

REFERENCE TITLE: homeopathic board; omnibus

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

## **SB 1236**

Introduced by  
Senator O'Halleran: Representative Stump

### AN ACT

AMENDING SECTIONS 32-1407, 32-1806 AND 32-1904, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 32, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, TO "BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS"; AMENDING SECTIONS 32-2901, 32-2902, 32-2904, 32-2906, 32-2912, 32-2913, 32-2914, 32-2915, 32-2916, 32-2933 AND 32-2934, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 29, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2936; AMENDING SECTION 41-1092, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1407, Arizona Revised Statutes, is amended to  
3 read:

4 32-1407. Jurisdiction arbitration panel

5 A. When the board receives a complaint concerning a physician who is  
6 also licensed pursuant to chapter 29 of this title, the board shall  
7 immediately notify the board of homeopathic ~~medical~~ AND INTEGRATED MEDICINE  
8 examiners. If the boards disagree and if both boards continue to claim  
9 jurisdiction over the dual licensee, an arbitration panel shall decide  
10 jurisdiction pursuant to section 32-2907, subsections B, C, D and E.

11 B. If the licensing boards decide without resorting to arbitration  
12 which board or boards shall conduct the investigation, the board or boards  
13 conducting the investigation shall transmit all investigation materials,  
14 findings and conclusions to the other board with which the physician is  
15 licensed. The board or boards shall review this information to determine if  
16 disciplinary action shall be taken against the physician.

17 Sec. 2. Section 32-1806, Arizona Revised Statutes, is amended to read:

18 32-1806. Jurisdiction arbitration panel

19 A. When the board receives a complaint concerning a physician who is  
20 also licensed pursuant to chapter 29 of this title, the board shall  
21 immediately notify the board of homeopathic ~~medical~~ AND INTEGRATED MEDICINE  
22 examiners. If the boards disagree and if both boards continue to claim  
23 jurisdiction over the dual licensee, an arbitration panel shall decide  
24 jurisdiction pursuant to section 32-2907, subsections B, C, D and E.

25 B. If the licensing boards decide without resorting to arbitration  
26 which board or boards shall conduct the investigation, the board or boards  
27 conducting the investigation shall transmit all investigation materials,  
28 findings and conclusions to the other board with which the physician is  
29 licensed. The board or boards shall review this information to determine if  
30 disciplinary action shall be taken against the physician.

31 Sec. 3. Section 32-1904, Arizona Revised Statutes, is amended to read:

32 32-1904. Powers and duties of board; immunity

33 A. The board shall:

34 1. Make bylaws and adopt rules that are necessary for the protection  
35 of the public and that pertain to the practice of pharmacy, the  
36 manufacturing, wholesaling or supplying of drugs, devices, poisons or  
37 hazardous substances, the use of pharmacy technicians and support personnel  
38 and the lawful performance of its duties.

39 2. Fix standards and requirements for the registration and  
40 reregistration of pharmacies, except as otherwise specified.

41 3. Investigate compliance as to the quality, label and labeling of all  
42 drugs, devices, poisons or hazardous substances and take action necessary to  
43 prevent the sale of these if they do not conform to the standards prescribed  
44 in this chapter, the official compendium or the federal act.

1           4. Enforce its rules. In so doing, the board or its agents have free  
2 access at all reasonable hours to any pharmacy, manufacturer, wholesaler,  
3 nonprescription drug permittee or other establishment in which drugs,  
4 devices, poisons or hazardous substances are manufactured, processed, packed  
5 or held, or to enter any vehicle being used to transport or hold such drugs,  
6 devices, poisons or hazardous substances for the purpose:

7           (a) Of inspecting the establishment or vehicle to determine if any ~~of~~  
8 ~~the~~ provisions of this chapter or the federal act are being violated.

9           (b) Of securing samples or specimens of any drug, device, poison or  
10 hazardous substance after paying or offering to pay for such sample.

11           (c) Of detaining or embargoing a drug, device, poison or hazardous  
12 substance in accordance with section 32-1994.

13           5. Examine and license as pharmacists and pharmacy interns all  
14 qualified applicants as provided by this chapter.

15           6. Issue duplicates of lost or destroyed permits on the payment of a  
16 fee as prescribed by the board.

17           7. Adopt rules for the rehabilitation of pharmacists and pharmacy  
18 interns as provided by this chapter.

19           8. At least once every three months, notify pharmacies regulated  
20 pursuant to this chapter of any modifications on prescription writing  
21 privileges of podiatrists, dentists, doctors of medicine, registered nurse  
22 practitioners, osteopathic physicians, veterinarians, physician assistants,  
23 optometrists and homeopathic physicians of which it receives notification  
24 from the board of podiatry examiners, board of dental examiners, Arizona  
25 medical board, board of nursing, board of osteopathic examiners in medicine  
26 and surgery, veterinary medical examining board, ARIZONA regulatory board of  
27 physician assistants, board of optometry or board of homeopathic ~~medical~~ AND  
28 INTEGRATED MEDICINE examiners.

29           B. The board may:

30           1. Employ chemists, compliance officers, clerical help and other  
31 employees and provide laboratory facilities for the proper conduct of its  
32 business.

33           2. Provide, by education of and information to the licensees and to  
34 the public, assistance in the curtailment of abuse in the use of drugs,  
35 devices, poisons and hazardous substances.

36           3. Approve or reject the manner of storage and security of drugs,  
37 devices, poisons and hazardous substances.

38           4. Accept monies and services to assist in the enforcement of ~~the~~  
39 ~~provisions of~~ this chapter from other than licensees:

40           (a) For performing inspections and other board functions.

41           (b) For the cost of copies of the pharmacy and controlled substances  
42 laws, the annual report of the board, ~~and~~ and other information from the board.

43           5. Adopt rules for professional conduct appropriate to the  
44 establishment and maintenance of a high standard of integrity and dignity in  
45 the profession of pharmacy.

1           6. Grant permission to deviate from a state requirement for  
2 experimentation and technological advances.

3           7. Adopt rules for the training and practice of pharmacy interns,  
4 pharmacy technicians and support personnel.

5           8. Investigate alleged violations of this chapter, conduct hearings in  
6 respect to violations, subpoena witnesses and take such action as it deems  
7 necessary to revoke or suspend a license or a permit, place a licensee or  
8 permittee on probation or warn a licensee or permittee under this chapter or  
9 to bring notice of violations to the county attorney of the county in which a  
10 violation took place or to the attorney general.

11           9. By rule, approve colleges or schools of pharmacy.

12           10. By rule, approve programs of practical experience, clinical  
13 programs, internship training programs, programs of remedial academic work  
14 and preliminary equivalency examinations as provided by this chapter.

15           11. Assist in the continuing education of pharmacists and pharmacy  
16 interns.

17           12. Issue inactive status licenses as provided by this chapter.

18           13. Accept monies and services from the federal government or others  
19 for educational, research or other purposes pertaining to the enforcement of  
20 this chapter.

