
14 ~~performing authorized tasks.~~

15 ~~4.~~ 3. "Evaluation" means ~~the~~ AN OCCUPATIONAL THERAPIST'S assessment  
16 of treatment needs within the scope of practice of occupational  
17 therapy. Evaluation does not include making a medical diagnosis.

18 4. "LETTER OF CONCERN" MEANS A NONDISCIPLINARY ADVISORY LETTER TO  
19 NOTIFY A LICENSEE THAT, WHILE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT  
20 DISCIPLINARY ACTION, THE LICENSEE SHOULD MODIFY OR ELIMINATE CERTAIN  
21 PRACTICES AND THAT CONTINUATION OF THE ACTIVITIES THAT LED TO THE INFORMATION  
22 BEING SUBMITTED TO THE BOARD MAY RESULT IN FUTURE ACTION AGAINST THE  
23 LICENSEE'S LICENSE.

24 5. "Occupational therapist" means a person licensed pursuant to this  
25 chapter to practice occupational therapy.

26 6. "Occupational therapy" means the use of ~~occupational~~ ACTIVITY  
27 therapy services with individuals who are limited by physical injury or  
28 illness, psychosocial dysfunction, developmental or learning disabilities,  
29 socioeconomic and cultural differences or the aging process in order to  
30 achieve optimum functional performance, maximize independence, prevent  
31 disability and maintain health. ~~including~~ OCCUPATIONAL THERAPY INCLUDES  
32 evaluation, treatment and consultation BASED ON THE CLIENT'S TEMPORAL,  
33 SPIRITUAL AND CULTURAL VALUES AND NEEDS.

34 7. "Occupational therapy assistant" means a person who is licensed  
35 pursuant to this chapter, who is a graduate of an accredited occupational  
36 therapy education program or the equivalent, who assists AN OCCUPATIONAL  
37 THERAPIST in the practice of occupational therapy and who performs delegated  
38 procedures commensurate with ~~his~~ THE PERSON'S education and training.

39 8. "Occupational therapy services" includes the following:

40 (a) Evaluation and development of and training in activities of daily  
41 living and social skills. Treatment modalities for occupational therapy may  
42 include play, self-help skills, work and related activities.

43 (b) Evaluation and facilitation of developmental, perceptual-motor,  
44 neuromuscular and sensory-integrative function.

1 (c) Enhancement of functional achievement, prevocational skills and  
2 work capabilities through the use of therapeutic **DISABILITIES, ACTIVITIES AND**  
3 **MODALITIES THAT ARE BASED ON ANATOMY, PHYSIOLOGY AND KINESIOLOGY**, ~~kinetic,~~  
4 **AND** functional, manual and creative activities or exercises.

5 (d) Evaluation, design and fabrication of and training the individual  
6 in the use of selective orthotic, prosthetic and adaptive devices, as  
7 appropriate.

8 (e) Administration and interpretation of standardized and  
9 nonstandardized tests **THAT ARE PERFORMED WITHIN THE PRACTICE OF OCCUPATIONAL**  
10 **THERAPY AS AN AID TO TREATMENT**, including manual muscle, sensory, ~~and~~ range  
11 of motion, ~~performed within the practice of occupational therapy as an aid to~~  
12 ~~treatment~~ **COGNITION AND DEVELOPMENTAL TESTS, AND SYSTEMIC, LYMPHATIC AND**  
13 **CARDIAC FUNCTIONING.**

14 (f) Assessment and adaptation of environments for individuals with  
15 handicaps and those at risk for dysfunction.

16 **9. "SUPERVISION" MEANS THAT THE SUPERVISING OCCUPATIONAL THERAPIST OR**  
17 **OCCUPATIONAL THERAPY ASSISTANT IS PRESENT OR AVAILABLE FOR A LIMITED LICENSEE**  
18 **WHO IS PERFORMING OCCUPATIONAL THERAPY SERVICES OR WHEN AN UNLICENSED PERSON**  
19 **IS PERFORMING TASKS AT THE DIRECTION OF A LICENSED OCCUPATIONAL THERAPIST OR**  
20 **LICENSED OCCUPATIONAL THERAPY ASSISTANT.**

21 ~~9-~~ **10. "Unprofessional conduct" includes the following acts:**

22 (a) Habitual intemperance in the use of alcohol.