21           14. By rule, except from the application of all or any part of this  
22 chapter any material, compound, mixture or preparation containing any  
23 stimulant or depressant substance included in section 13-3401, paragraph 6,  
24 subdivision (b) or (c) from the definition of dangerous drug if the material,  
25 compound, mixture or preparation contains one or more active medicinal  
26 ingredients not having a stimulant or depressant effect on the central  
27 nervous system, provided that such admixtures are included in such  
28 combinations, quantity, proportion or concentration as to vitiate the  
29 potential for abuse of the substances that do have a stimulant or depressant  
30 effect on the central nervous system.

31           15. Adopt rules for the revocation, suspension or reinstatement of  
32 licenses or permits or the probation of licensees or permittees as provided  
33 by this chapter.

34           C. The executive director and other permanent or temporary personnel  
35 or agents of the board are not subject to civil liability for any act done or  
36 proceeding undertaken or performed in good faith and in furtherance of the  
37 purposes of this chapter.

38           Sec. 4. Heading change

39           The article heading of title 32, chapter 29, article 1, Arizona Revised  
40 Statutes, is changed from "BOARD OF HOMEOPATHIC MEDICAL EXAMINERS" to "BOARD  
41 OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS".

42           Sec. 5. Section 32-2901, Arizona Revised Statutes, is amended to read:

43           32-2901. Definitions

44           In this chapter, unless the context otherwise requires:

- 1           1. "Acupuncture" means a medical therapy in which ailments are  
2 diagnosed and treated by the specific application of needles, heat or  
3 physical and electromagnetic impulses or currents to specific anatomic points  
4 on the body through any of the following:
- 5           (a) The diagnosis and treatment of ailments according to the  
6 systematic principles of traditional Asian medicine.
- 7           (b) The diagnosis and treatment of pain, neuromuscular disorders and  
8 other ailments based on the body's biophysics and neuroanatomic structure.
- 9           (c) The use of devices to determine the biologic electrical response  
10 pattern of acupuncture points as a guide to diagnose bodily ailments and to  
11 guide the prescription of homeopathic substances, orthomolecular therapy or  
12 pharmaceutical medicine.
- 13           2. "Adequate records" means legible medical records that contain at a  
14 minimum sufficient information to identify the patient, support the  
15 diagnosis, document the treatment, accurately describe the results, indicate  
16 advice, cautionary warnings and informed consent discussions with the patient  
17 and provide sufficient information for another licensed health care  
18 practitioner to assume continuity of the patient's care and to continue or  
19 modify the treatment plan.
- 20           3. "Approved internship" means that the applicant has completed  
21 training in a hospital that was approved for internship, fellowship or  
22 residency training by the council on medical education in hospitals of the  
23 American medical association, the association of American medical colleges,  
24 the royal college of physicians and surgeons of Canada, the American  
25 osteopathic association or any board approved similar body in the United  
26 States or Canada that approves hospitals for internship, fellowship or  
27 residency training.
- 28           4. "Approved school of medicine" means a school or college that offers  
29 a course of study that on successful conclusion results in a degree of doctor  
30 of medicine or doctor of osteopathy and that offers a course of study that is  
31 approved or accredited by the association of American medical colleges, the  
32 association of Canadian medical colleges, the American medical association,  
33 the American osteopathic association or any board approved similar body in  
34 the United States or Canada that accredits this course of study.
- 35           5. "Board" means the board of homeopathic ~~medical~~ AND INTEGRATED  
36 MEDICINE examiners.
- 37           6. "Chelation therapy" means an experimental medical therapy to  
38 restore cellular homeostasis through the use of intravenous, metal-binding  
39 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation  
40 therapy is not an experimental therapy if it is used to treat heavy metal  
41 poisoning.
- 42           7. "Controlled substance" means a drug or substance or a drug's or  
43 substance's immediate precursor that is defined or listed in title 36,  
44 chapter 27, article 2.

1           8. "Drug" means a medication or substance that is any of the  
2 following:

3           (a) Recognized in the official compendia or for which standards or  
4 specifications are prescribed in the official compendia.

5           (b) Intended for use in the diagnosis, cure, mitigation, treatment or  
6 prevention of human diseases.

7           (c) Articles other than food that are intended to affect the structure  
8 or function of the human body.

9           9. "Homeopathic medication" means a substance of animal, vegetable or  
10 mineral origin that is prepared according to homeopathic pharmacology and  
11 that is given usually in a homeopathic microdosage.

12           10. "Homeopathic microdosage" means a substance prepared so that it is  
13 diluted from ten to the minus one to ten to the minus ten thousandth or  
14 higher of its original concentration.

15           11. "Homeopathy" means a system of medicine that employs homeopathic  
16 medication in accordance with the principle that a substance that produces  
17 symptoms in a healthy person can cure those symptoms in an ill person.

18           12. "Immediate family" means a person's spouse, natural or adopted  
19 children, parents and siblings and the natural or adopted children, parents  
20 and siblings of the person's spouse.

21           13. "Letter of concern" means an advisory letter to notify a physician  
22 that, while there is insufficient evidence to support disciplinary action,  
23 the board believes the physician should modify or eliminate certain  
24 practices.

25           14. "Licensee" means a homeopathic physician licensed under this  
26 chapter.

27           15. "Medical assistant" means an unlicensed person who has completed an  
28 educational program approved by the board, who assists in a homeopathic  
29 practice under the supervision of a doctor of homeopathy and who performs  
30 delegated procedures commensurate with the assistant's education and training  
31 but who does not diagnose, interpret, design or modify established treatment  
32 programs or violate any statute.

33           16. "Medical incompetence" means the lack of sufficient medical  
34 knowledge or skill by a licensee to a degree that is likely to endanger a  
35 patient's health. Medical incompetence includes the range of knowledge  
36 expected for basic licensure as a medical or osteopathic physician in any  
37 professional regulatory jurisdiction of the United States and additional  
38 knowledge of homeopathic treatments and modalities expected of physicians  
39 licensed under this chapter.

40           17. "Minor surgery" means surgical procedures that are conducted by a  
41 licensee in an outpatient setting and that involve the removal or repair of  
42 lesions or injuries to the skin, mucous membranes and subcutaneous tissues,  
43 the use of topical, local or regional anesthetic agents, the treatment by  
44 stabilizing or casting nondisplaced and uncomplicated fractures of the  
45 extremities and diagnostic endoscopies of the intestinal tract, nasopharynx

1 and vagina. Minor surgery also includes an uncomplicated vasectomy,  
2 diagnostic aspiration of joints and subcutaneous cysts, therapeutic  
3 injections of muscular trigger points, tendons, ligaments and scars and the  
4 subcutaneous implantation of medical therapeutic agents. Minor surgery may  
5 also include those procedures prescribed by the board by rule. Minor surgery  
6 does not include the use of general, spinal or epidural anesthesia, the  
7 opening of body cavities, the repair of blood vessels and nerves or the  
8 biopsy by incision, excision or needle aspiration of internal organs, the  
9 breast or the prostate.

10 18. "Neuromuscular integration" means musculoskeletal therapy that uses  
11 any combination of manual methods, physical agents and physical medicine  
12 procedures and devices to improve physiological function by normalizing body  
13 structure.

14 19. "Nutrition" means the recommendation by a licensee of therapeutic  
15 or preventative dietary measures, food factor concentrates, fasting and  
16 cleansing regimens and the rebalancing by a licensee of digestive system  
17 function to correct diseases of malnutrition, to resolve conditions of  
18 metabolic imbalance and to support optimal vitality.

19 20. "Orthomolecular therapy" means therapy to provide the optimum  
20 concentration of substances normally present in the human body such as  
21 vitamins, minerals, amino acids and enzymes. Orthomolecular therapy includes  
22 the diagnosis of ailments or physiologic stresses that occur as a result of  
23 genetic or environmental influences as well as acquired or inherited allergy  
24 and hypersensitivity responses.

25 21. "Pharmaceutical medicine" means a drug therapy that uses  
26 prescription-only and nonprescription pharmaceutical agents as well as  
27 medicinal agents of botanical, biological or mineral origin and that is based  
28 on current scientific indications or traditional or historical usage  
29 indications.

30 22. "Practice of homeopathic medicine" means the practice of medicine  
31 in which a person purports to diagnose, treat or correct real or imagined  
32 human diseases, injuries, ailments, infirmities and deformities of a physical  
33 or mental origin and includes acupuncture, chelation therapy, homeopathy,  
34 minor surgery, neuromuscular integration, nutrition, orthomolecular therapy  
35 and pharmaceutical medicine.

36 23. "Preceptorship" means an extended period of individual study with  
37 one or more experienced homeopathic physicians or institutions.

38 24. "Prescription-only drug" does not include a controlled substance  
39 but does include:

40 (a) A drug that is generally regarded by medical experts to be unsafe  
41 if its use and dosage are not supervised by a medical practitioner.

42 (b) A drug that is approved for use under the supervision of a medical  
43 practitioner pursuant to the federal new drug application law or section  
44 32-1962.

1 (c) A potentially harmful drug if its labeling does not contain full  
2 directions for its use by the patient.

3 (d) A drug that is required by federal law to bear on its label the  
4 following words: "Caution: Federal law prohibits dispensing without  
5 prescription."

6 25. "Professional negligence" means any of the following:

7 (a) That a licensee administers treatment to a patient in a manner  
8 that is contrary to accepted practices and that harms the patient if it can  
9 be shown to the board's satisfaction that accepted practices are inherently  
10 less hazardous.

11 (b) That a licensee commits an act of unprofessional conduct or  
12 displays an unreasonable lack of professional skill or fidelity.

13 (c) That a licensee's negligence, carelessness or disregard of  
14 established principles or practice results in a patient's injury, unnecessary  
15 suffering or death.

16 26. "Special purpose licensing examination" means an examination  
17 developed by the national board of medical examiners on behalf of the  
18 federation of state medical boards for use by state licensing boards to test  
19 the basic medical competence of physicians who are applying for licensure and  
20 who have been in practice in another jurisdiction of the United States and to  
21 determine the competence of a physician under investigation by a state  
22 licensing board.

23 Sec. 6. Section 32-2902, Arizona Revised Statutes, is amended to read:

24 32-2902. Board of homeopathic and integrated medicine  
25 examiners; membership; duties; removal; immunity

26 A. The board of homeopathic ~~medical~~ AND INTEGRATED MEDICINE examiners  
27 is established consisting of the following six members appointed by the  
28 governor:

29 1. Two public members.

30 2. Four homeopathic physicians licensed under this chapter.

31 B. Board members serve staggered three year terms ending on June  
32 30. Board members shall not serve more than three consecutive terms. A  
33 board member may continue to serve until that member's replacement takes  
34 office.

35 C. Board members shall be residents of this state for at least three  
36 consecutive years immediately before their appointment.

37 D. The governor may remove a board member from office because of that  
38 member's neglect of duty, malfeasance, misfeasance, incompetence or  
39 unprofessional or dishonorable conduct.

40 E. A board member's term of office automatically ends if that member  
41 is absent from this state for more than six months or if that member fails to  
42 attend three consecutive regularly scheduled board meetings.

43 F. Board members and board employees are immune from civil liability  
44 for any good faith action they take to implement this chapter.

1           Sec. 7. Section 32-2904, Arizona Revised Statutes, is amended to read:

2           32-2904. Powers and duties

3           A. The board shall:

4           1. Conduct all examinations for applicants for a license under this  
5 chapter, issue licenses, conduct hearings, regulate the conduct of licensees  
6 and administer and enforce this chapter.

7           2. Enforce the standards of practice prescribed by this chapter and  
8 board rules.

9           3. Collect and account for all fees under this chapter and deposit,  
10 pursuant to sections 35-146 and 35-147, the monies in the appropriate fund.

11           4. Maintain a record of its acts and proceedings, including the  
12 issuance, refusal to issue, renewal, suspension or revocation of licenses to  
13 practice according to this chapter.

14           5. Maintain a roster of all homeopathic physicians licensed under this  
15 chapter, which shall indicate:

16           (a) The name of the licensed physician.

17           (b) The current professional office address.

18           (c) The date and number of the license issued under this chapter.

19           (d) Whether the licensee is in good standing.

20           6. Adopt and use a seal, the imprint of which, together with the  
21 signatures of the president or vice-president of the board and the  
22 secretary-treasurer, shall evidence its official acts.

23           7. Contract with the department of administration for administrative  
24 and record keeping services.

25           8. Charge additional fees that do not exceed the cost of the services  
26 for services the board deems necessary to carry out its intent and purposes.

27           9. Adopt rules regarding the regulation and the qualifications of  
28 medical assistants.

29           10. Keep board records open to public inspection during normal business  
30 hours.

31           B. The board may:

32           1. Adopt rules necessary or proper for the administration of this  
33 chapter.

34           ~~2. Accredit educational institutions in this state which grant the~~  
35 ~~degree of doctor of medicine in homeopathy.~~

36           ~~3.~~ 2. Hire permanent or temporary personnel to carry out the purposes  
37 of this chapter.

38           ~~4.~~ 3. Hire or contract with investigators to assist in the  
39 investigation of violations of this chapter and contract with other state  
40 agencies if required to carry out this chapter.

41           ~~5.~~ 4. Appoint one of its members to the jurisdiction arbitration  
42 panel pursuant to section 32-2907, subsection B.

43           ~~6.~~ 5. Employ consultants to perform duties the board determines are  
44 necessary to implement this chapter.



1           7. Pays all fees and costs required by the board.

2           8. Completes the application required by the board.