23 (b) Habitual use of narcotic or hypnotic drugs.

24 (c) Gross incompetence, repeated incompetence or incompetence  
25 resulting in injury to a ~~patient~~ **CLIENT.**

26 (d) Having professional connection with or lending the name of the  
27 licensee to an illegal practitioner of occupational therapy or any of the  
28 other healing arts.

29 (e) Failing to refer a ~~patient~~ **CLIENT** whose condition is beyond the  
30 training or ability of the occupational therapist to another professional  
31 qualified to provide such service.

32 (f) Immorality or misconduct that tends to discredit the occupational  
33 therapy profession.

34 (g) Censure of a licensee or refusal, revocation, suspension or  
35 restriction of a license to practice occupational therapy by any other state,  
36 territory, district or country, unless it can be shown that this was not  
37 occasioned by reasons ~~which~~ **THAT** relate to the ability to safely and  
38 skillfully practice occupational therapy or to any act of unprofessional  
39 conduct prescribed in this paragraph.

40 (h) Any conduct or practice contrary to recognized standards of ethics  
41 of the occupational therapy profession, any conduct or practice ~~which~~ **THAT**  
42 does or might constitute a danger to the health, welfare or safety of the  
43 ~~patient~~ **CLIENT** or the public, ~~or any conduct, practice or condition~~ ~~which~~  
44 **THAT** does or might impair the licensee's ability to safely and skillfully  
45 practice occupational therapy.

1 (i) Violating or attempting to violate, directly or indirectly, or  
2 assisting in or abetting the violation of or conspiring to violate any of the  
3 provisions of this chapter.

4 (j) Charging or collecting a clearly excessive fee.

5 (k) Sexually inappropriate conduct with a ~~patient~~ CLIENT. For the  
6 purposes of this subdivision, "sexually inappropriate conduct" includes:

7 (i) Engaging in sexual intercourse or oral-genital contact with a  
8 ~~patient~~ CLIENT.

9 (ii) Inappropriately touching a ~~patient's~~ CLIENT'S genital area.

10 (iii) Suggesting a sexual relationship with a current ~~patient~~ CLIENT.

11 (l) Knowingly making a false or misleading statement to the board on a  
12 license application or renewal form required by the board or any other verbal  
13 or written communications directed to the board or its staff.

14 (m) Committing a felony, whether or not involving moral turpitude, or  
15 a misdemeanor involving moral turpitude. In either case, conviction by a  
16 court of competent jurisdiction or a plea of no contest is conclusive  
17 evidence that the felony or misdemeanor was committed.

18 (n) Violating a board rule that is directly related to the practice of  
19 occupational therapy.

20 Sec. 2. Section 32-3403, Arizona Revised Statutes, is amended to read:

21 32-3403. Executive director; personnel; duties; compensation

22 A. The board may employ and discharge an executive director and other  
23 officers and employees as it deems necessary and designate their duties.  
24 Board personnel are eligible to receive compensation as determined pursuant  
25 to section 38-611.

26 ~~B. The issuance of licenses shall be recorded by the executive~~  
27 ~~director, and the documentation of licenses awarded or withheld shall be~~  
28 ~~filed with the board.~~

29 B. THE EXECUTIVE DIRECTOR SHALL:

30 1. ISSUE AND DOCUMENT LICENSES APPROVED BY THE BOARD.

31 2. KEEP A RECORD OF THE STATUS OF LICENSES AND LICENSEES.

32 3. KEEP A RECORD OF THE STATUS OF APPLICANTS, INCLUDING THOSE WHOSE  
33 APPLICATIONS ARE DENIED.

34 4. PERFORM TASKS AND DUTIES ASSIGNED BY THE BOARD.

35 5. COLLECT FEES AND MAINTAIN ACCOUNTING RECORDS ACCORDING TO GENERALLY  
36 ACCEPTED ACCOUNTING PRINCIPLES.

37 Sec. 3. Section 32-3404, Arizona Revised Statutes, is amended to read:

38 32-3404. Powers and duties; rules; reports; hearings;  
39 commissioners

40 A. The board shall:

41 1. Administer, coordinate and enforce ~~the provisions of~~ this chapter.