3           B. The board may require an applicant to submit additional written or  
4 oral information and may conduct additional investigations if it determines  
5 that this is necessary to adequately inform itself of the applicant's ability  
6 to meet the requirements of this chapter. ~~IF AN APPLICANT HAS HAD A LICENSE  
7 REVOKED BY OR HAS SURRENDERED A LICENSE TO, ANOTHER JURISDICTION, THE  
8 APPLICANT MAY ATTEMPT TO DEMONSTRATE TO THE BOARD'S SATISFACTION THAT THE  
9 APPLICANT IS COMPLETELY REHABILITATED WITH RESPECT TO THE CONDUCT THAT WAS  
10 THE BASIS FOR THE REVOCATION OR SURRENDER OF THE LICENSE.~~

11           C. ~~THE BOARD SHALL VACATE ITS PREVIOUS ORDER TO DENY A LICENSE IF THAT  
12 DENIAL WAS BASED ON THE APPLICANT'S CONVICTION OF A FELONY OR AN OFFENSE  
13 INVOLVING MORAL TURPITUDE AND THAT CONVICTION HAS BEEN REVERSED ON APPEAL.  
14 THE PHYSICIAN MAY RESUBMIT AN APPLICATION FOR LICENSURE AS SOON AS THE COURT  
15 ENTERS THE REVERSAL.~~

16           ~~C.~~ D. If the board finds that an applicant has committed an act or  
17 engaged in conduct that would constitute grounds for disciplinary action, the  
18 board shall determine to its satisfaction that the conduct has been  
19 corrected, monitored and resolved. If the matter has not been resolved,  
20 before it issues a license the board shall determine to its satisfaction that  
21 mitigating circumstances exist that prevent its resolution. ~~IN DETERMINING  
22 THE MITIGATING CIRCUMSTANCES, THE BOARD MAY CONSIDER CERTAIN FACTORS,  
23 INCLUDING:~~

24           1. ~~THE ABSENCE OF A RECORD OF PRIOR DISCIPLINARY ACTION.~~

25           2. ~~THE ABSENCE OF A DISHONEST OR SELFISH MOTIVE.~~

26           3. ~~TIMELY GOOD FAITH EFFORTS TO RECTIFY CONSEQUENCES OF MISCONDUCT.~~

27           4. ~~INTERIM REHABILITATION.~~

28           5. ~~RE MOTENESS IN TIME OF THE PRIOR OFFENSES.~~

29           6. ~~HOW MUCH CONTROL THE PHYSICIAN HAS OVER PROCESSES IN THE SPECIFIC  
30 PRACTICE SETTING.~~

31           E. ~~EXCEPT AS PROVIDED IN SUBSECTION C, A PERSON SHALL NOT SUBMIT AN  
32 APPLICATION FOR REINSTATEMENT OR A NEW APPLICATION WITHIN FIVE YEARS AFTER  
33 THE PERSON HAS COMPLETELY CORRECTED THE CONDUCT AND MADE FULL LEGAL  
34 RESTITUTION TO THE BOARD'S SATISFACTION.~~

35           ~~D.~~ F. An applicant shall submit a verified completed application to  
36 the board in a form and within a period of time prescribed by the board. The  
37 application shall include:

38           1. The application fee.

39           2. Affidavits from three physicians who are licensed to practice  
40 medicine in any state or district of the United States and who are in active  
41 practice. The physicians shall attest to the applicant's good moral  
42 character and fitness to practice homeopathic medicine.

43           3. A diploma or certificate conferring the degree of doctor of  
44 medicine in homeopathy issued by a homeopathic college or any other  
45 educational institution approved by the board or documentation of the

1 applicant's successful completion of preceptorships or formal postgraduate  
2 courses approved by the board.

3 4. Proof that the applicant has served a board approved internship.

4 5. The applicant's oath that:

5 (a) All of the information contained in the application and the  
6 accompanying evidence or other credentials ~~are~~ IS correct.

7 (b) The applicant submitted the credentials without fraud or  
8 misrepresentation and that the applicant is the lawful holder of the  
9 credentials.

10 (c) The applicant authorizes the release to the board of any  
11 information from any source that the board determines is necessary for it to  
12 act on the application.

13 ~~E.~~ G. The board shall promptly inform an applicant in writing of any  
14 deficiency in the application that prevents the board from acting on it.

15 ~~F.~~ H. The board shall consider an application withdrawn if any of the  
16 following is true:

17 1. The applicant submits a written request to withdraw the  
18 application.

19 2. The applicant without good cause fails to appear for a board  
20 interview.

21 3. The applicant fails to submit information to the board within one  
22 year of the board's request for that information.

23 4. The applicant fails to complete the required examination or  
24 personal interview within one year of submitting the application.

25 Sec. 10. Section 32-2913, Arizona Revised Statutes, is amended to  
26 read:

27 32-2913. Examination; reexamination

28 A. An applicant for licensure shall successfully pass an examination  
29 prescribed by the board. ~~The board may waive this requirement if either of~~  
30 ~~the following is true:~~

31 ~~1. The applicant has practiced primarily homeopathic medicine for the~~  
32 ~~past three years and submits affidavits from three physicians who hold valid~~  
33 ~~medical degrees from educational institutions approved by the board that~~  
34 ~~attest to the applicant's competency for homeopathic practice.~~

35 ~~2. The applicant holds a current, unsuspended and unrevoked license to~~  
36 ~~practice homeopathic medicine issued by another state, district or territory~~  
37 ~~of the United States.~~

38 B. Examination for a license to practice under this chapter shall  
39 include all subjects ~~which~~ THAT are generally accepted as necessary for a  
40 thorough knowledge of the practice of medicine as homeopathic physicians.  
41 The board shall prescribe rules for conducting the examination and shall set  
42 the passing grade.

43 C. The board shall review the examination of any applicant upon the  
44 applicant's request. A grade on an examination reviewed by the board may be  
45 changed only by the majority vote of the members of the board. A person who

1 fails to pass the initial licensure examination may be reexamined within one  
2 year of the date of the receipt of the original application fee without  
3 payment of additional fees. However, the applicant shall pay all additional  
4 fees associated with board prescribed investigatory examinations such as the  
5 special purpose licensing examination.

6 D. In a written examination, applicants shall be designated by numbers  
7 only and the corresponding names shall be kept secret until after the grading  
8 of the examinations.

9 Sec. 11. Section 32-2914, Arizona Revised Statutes, is amended to  
10 read:

11 32-2914. Fees

12 A. The board by formal vote at its annual meeting shall establish fees  
13 and penalties that do not exceed the following:

14 1. Five hundred fifty dollars for an application for a license to  
15 practice homeopathic medicine pursuant to section 32-2912, subsection ~~D~~ F,  
16 paragraph 1.

17 2. Two hundred fifty dollars for issuance of an initial license.

18 3. Fifty dollars for issuance of a duplicate license.

19 4. One thousand dollars for annual renewal of a license.

20 5. Three hundred fifty dollars for late renewal of a license.

21 6. Two hundred dollars for initial and annual renewal of a permit to  
22 dispense drugs and devices.

23 7. Five hundred dollars for an application for a locum tenens  
24 registration.

25 8. Two hundred fifty dollars for issuance of a locum tenens  
26 registration.

27 9. Two hundred dollars for annual renewal of a homeopathic medical  
28 assistant registration.

29 10. Twenty-five cents per page for copying board records, documents,  
30 letters, minutes, applications and files.

31 11. Thirty-five dollars for a copy of an audiotape.

32 12. One hundred dollars for the sale of computerized tapes or diskettes  
33 that do not require programming.