42 2. Evaluate the qualifications of applicants.

43 3. Prescribe examination requirements for licensure.

44 4. Adopt rules necessary to carry out ~~the provisions of~~ this chapter.

1           5. Conduct **INFORMAL MEETINGS, FORMAL INTERVIEWS AND** hearings and keep  
2 records and minutes necessary to carry out its functions.

3           **6. PRESCRIBE EDUCATIONAL PROGRAMS REQUIRED FOR LICENSURE PURSUANT TO**  
4 **THIS CHAPTER.**

5           B. The board may:

6           1. Appoint commissioners to assist in the performance of its duties.

7           2. Report any violations of this chapter or rules adopted pursuant to  
8 this chapter to a county attorney, the attorney general, a federal agency or  
9 a state or national organization.

10          C. Commissioners appointed pursuant to subsection B, paragraph 1 shall  
11 receive no compensation for their services but shall be reimbursed for actual  
12 and necessary expenses ~~which~~ **THAT** they ~~may~~ incur in the performance of their  
13 duties.

14          Sec. 4. Section 32-3405, Arizona Revised Statutes, is amended to read:

15          **32-3405. Occupational therapy fund; deposit of receipts by**  
16 **board; account**

17          A. The occupational therapy fund is established. Pursuant to  
18 sections 35-146 and 35-147, civil penalties imposed under section 32-3442,  
19 subsection ~~G~~, **K** shall be deposited in the state general fund. The board  
20 shall deposit ten per cent of all other monies collected under this chapter  
21 in the state general fund and deposit the remaining ninety per cent in the  
22 occupational therapy fund. Monies in the occupational therapy fund may be  
23 used by the board for payment of all necessary board expenses, including  
24 compensation and expenses of board members ~~upon~~ **AND BOARD STAFF ON** claims  
25 approved by the board.

26          B. Monies deposited in the occupational therapy fund are subject to  
27 section 35-143.01.

28          C. The board shall establish a separate account in the fund for  
29 monies transferred to the fund pursuant to section 32-4105.

30          Sec. 5. **Heading change**

31          The article heading of title 32, chapter 34, article 2, Arizona Revised  
32 Statutes, is changed from "REGISTRATION" to "LICENSURE".

33          Sec. 6. **Repeal**

34          Section ~~32-3421~~, Arizona Revised Statutes, is repealed.

35          Sec. 7. Title 32, chapter 34, article 2, Arizona Revised Statutes, is  
36 amended by adding a new section 32-3421, to read:

37          **32-3421. Practicing without a license; prohibition; use of**  
38 **titles**

39          **A. EXCEPT AS PROVIDED BY SECTION 32-3422, A PERSON SHALL NOT DO THE**  
40 **FOLLOWING IN THIS STATE UNLESS LICENSED PURSUANT TO THIS CHAPTER:**

41           1. PRACTICE OR ASSIST IN THE PRACTICE OF OCCUPATIONAL THERAPY.

42           2. CLAIM TO BE AN OCCUPATIONAL THERAPIST, AN OCCUPATIONAL THERAPY  
43 ASSISTANT OR A PROVIDER OF OCCUPATIONAL THERAPY SERVICES.

44           3. RENDER OCCUPATIONAL THERAPY SERVICES.

1 B. A PERSON SHALL NOT USE ANY OF THE FOLLOWING TITLES, OR ANY LETTERS,  
2 ABBREVIATIONS OR INSIGNIA OF THESE TITLES, IN CONNECTION WITH THAT PERSON'S  
3 NAME OR PLACE OF BUSINESS UNLESS THE PERSON IS LICENSED PURSUANT TO THIS  
4 CHAPTER:

- 5 1. "OCCUPATIONAL THERAPIST".
- 6 2. "LICENSED OCCUPATIONAL THERAPIST".
- 7 3. "OCCUPATIONAL THERAPIST REGISTERED".
- 8 4. "OCCUPATIONAL THERAPY ASSISTANT".
- 9 5. "LICENSED OCCUPATIONAL THERAPY ASSISTANT".
- 10 6. "CERTIFIED OCCUPATIONAL THERAPY ASSISTANT".