34 13. Two hundred dollars for supervising a homeopathic medical  
35 assistant.

36 ~~14. Fifty dollars for triennial reregistration of supervision of a~~  
37 ~~homeopathic medical assistant.~~

38 ~~15-~~ 14. Three hundred dollars for each initial application and annual  
39 renewal of a registration to conduct a practical educational program for  
40 supervised medical assistants.

41 B. The board may charge a licensee with the board's costs to  
42 administer a special purpose licensing examination related to its  
43 investigation of the licensee's competence.

44 C. The board may charge the actual cost of completing a professional  
45 conduct investigation to the licensee who is the subject of the investigation

1 if the board determines that the licensee violated this chapter or a board  
2 rule.

3 D. The board shall charge additional fees for services that it is not  
4 required to provide under this chapter but that it determines are necessary  
5 to carry out its purpose. The board shall charge only the actual cost of  
6 providing these services.

7 Sec. 12. Section 32-2915, Arizona Revised Statutes, is amended to  
8 read:

9 32-2915. Licensure; issuance; duplicate licenses; renewal;  
10 continuing education; expiration; cancellation

11 A. The board shall issue a license to practice homeopathic medicine in  
12 this state if the applicant meets all board requirements for licensure and  
13 pays the licensure fee.

14 B. The board may issue a duplicate license to a person who holds a  
15 license under this chapter on payment of the duplicate license fee.

16 C. UNTIL JANUARY 1, 2009, by December 1 of each year the executive  
17 director shall notify each licensee of the renewal date and provide the  
18 current renewal form. The executive director shall send this notice by first  
19 class mail to the address the licensee most recently provided to the board.

20 D. UNTIL JANUARY 1, 2009, a licensee shall renew the license on or  
21 before January 1 of each year by submitting a completed renewal form and the  
22 renewal fee. A licensee who fails to do this by February 1 shall also submit  
23 the late fee prescribed in this article. A license expires if it is not  
24 renewed as prescribed by this subsection on or before May 1.

25 E. BEGINNING JANUARY 1, 2009, AT LEAST THIRTY DAYS BEFORE THE FIRST  
26 DAY OF THE MONTH IN WHICH A PHYSICIAN'S LICENSE WAS INITIALLY ISSUED, THE  
27 EXECUTIVE DIRECTOR SHALL NOTIFY THE LICENSEE OF THE RENEWAL DATE AND PROVIDE  
28 A RENEWAL FORM. THE EXECUTIVE DIRECTOR SHALL SEND THIS NOTICE BY FIRST CLASS  
29 MAIL TO THE ADDRESS THE LICENSEE MOST RECENTLY PROVIDED TO THE BOARD.

30 F. BEGINNING JANUARY 1, 2010, EACH LICENSEE SHALL INCLUDE WITH THE  
31 RENEWAL FORM A STATEMENT THAT THE LICENSEE HAS COMPLETED AT LEAST TWENTY  
32 HOURS OF BOARD APPROVED CONTINUING EDUCATION IN THE PRECEDING YEAR. THE  
33 BOARD SHALL NOT RENEW A LICENSE IF THE LICENSEE DOES NOT FULLY DOCUMENT  
34 COMPLIANCE WITH THIS SUBSECTION. THE BOARD MAY WAIVE THE CONTINUING  
35 EDUCATION REQUIREMENTS OF THIS SUBSECTION FOR A PERIOD PRESCRIBED BY THE  
36 BOARD IF THE LICENSEE'S NONCOMPLIANCE WAS DUE TO DISABILITY, MILITARY  
37 SERVICE, ABSENCE FROM THE UNITED STATES OR CIRCUMSTANCES BEYOND THE CONTROL  
38 OF THE LICENSEE. IF A LICENSEE FAILS TO COMPLETE THE CONTINUING EDUCATION  
39 REQUIREMENTS OF THIS SUBSECTION FOR ANY OTHER REASON, THE BOARD MAY GRANT AN  
40 EXTENSION OF NOT MORE THAN SIXTY DAYS. A LICENSEE WHO FAILS TO COMPLY WITH  
41 THE CONTINUING EDUCATION REQUIREMENTS OF THIS SUBSECTION AND WHO HAS NOT BEEN  
42 GRANTED A WAIVER PURSUANT TO THIS SUBSECTION COMMITS AN ACT OF UNPROFESSIONAL  
43 CONDUCT AND IS SUBJECT TO PROBATION OR LICENSURE SUSPENSION OR REVOCATION.

44 G. BEGINNING JANUARY 1, 2009, A LICENSEE SHALL SUBMIT A COMPLETED  
45 APPLICATION FOR LICENSE RENEWAL AND THE RENEWAL FEE EACH YEAR ON OR BEFORE

1 THE LAST DAY OF THE MONTH IN WHICH THE LICENSE WAS INITIALLY ISSUED. A  
2 LICENSE EXPIRES IF IT IS NOT RENEWED WITHIN SIXTY DAYS. A LICENSEE WHO FAILS  
3 TO DO THIS BY THE FIRST DAY OF THE FOLLOWING MONTH MUST ALSO SUBMIT A LATE  
4 FEE AS PRESCRIBED BY THE BOARD. A PERSON WHO PRACTICES HOMEOPATHIC MEDICINE  
5 AFTER A LICENSE HAS EXPIRED IS IN VIOLATION OF THIS CHAPTER.

6 ~~E.~~ H. The board may issue a license to a person whose license has  
7 expired only if that person applies for a license as prescribed in sections  
8 32-2912 and 32-2913.

9 ~~F.~~ I. With each application for licensure renewal, the licensee shall  
10 include a report of disciplinary actions, restriction and any other action  
11 placed on or against the license or practice by any other state regulatory  
12 board or agency of the federal government, including the denial of a license  
13 for failing a special purpose licensing examination. The report shall  
14 include the name and address of the sanctioning agency, the nature of the  
15 action taken and a general statement of the charges leading to the action  
16 taken.

17 ~~G.~~ J. On request of a licensee the board shall cancel that person's  
18 license to practice homeopathic medicine if the licensee is not the subject  
19 of a board investigation or disciplinary proceeding. The board may cancel  
20 the license of a person under investigation for violating this chapter or  
21 board rules if the licensee admits to the violations in writing and on the  
22 board record.

23 Sec. 13. Section 32-2916, Arizona Revised Statutes, is amended to  
24 read:

25 32-2916. Directory; change of address; civil penalty; fees

26 A. The board may publish an annual directory containing the following:  
27 1. The names and addresses of the officers and members of the board.  
28 2. The names and addresses of all persons certified, licensed or  
29 registered by the board.

30 3. The current certified board rules.

31 4. A copy of this chapter.

32 5. A list of approved postgraduate and continuing education courses in  
33 the treatment modalities pertinent to the practice of a homeopathic  
34 physician.

35 6. Additional information that the board determines is of interest and  
36 importance to homeopathic physicians.