11 Sec. 8. Section 32-3422, Arizona Revised Statutes, is amended to read:  
12 32-3422. Persons and practices not required to be licensed

13 This chapter does not prevent or restrict the practice, services or  
14 activities of:

15 1. A person engaging in the practice of that person's profession if  
16 the service is not practiced AS or represented to be occupational therapy.

17 2. A person licensed in this state from engaging in the profession or  
18 occupation for which the person is licensed.

19 3. A person employed as an occupational therapist or occupational  
20 therapy assistant by the United States or any agency of the United States, if  
21 that person provides occupational therapy solely under the direction or  
22 control of the agency ~~by which that person is employed~~ THAT EMPLOYS THAT  
23 PERSON.

24 4. A person pursuing a supervised course of study leading to a degree  
25 or certificate in occupational therapy at an accredited or approved  
26 educational program PURSUANT TO SECTION 32-3404, if the person is designated  
27 by a title that clearly indicates the person's status as a student or  
28 trainee.

29 5. A person fulfilling the supervised fieldwork experience  
30 requirements of section 32-3423, if the experience constitutes a part of the  
31 FIELDWORK experience necessary to meet the requirements of section 32-3423.

32 6. A person performing occupational therapy services in this state for  
33 purposes of continuing education, consultation and training, if these  
34 services are performed for no more than a cumulative total of sixty days in a  
35 calendar year in association with an occupational therapist licensed under  
36 this chapter, if either of the following is true:

37 (a) The person is licensed as an occupational therapist or  
38 occupational therapy assistant in good standing in another state.

39 (b) The person is certified by the national board for certification in  
40 occupational therapy, incorporated.

41 7. A person employed by a health care provider licensed pursuant to  
42 another chapter of this title if the person does not claim to be an  
43 occupational therapist or occupational therapy assistant and ~~such~~ THE  
44 services or activities constitute a part of the person's job duties.

1           Sec. 9. Section 32-3423, Arizona Revised Statutes, is amended to read:  
2           32-3423. Application for licensure; qualifications; examination

3           A. An applicant for licensure as an occupational therapist or as an  
4 occupational therapy assistant shall file a written application, provided by  
5 the board, showing to the satisfaction of the board that the applicant:

6           1. Is of good moral character. ~~and has not been convicted of a crime~~  
7 ~~of moral turpitude.~~ THE BOARD MAY ESTABLISH A LACK OF GOOD MORAL CHARACTER  
8 IF THE APPLICANT HAS BEEN CONVICTED OF A FELONY INVOLVING MORAL TURPITUDE OR  
9 A MISDEMEANOR INVOLVING MORAL TURPITUDE.

10           2. Has successfully completed the academic requirements of an  
11 educational program in occupational therapy ~~recognized~~ APPROVED by the board  
12 PURSUANT TO SECTION 32-3404. ~~The board shall recognize an occupational~~  
13 ~~therapy and occupational therapy assistant educational program accredited by~~  
14 ~~the accreditation council for occupational therapy education established by~~  
15 ~~the American occupational therapy association, incorporated.~~

16           3. Has successfully completed a period of supervised fieldwork  
17 experience acceptable to the board. The board shall require:

18           (a) For an occupational therapist, a minimum of ~~twenty-four weeks~~ FOUR  
19 HUNDRED SIXTY-FOUR HOURS of supervised fieldwork experience.

20           (b) For an occupational therapy assistant, a minimum of ~~eight weeks~~  
21 FORTY-NINE HOURS of supervised fieldwork experience.

22           4. Has passed an examination administered pursuant to section 32-3424.

23           5. PAYS THE APPLICATION FEE PRESCRIBED IN SECTION 32-3427.

24           B. AN APPLICANT WHO IS DENIED A LICENSE MAY REQUEST A HEARING PURSUANT  
25 TO TITLE 41, CHAPTER 6, ARTICLE 10.

26           Sec. 10. Section 32-3424, Arizona Revised Statutes, is amended to  
27 read:

28           32-3424. Examination for licensure of occupational therapists  
29 and occupational therapy assistants

30           A. An applicant for licensure shall take a written examination  
31 approved and administered by the national board for certification in  
32 occupational therapy, incorporated. The examination shall test an  
33 applicant's knowledge of the basic and clinical services relating to  
34 PROVIDING occupational therapy SERVICES, ~~occupational therapy~~ techniques and  
35 methods, and other subjects as the board requires.