37 B. Each licensee shall inform the board in writing of the licensee's  
38 home address, home telephone number, office address and office telephone  
39 number as requested by the board and within forty-five days of a change in  
40 any of this information. The board shall keep a licensee's home address and  
41 home telephone number confidential. The board may assess a licensee who  
42 fails to comply with this subsection with the board's costs to locate the  
43 licensee. The board may also impose a civil penalty on that licensee of not  
44 more than one hundred dollars.

1 C. The board shall provide each licensee with one copy of the  
2 directory free of charge. The board may provide additional copies to the  
3 public and licensee for a cost of not more than twenty-five dollars for each  
4 directory.

5 D. The board shall deposit, pursuant to sections 35-146 and 35-147,  
6 monies collected under this section in the board of homeopathic ~~medical~~ AND  
7 INTEGRATED MEDICINE examiners' fund.

8 Sec. 14. Section 32-2933, Arizona Revised Statutes, is amended to  
9 read:

10 32-2933. Definition of unprofessional conduct

11 "Unprofessional conduct" includes the following acts, whether occurring  
12 in this state or elsewhere:

13 1. Performing an invasive surgical procedure not specifically  
14 permitted by this chapter or by board rules or pursuant to a license issued  
15 under chapter 13 or 17 of this title.

16 2. Wilful betrayal of a professional secret or wilful violation of a  
17 privileged communication except as either of these may otherwise be required  
18 by law. This paragraph does not prevent members of the board from the full  
19 and free exchange of information with the licensing and disciplinary boards  
20 of other states, territories or districts of the United States or with  
21 foreign countries or with the Arizona homeopathic AND INTEGRATIVE medical  
22 association or any of its component organizations or with the homeopathic  
23 medical organizations of other states, counties, districts or territories or  
24 with those of foreign countries.

25 3. Commission of a felony, whether or not involving moral turpitude,  
26 or a misdemeanor involving moral turpitude. In either case, conviction by  
27 any court of competent jurisdiction or a plea of no contest is deemed  
28 conclusive evidence of guilt.

29 4. Habitual intemperance in the use of alcohol or habitual substance  
30 abuse.

31 5. Violating federal, state, county or municipal laws or regulations  
32 applicable to the practice of medicine or relating to public health.

33 6. Prescribing a controlled substance for other than accepted  
34 therapeutic purposes.

35 7. Conduct that the board determines is gross professional negligence,  
36 repeated professional negligence or any negligence that causes the death of a  
37 patient.

38 8. Impersonating another physician.

39 9. Acting or assuming to act as a member of the board if this is not  
40 true.

41 10. Procuring or attempting to procure a license to practice  
42 homeopathic medicine by fraud, by misrepresentation or by knowingly taking  
43 advantage of the mistake of another.

- 1           11. Having professional connection with or lending one's name to an  
2 illegal practitioner of homeopathic medicine or of any of the other healing  
3 arts.
- 4           12. Representing that a manifestly incurable disease, injury, ailment  
5 or infirmity can be permanently cured or that a curable disease, injury,  
6 ailment or infirmity can be cured within a stated time if this is not true.
- 7           13. Offering, undertaking or agreeing to cure or treat a disease,  
8 injury, ailment or infirmity by a secret means, method, device or  
9 instrumentality.
- 10          14. Refusing to divulge to the board on demand the means, method,  
11 device or instrumentality used in the treatment of a disease, injury, ailment  
12 or infirmity.
- 13          15. Giving or receiving or aiding or abetting the giving or receiving  
14 of rebates, either directly or indirectly.
- 15          16. Knowingly making any false or fraudulent statement, written or  
16 oral, in connection with the practice of homeopathic medicine except as the  
17 same may be necessary for accepted therapeutic purposes.
- 18          17. Immorality or misconduct that tends to discredit the profession.
- 19          18. Being disciplined by another regulatory jurisdiction because of the  
20 licensee's mental or physical inability to engage safely in the practice of  
21 medicine, medical incompetence or unprofessional conduct as defined by that  
22 jurisdiction and that corresponds directly or indirectly with an act of  
23 unprofessional conduct prescribed by this section. The disciplinary action  
24 may include refusing, denying, revoking or suspending a license, issuing a  
25 formal reprimand, issuing a decree of censure or otherwise limiting,  
26 restricting or monitoring the licensee or placing the licensee on probation.
- 27          19. Any conduct or practice contrary to recognized standards of ethics  
28 of the homeopathic medical profession, any conduct or practice that does or  
29 might constitute a danger to the health, welfare or safety of the patient or  
30 the public, or any conduct, practice or condition that does or might impair  
31 the ability to practice homeopathic medicine safely and skillfully.
- 32          20. Failing or refusing to maintain adequate records on a patient or to  
33 make patient records promptly available to another physician on request and  
34 receipt of proper authorization.
- 35          21. Advertising in a false, deceptive or misleading manner.
- 36          22. Violating or attempting to violate, directly or indirectly, or  
37 assisting in or abetting the violation of or conspiring to violate this  
38 chapter or any board rule.
- 39          23. Using a controlled substance unless it is prescribed by another  
40 physician for use during a prescribed course of treatment.
- 41          24. Prescribing, dispensing or administering anabolic androgenic  
42 steroids for other than therapeutic purposes.
- 43          25. Prescribing or dispensing controlled substances to members of the  
44 homeopathic physician's immediate family.

1           26. Prescribing, dispensing or administering schedule II controlled  
2 substances as defined in section 36-2513, including amphetamines and similar  
3 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a  
4 period in excess of thirty days in any one year, or the nontherapeutic use of  
5 injectable amphetamines.

6           27. The use of experimental forms of diagnosis and treatment without  
7 adequate informed patient consent, without a board approved written  
8 disclosure that the form of diagnosis and treatment to be used is  
9 experimental and without conforming to generally accepted experimental  
10 criteria, including protocols, detailed records, periodic analysis of results  
11 and periodic review by a peer review committee.

12           28. Sexual intimacies with a patient.

13           29. Use of the designation "M.D." or "D.O." in a way that would lead  
14 the public to believe that a person is licensed by the Arizona medical board  
15 or the board of osteopathic examiners in medicine and surgery in this state  
16 if this is not the case.

17           30. Falsely or fraudulently representing or holding oneself out as  
18 being a homeopathic medical specialist.

19           31. Failing to dispense drugs and devices in compliance with article 4  
20 of this chapter.

21           32. Violating a formal board order, terms of probation or a stipulation  
22 issued or entered into by the board or its designee under this chapter.

23           33. Charging a fee for services not rendered or charging and collecting  
24 a clearly unreasonable fee. In determining the reasonableness of the fee,  
25 the board shall consider the fee customarily charged in this state for  
26 similar services in relation to modifying factors such as the time required,  
27 the complexity of the service and the skill required to perform the service  
28 properly. This paragraph does not apply if there is a clearly written  
29 contract for a fixed fee between the physician and the patient that is  
30 entered into before the physician provides the service.

31           34. Failing to appropriately direct, collaborate with or supervise a  
32 licensed, certified or registered health care provider, a homeopathic medical  
33 assistant or office personnel employed or assigned to the physician to assist  
34 in the medical care of patients.

35           35. Knowingly making a false or misleading statement on a form required  
36 by the board or in written correspondence with the board.