36           B. ~~It is the responsibility of~~ The applicant ~~to~~ SHALL arrange for the  
37 examination following successful completion of the academic and fieldwork  
38 requirements of section 32-3423 and ~~to present the board with~~ SUBMIT evidence  
39 of successful completion of the examination WITH THE APPLICATION.

40           Sec. 11. Section 32-3426, Arizona Revised Statutes, is amended to  
41 read:

42           32-3426. Renewal of license; inactive status; notice of address  
43 or name change

44           A. A license issued under this chapter is subject to renewal every two  
45 years and expires unless renewed. The board may reinstate ~~a~~ AN EXPIRED

1 license ~~cancelled for failure to renew on compliance with board rules for~~  
2 ~~renewal of licenses~~ IF THE LICENSEE:

- 3 1. COMPLIES WITH BOARD RULES FOR RENEWAL OF LICENSES.
- 4 2. IS NOT IN VIOLATION OF THIS CHAPTER OR BOARD RULES OR ORDERS.
- 5 3. PAYS THE FEES PRESCRIBED PURSUANT TO SECTION 32-3427.

6 B. On request, the board shall grant inactive status to a licensee who  
7 does not practice as an occupational therapist or occupational therapy  
8 assistant ~~and who maintains any continuing education requirements.~~

9 C. The board may establish by rule additional requirements for license  
10 renewal ~~which~~ TO require THE SUCCESSFUL COMPLETION OF A PRESCRIBED NUMBER OF  
11 HOURS OF continuing education AS A CONDITION OF LICENSURE RENEWAL.

12 D. A LICENSEE MUST REPORT TO THE BOARD IN WRITING A NAME CHANGE AND  
13 ANY CHANGE IN BUSINESS OR HOME ADDRESS WITHIN THIRTY DAYS AFTER THAT CHANGE.

14 Sec. 12. Section 32-3427, Arizona Revised Statutes, is amended to  
15 read:

16 32-3427. Fees

17 A. The board, ~~shall~~ by rule, SHALL establish and collect fees not to  
18 exceed:

- 19 1. One hundred dollars for application for a license.
- 20 2. Three hundred dollars for an initial license.
- 21 3. Three hundred dollars for renewal of a license.
- 22 4. Three hundred dollars for an application for reinstatement.
- 23 5. Seventy-five dollars for a limited ~~permit~~ LICENSE.
- 24 6. Fifty dollars for a duplicate license.

25 B. The board, by rule, shall establish and collect fees for renewal of  
26 an inactive status license.

27 Sec. 13. Section 32-3428, Arizona Revised Statutes, is amended to  
28 read:

29 32-3428. Limited license

30 A. The board may grant a limited ~~permit~~ LICENSE to a person who has  
31 not taken the licensure examination if that person was trained in this  
32 country and has completed the academic and fieldwork requirements of this  
33 chapter.

34 B. The board may grant a limited ~~permit~~ LICENSE to a foreign-trained  
35 person who has completed the academic and fieldwork requirements of this  
36 chapter if that person has not taken the licensure examination and submits  
37 proof of acceptance to take the licensure examination.

38 C. The holder of a limited ~~permit~~ LICENSE may practice occupational  
39 therapy only under the ~~direct~~ supervision of a licensed occupational  
40 therapist.

41 D. A limited ~~permit~~ LICENSE is valid for four months and becomes void  
42 if a person fails the examination. The limited permit expires if a person  
43 passes the examination and is issued a license under section 32-3425,  
44 subsection C.

45 E. The board may reissue a limited ~~permit~~ LICENSE once.



1           Sec. 14. Section 32-3429, Arizona Revised Statutes, is amended to  
2 read:

3           32-3429. Foreign trained applicants

4           Foreign trained occupational therapists and occupational therapy  
5 assistants shall:

6           1. Satisfy the examination requirements of section 32-3424. ~~The board~~  
7 ~~shall require foreign trained applicants to furnish~~

8           2. PROVIDE proof of good moral character. ~~and completion of~~

9           3. COMPLETE THE academic and supervised fieldwork requirements,  
10 substantially equal to those contained in section 32-3423 before taking the  
11 examination.

12           4. SUBMIT A COMPLETED APPLICATION AS PRESCRIBED BY THE BOARD.

13           5. PAY ALL APPLICABLE FEES PRESCRIBED PURSUANT TO SECTION 32-3427.

14           Sec. 15. Section 32-3430, Arizona Revised Statutes, is amended to  
15 read:

16           32-3430. Fingerprinting

17           A. Each applicant for original licensure, license renewal, license  
18 reinstatement or a limited ~~permit~~ LICENSE pursuant to this chapter who has  
19 not previously done so shall submit a full set of fingerprints to the board  
20 AT THE APPLICANT'S OR LICENSEE'S EXPENSE for the purpose of obtaining a state  
21 and federal criminal records check pursuant to section 41-1750 and Public Law  
22 92-544. The department of public safety may exchange this fingerprint data  
23 with the federal bureau of investigation.

24           B. If the board does not have any evidence or reasonable suspicion  
25 that the applicant has a criminal history AND THE APPLICANT OTHERWISE  
26 SATISFIES THE REQUIREMENTS OF SECTION 32-3423, the board may issue a license  
27 or a limited ~~permit~~ LICENSE before it receives the results of a criminal  
28 records check.

29           C. The board shall suspend a license or a limited ~~permit~~ LICENSE of a  
30 person who submits an unreadable set of fingerprints and does not submit a  
31 new readable set of fingerprints within twenty days after being notified by  
32 the board to do so.

33           D. This section does not affect the board's authority to otherwise  
34 issue, deny, cancel, terminate, suspend or revoke a license OR A LIMITED  
35 LICENSE.

36           Sec. 16. Section 32-3441, Arizona Revised Statutes, is amended to  
37 read:

38           32-3441. Proper use of title or designation of occupational  
39 therapists; license display; supervision;  
40 responsibility

41           A. A person who ~~receives a license~~ IS LICENSED PURSUANT TO THIS  
42 CHAPTER to practice as an occupational therapist and WHO is in good standing  
43 may use the title of licensed occupational therapist and the abbreviation  
44 "O.T.," "O.T.R." or "O.T.R./L.". A person who ~~receives a license~~ IS LICENSED  
45 PURSUANT TO THIS CHAPTER to practice as a licensed occupational therapy

1 assistant and who is in good standing may use the title of licensed  
2 occupational therapy assistant and the abbreviation "O.T.A.", "C.O.T.A." or  
3 "C.O.T.A./L.".

4 B. Each occupational therapist and occupational therapy assistant  
5 shall display the person's current license in each facility in which the  
6 person practices occupational therapy. If an occupational therapist or ~~the~~  
7 occupational therapy assistant fails to display the current license, the  
8 board shall take disciplinary action against the licensee. Disciplinary  
9 action may include censure, a civil penalty, probation, suspension or any  
10 combination of these actions.

11 ~~C. Except as provided in section 32-3422, it is unlawful for any~~  
12 ~~person who is not licensed as an occupational therapist or an occupational~~  
13 ~~therapy assistant pursuant to this chapter to do any of the following:~~

- 14 ~~1. Practice or assist in the practice of occupational therapy.~~
- 15 ~~2. Claim to be an occupational therapist, an occupational therapy~~  
16 ~~assistant or a provider of occupational therapy services.~~
- 17 ~~3. Use in connection with the person's name any words, letters,~~  
18 ~~abbreviations or insignia indicating or implying that the person is an~~  
19 ~~occupational therapist or an occupational therapy assistant or provides~~  
20 ~~occupational therapy services.~~

21 ~~D. C.~~ C. The board may adopt rules reasonably related to sound ~~patient~~  
22 ~~CLIENT~~ care governing ~~the AN OCCUPATIONAL THERAPIST'S~~ supervision of licensed  
23 occupational therapy assistants ~~and OR~~ unlicensed ~~personnel by an~~ EMPLOYEES  
24 OR VOLUNTEERS WORKING WITH THE occupational therapist.