37           36. Failing to furnish legally requested information in a timely manner  
38 to the board or its investigators or representatives.

39           37. Failing to allow properly authorized board personnel to examine or  
40 have access to a licensee's documents, reports or records that relate to the  
41 licensee's medical practice or medically related activities.

42           38. Signing a blank, undated or predated prescription form.

43           39. Refusing to submit to a body fluid examination required under  
44 section 32-2941 or pursuant to a board investigation into the licensee's  
45 substance abuse.

1           40. PRESCRIBING, DISPENSING OR FURNISHING A PRESCRIPTION MEDICATION OR  
2 A PRESCRIPTION-ONLY DEVICE AS DEFINED IN SECTION 32-1901 TO A PERSON UNLESS  
3 THE LICENSEE FIRST CONDUCTS A COMPREHENSIVE PHYSICAL OR MENTAL HEALTH STATUS  
4 EXAMINATION OF THAT PERSON OR HAS PREVIOUSLY ESTABLISHED A DOCTOR-PATIENT  
5 RELATIONSHIP. THIS PARAGRAPH DOES NOT APPLY TO:

6           (a) A PHYSICIAN WHO PROVIDES TEMPORARY PATIENT SUPERVISION ON BEHALF  
7 OF THE PATIENT'S REGULAR TREATING LICENSED HEALTH CARE PROFESSIONAL.

8           (b) EMERGENCY MEDICAL SITUATIONS AS DEFINED IN SECTION 41-1831.

9           (c) PRESCRIPTIONS WRITTEN TO PREPARE A PATIENT FOR A MEDICAL  
10 EXAMINATION.

11           (d) PRESCRIPTIONS WRITTEN OR PRESCRIPTION MEDICATIONS ISSUED FOR USE  
12 BY A COUNTY OR TRIBAL PUBLIC HEALTH DEPARTMENT FOR IMMUNIZATION PROGRAMS, AN  
13 EMERGENCY TREATMENT, IN RESPONSE TO AN INFECTIOUS DISEASE INVESTIGATION, A  
14 PUBLIC HEALTH EMERGENCY, AN INFECTIOUS DISEASE OUTBREAK OR AN ACT OF  
15 BIOTERRORISM. FOR THE PURPOSES OF THIS SUBDIVISION, "BIOTERRORISM" HAS THE  
16 SAME MEANING PRESCRIBED IN SECTION 36-781.

17           41. FAILING TO OBTAIN FROM A PATIENT BEFORE AN EXAMINATION OR TREATMENT  
18 A SIGNED INFORMED CONSENT THAT INCLUDES LANGUAGE THAT MAKES IT CLEAR THE  
19 PHYSICIAN IS PROVIDING HOMEOPATHIC MEDICAL TREATMENT INSTEAD OF OR IN  
20 ADDITION TO STANDARD CONVENTIONAL ALLOPATHIC OR OSTEOPATHIC TREATMENT.

21           Sec. 15. Section 32-2934, Arizona Revised Statutes, is amended to  
22 read:

23           32-2934. Grounds for suspension or revocation of license; duty  
24 to report; unprofessional conduct hearing; decision  
25 of board

26           A. The board on its own motion may investigate any evidence that  
27 appears to show that a homeopathic physician is or may be medically  
28 incompetent, guilty of unprofessional conduct or mentally or physically  
29 unable to engage safely in the practice of medicine. Any homeopathic  
30 physician, the Arizona homeopathic AND INTEGRATIVE medical association or any  
31 health care institution as defined in section 36-401 shall, and any other  
32 person may, report to the board any information the person may have that  
33 appears to show that a homeopathic physician is or may be medically  
34 incompetent, guilty of unprofessional conduct or mentally or physically  
35 unable to engage safely in the practice of medicine. The board shall notify  
36 the homeopathic physician about whom information is received as to the  
37 content of the information within one hundred twenty days after receipt of  
38 the information. Any person who reports or provides information to the board  
39 in good faith is not subject to an action for civil damages as a result of  
40 reporting or providing the information, and the person's name shall not be  
41 disclosed unless the person's testimony is essential to the disciplinary  
42 proceedings conducted pursuant to this section. It is an act of  
43 unprofessional conduct for any homeopathic physician to fail to report as  
44 required by this section. Any health care institution that fails to report

1 as required by this section shall be reported by the board to the  
2 institution's licensing agency.

3 B. A health care institution shall inform the board if the privileges  
4 of a homeopathic physician to practice in the health care institution are  
5 denied, revoked, suspended or limited because of actions by the homeopathic  
6 physician that jeopardized patient health and welfare or if the physician  
7 resigns during pending proceedings for revocation, suspension or limitation  
8 of privileges. A report to the board pursuant to this subsection shall  
9 contain a general statement of the reasons the health care institution denied  
10 or took action to revoke, suspend or limit a homeopathic physician's  
11 privileges.

12 C. The board may conduct investigations necessary to fully inform  
13 itself with respect to any evidence filed with the board under subsection A  
14 of this section. As part of this investigation, the board may require the  
15 physician under investigation to be interviewed by board representatives or  
16 to undergo any combination of mental, physical, oral or written medical  
17 competency examinations.

18 D. If the information gathered under subsections A and B of this  
19 section indicates that the protection of public health requires that the  
20 board take emergency action, it may order the summary suspension of a license  
21 pending the outcome of a formal disciplinary hearing pursuant to title 41,  
22 chapter 6, article 10. The board shall serve the suspended licensee with a  
23 written notice of the specific charges and the time and place of the formal  
24 hearing. The board shall hold this hearing within sixty days of the  
25 suspension unless the board for good reason shown by the licensee grants an  
26 extension on the hearing date.

27 E. If, after completing its investigation, the board finds that the  
28 information provided pursuant to subsection A of this section is not of  
29 sufficient seriousness to merit direct action against the license of the  
30 homeopathic physician, it may take any of the following actions:

31 1. Dismiss if, in the opinion of the board, the information is without  
32 merit.

33 2. File a letter of concern.

34 3. Issue a nondisciplinary order requiring the licensee to complete a  
35 prescribed number of hours of continuing education in an area or areas  
36 prescribed by the board to provide the licensee with the necessary  
37 understanding of current developments, skills, procedures or treatment.

38 F. If after completing its initial investigation under subsection A of  
39 this section the board determines that rehabilitative or disciplinary action  
40 can be taken without the presence of the licensee at an informal interview,  
41 the board and the licensee may enter into a stipulated agreement to limit or  
42 restrict the licensee's practice or to rehabilitate the licensee, protect the  
43 public and ensure the licensee's ability to safely engage in the practice of  
44 homeopathic medicine.

1 G. If after completing its investigation the board believes that this  
2 information is or may be true, the board may request an informal interview  
3 with the homeopathic physician. If the homeopathic physician refuses the  
4 invitation or accepts the invitation and the results of the interview  
5 indicate that suspension or revocation of the license may be in order, the  
6 board shall issue a formal complaint and conduct a formal hearing pursuant to  
7 title 41, chapter 6, article 10. If after completing the informal interview  
8 the board finds that the information provided under subsection A of this  
9 section is not of sufficient seriousness to merit suspension or revocation of  
10 the license, it may take the following actions:

11 1. Dismiss if, in the opinion of the board, the information is without  
12 merit.