25 ~~E. D.~~ D. An occupational therapist ~~is~~ AND AN OCCUPATIONAL THERAPY  
26 ASSISTANT ARE professionally and legally responsible for ~~patient~~ SUPERVISING  
27 ~~CLIENT~~ care given by nonlicensed ~~personnel under his supervision~~ EMPLOYEES OR  
28 VOLUNTEERS. If an occupational therapist OR OCCUPATIONAL THERAPY ASSISTANT  
29 fails to adequately supervise ~~patient~~ CLIENT care given by ~~nonlicensed~~  
30 ~~personnel~~ EMPLOYEES OR VOLUNTEERS, the board may take disciplinary action  
31 against the ~~licensee~~ OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY  
32 ASSISTANT.

33 Sec. 17. Section 32-3442, Arizona Revised Statutes, is amended to  
34 read:

35 32-3442. Disciplinary action; informal meetings; formal  
36 interviews; hearings; penalties; files

37 A. The board may ~~investigate any evidence and determine whether:~~

- 38 1. RECEIVE WRITTEN COMPLAINTS FILED AGAINST LICENSEES AND CONDUCT  
39 INVESTIGATIONS.
- 40 2. CONDUCT AN INVESTIGATION AT ANY TIME ON ITS OWN INITIATIVE WITHOUT  
41 RECEIPT OF A WRITTEN COMPLAINT IF THE BOARD HAS REASON TO BELIEVE THAT THERE  
42 MAY BE A VIOLATION OF THIS CHAPTER, THAT a licensee is or may be guilty of  
43 unprofessional conduct or THAT A LICENSEE is or may be incompetent.

1 B. Any occupational therapist, occupational therapy assistant or  
2 health care institution as defined in section 36-401 shall, ~~and any other~~  
3 ~~person may,~~ report to the board any information the occupational therapist,  
4 occupational therapy assistant, health care institution or individual may  
5 have that appears to show that an occupational therapist or an occupational  
6 therapy assistant is or may be guilty of unprofessional conduct or is or may  
7 be incompetent.

8 C. A person who provides information to the board in good faith  
9 PURSUANT TO SUBSECTION A OR B OF THIS SECTION is not subject to an action in  
10 civil damages as a result of providing the information. ~~If requested, the~~  
11 ~~board shall not disclose the identity of a person who provides information~~  
12 ~~unless the information or the name of a person making a complaint is~~  
13 ~~essential to proceedings conducted pursuant to this section or unless~~  
14 ~~required by a court of law.~~

15 ~~B.~~ D. Within sixty days of receipt OF A WRITTEN COMPLAINT PURSUANT TO  
16 SUBSECTION A OF THIS SECTION OR INFORMATION PURSUANT TO SUBSECTION B OF THIS  
17 SECTION, the board shall notify the licensee about whom information ~~as~~  
18 ~~described in subsection A of this section~~ has been received as to the content  
19 of the COMPLAINT OR information. ~~The board shall keep a complaint~~  
20 ~~confidential until it verifies or substantiates the complaint.~~

21 ~~C.~~ E. ~~If, in the opinion of the board, it appears that a licensee is~~  
22 ~~or may be in violation of this chapter,~~ The board may request an informal  
23 MEETING OR A FORMAL interview with the licensee ~~concerned~~ OR ANY OTHER PERSON  
24 TO FURTHER ITS INVESTIGATION OR TO RESOLVE A COMPLAINT.

25 F. If ~~the A~~ licensee refuses the ~~invitation or if the licensee accepts~~  
26 ~~the invitation and if the results of the interview indicate that a civil~~  
27 ~~penalty or suspension or revocation of a license may be in order~~ BOARD'S  
28 REQUEST FOR AN INFORMAL MEETING OR A FORMAL INTERVIEW, OR IN LIEU OF HOLDING  
29 AN INFORMAL MEETING OR A FORMAL INTERVIEW, the board shall hold a hearing  
30 pursuant to title 41, chapter 6, article 10.

31 G. IF THE RESULTS OF AN INFORMAL MEETING OR A FORMAL INTERVIEW  
32 INDICATE THAT SUSPENSION OR REVOCATION OF THE LICENSEE'S LICENSE OR A CIVIL  
33 PENALTY MIGHT BE IN ORDER, THE BOARD SHALL NOTIFY THE LICENSEE OF THE TIME  
34 AND PLACE FOR A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

35 H. If, at the informal MEETING OR FORMAL interview, the board finds a  
36 violation of this chapter, but THE VIOLATION IS not of sufficient seriousness  
37 to merit a civil penalty or suspension or revocation of a license, it may  
38 take one or more of the following actions:

39 1. Issue a decree of censure.

40 2. Fix a period and terms of probation best adapted to protect the  
41 public health and safety and rehabilitate or educate the licensee ~~concerned~~.  
42 Probation may include:

43 (a) Submission of the licensee to examinations to determine the mental  
44 or physical condition or professional competence of the licensee AT THE  
45 LICENSEE'S EXPENSE.

1 (b) Occupational therapy training or education that the board believes  
2 to be necessary to correct deficiencies ~~found either pursuant to a hearing or~~  
3 ~~through an examination pursuant to this section.~~

4 (c) Review or supervision of the licensee's practice that the board  
5 finds necessary to identify and correct deficiencies in the practice,  
6 INCLUDING A REQUIREMENT THAT THE LICENSEE REGULARLY REPORT TO THE BOARD ON  
7 MATTERS RELATED TO THE LICENSEE'S PROBATIONARY REQUIREMENTS.

8 (d) Restrictions on the nature and scope of practice to ensure that  
9 the licensee does not practice beyond the limits of the licensee's  
10 capabilities.

11 3. Issue a letter of concern. ~~For the purposes of this paragraph,~~  
12 ~~"letter of concern" means a nondisciplinary advisory letter to notify a~~  
13 ~~licensee that, while there is insufficient evidence to support disciplinary~~  
14 ~~action, the board believes that the licensee should modify or eliminate~~  
15 ~~certain practices and that continuation of the activities that led to the~~  
16 ~~information being submitted to the board may result in action against the~~  
17 ~~licensee's license.~~

18 4. Issue a nondisciplinary order requiring the licensee to complete a  
19 prescribed number of hours of continuing education in an area or areas  
20 prescribed by the board to provide the licensee with the necessary  
21 understanding of current developments, skills, procedures or treatment.

22 5. DISMISS THE COMPLAINT.

23 ~~D. I. IN ADDITION TO THE TERMS OF PROBATION DESCRIBED IN SUBSECTION~~  
24 ~~H, PARAGRAPH 2 OF THIS SECTION, probation, if deemed necessary, may also~~  
25 ~~include temporary suspension or restriction of the licensee's license to~~  
26 ~~practice. A LICENSEE'S failure to comply with probation OR ANY OTHER BOARD~~  
27 ~~ORDER is cause for a hearing pursuant to title 41, chapter 6, article 10,~~  
28 ~~based on failure to comply with probation or any other acts or conduct in~~  
29 ~~violation of this chapter and rules adopted pursuant to this chapter.~~

30 ~~E. If, in the opinion of the board, it appears that a licensee is or~~  
31 ~~may be in violation of this chapter, the board may hold a hearing in~~  
32 ~~accordance with title 41, chapter 6, article 10 in lieu of or in addition to~~  
33 ~~an informal interview as provided in subsection C of this section.~~

34 ~~F. J. At the licensee's expense the board may require any combination~~  
35 ~~of a physical, mental or occupational therapy competence examination as part~~  
36 ~~of a board investigation, including, if necessary, the taking of depositions~~  
37 ~~as may be required to fully inform itself with respect to the allegations~~  
38 ~~presented by the complaint. These examinations may include biological fluid~~  
39 ~~testing.~~

40 ~~G. K. Any licensee who, after a hearing, is found guilty of~~  
41 ~~unprofessional conduct or incompetence is subject to THE FOLLOWING:~~

- 42 1. A decree of censure. ~~,-~~
- 43 2. Probation as provided in this section. ~~,-~~
- 44 3. Suspension OR REVOCATION of THE license. ~~,- revocation of license,~~

1           4. Imposition of a civil penalty of not less than two hundred fifty  
2 dollars nor more than ten thousand dollars for each violation of this  
3 chapter. ~~or~~  
4           5. Any combination of these sanctions for a period of time or  
5 permanently and under conditions as the board deems appropriate for the  
6 protection of the public health and safety ~~and as is just in the~~  
7 ~~circumstances.~~  
8           ~~H.~~ L. A LICENSEE SHALL RETURN TO THE BOARD a revoked or suspended  
9 license ~~shall be returned to the board~~ within fifteen days after it is  
10 revoked or suspended.