13 2. File a letter of concern.

14 3. Issue a decree of censure. A decree of censure constitutes an  
15 official action against the homeopathic physician's license and may include a  
16 requirement for restitution of fees to a patient resulting from violations of  
17 this chapter or board rules.

18 4. Fix a period and terms of probation best adapted to protect the  
19 public health and safety and rehabilitate or educate the homeopathic  
20 physician. The probation, if deemed necessary, may include temporary  
21 suspension of the license for not to exceed twelve months, restriction of the  
22 homeopathic physician's license to practice medicine or a requirement for  
23 restitution of fees to a patient resulting from violations of this chapter or  
24 board rules. If a licensee fails to comply with the terms of probation, the  
25 board may file a summons, complaint and notice of hearing pursuant to title  
26 41, chapter 6, article 10 based on the information considered by the board at  
27 the informal interview and any other acts or conduct alleged to be in  
28 violation of this chapter or board rules.

29 5. Enter into an agreement with the homeopathic physician to restrict  
30 or limit the homeopathic physician's practice or medical activities in order  
31 to rehabilitate the homeopathic physician, protect the public and ensure the  
32 homeopathic physician's ability to safely engage in the practice of medicine.

33 6. Issue a nondisciplinary order requiring the licensee to complete a  
34 prescribed number of hours of continuing education in an area or areas  
35 prescribed by the board to provide the licensee with the necessary  
36 understanding of current developments, skills, procedures or treatment.

37 H. In an informal interview or a formal hearing the board, in addition  
38 to any other action that it may take, may impose an administrative penalty in  
39 an amount of not less than five hundred dollars but not to exceed two  
40 thousand dollars on a homeopathic physician who violates this chapter or a  
41 board rule. Actions to enforce the collection of these penalties shall be  
42 brought in the name of this state by the attorney general or the county  
43 attorney in the justice court or the superior court in the county in which  
44 the violation occurred. Penalties imposed under this section are in addition  
45 to and not in limitation of other penalties imposed pursuant to this chapter.

1 I. If in the opinion of the board it appears that the allegations  
2 concerning a homeopathic physician are of a magnitude as to warrant  
3 suspension or revocation of the license, the board shall serve on the  
4 physician a summons and a complaint fully setting forth the conduct or  
5 inability concerned and setting a date, time and place for a hearing pursuant  
6 to title 41, chapter 6, article 10 to be held before the board in not less  
7 than sixty days from the date of the notice.

8 J. A licensee who wishes to be present at the hearing in person or by  
9 representation, or both, shall file a verified answer with the board within  
10 twenty days after receiving service of the summons and complaint. The  
11 licensee may present witnesses at this hearing.

12 K. The board shall issue subpoenas for witnesses as it may need and  
13 for witnesses as the physician may request. Any person refusing to obey a  
14 subpoena shall be certified by the board to the superior court in the county  
15 in which service was made, and the court may institute proceedings for  
16 contempt of court.

17 L. Service of the summons and complaint shall be as required in civil  
18 cases.

19 M. Service of subpoenas for witnesses shall be as provided by law for  
20 the service of subpoenas generally.

21 N. Any homeopathic physician who after a hearing is found to be guilty  
22 of unprofessional conduct or is found to be mentally or physically unable to  
23 engage safely in the practice of homeopathic medicine is subject to any  
24 combination of censure, probation or suspension of license or revocation of  
25 the license for a prescribed period of time or permanently and under  
26 conditions that the board deems appropriate for the protection of the public  
27 health and safety and just in the circumstances.

28 O. If the board acts to modify any homeopathic physician's  
29 prescription writing privileges, it shall immediately notify the Arizona  
30 state board of pharmacy of the modification.

31 P. Notwithstanding section 32-2906, subsection A, the board shall  
32 deposit, pursuant to sections 35-146 and 35-147, all monies collected from  
33 administrative penalties paid pursuant to this section in the state general  
34 fund.

35 Q. A letter of concern is a nondisciplinary public document that the  
36 board may use in future disciplinary actions.

37 Sec. 16. Title 32, chapter 29, article 3, Arizona Revised Statutes, is  
38 amended by adding section 32-2936, to read:

39 32-2936. Patient records

40 A LICENSEE MUST KEEP A PATIENT'S MEDICAL RECORDS AS FOLLOWS:

41 1. IF THE PATIENT IS AN ADULT, FOR AT LEAST SEVEN YEARS AFTER THE LAST  
42 DATE THE LICENSEE PROVIDED THE PATIENT WITH MEDICAL OR HEALTH CARE SERVICES.

43 2. IF THE PATIENT IS A CHILD, EITHER FOR AT LEAST THREE YEARS AFTER  
44 THE CHILD'S EIGHTEENTH BIRTHDAY OR FOR AT LEAST SEVEN YEARS AFTER THE LAST

1 DATE THE LICENSEE PROVIDED THAT PATIENT WITH MEDICAL OR HEALTH CARE SERVICES,  
2 WHICHEVER DATE OCCURS FIRST.

3 3. IF THE PATIENT DIES BEFORE THE EXPIRATION OF THE DATES PRESCRIBED  
4 IN PARAGRAPH 1 OR 2, FOR AT LEAST THREE YEARS AFTER THE PATIENT'S DEATH.

5 Sec. 17. Section 41-1092, Arizona Revised Statutes, is amended to  
6 read:

7 41-1092. Definitions

8 In this article, unless the context otherwise requires:

9 1. "Administrative law judge" means an individual or an agency head,  
10 board or commission that sits as an administrative law judge, that conducts  
11 administrative hearings in a contested case or an appealable agency action  
12 and that makes decisions regarding the contested case or appealable agency  
13 action.

14 2. "Administrative law judge decision" means the findings of fact,  
15 conclusions of law and recommendations or decisions issued by an  
16 administrative law judge.

17 3. "Appealable agency action" means an action that determines the  
18 legal rights, duties or privileges of a party and that is not a contested  
19 case. Appealable agency actions do not include interim orders by  
20 self-supporting regulatory boards or rules, orders, standards or statements  
21 of policy of general application issued by an administrative agency to  
22 implement, interpret or make specific the legislation enforced or  
23 administered by it, nor does it mean or include rules concerning the internal  
24 management of the agency that do not affect private rights or interests. For  
25 the purposes of this paragraph, administrative hearing does not include a  
26 public hearing held for the purpose of receiving public comment on a proposed  
27 agency action.

28 4. "Director" means the director of the office of administrative  
29 hearings.

30 5. "Final administrative decision" means a decision by an agency that  
31 is subject to judicial review pursuant to title 12, chapter 7, article 6.

32 6. "Office" means the office of administrative hearings.

33 7. "Self-supporting regulatory board" means any one of the following:

34 (a) The ARIZONA state board of accountancy.

35 (b) The state board of appraisal.

36 (c) The board of barbers.

37 (d) The board of behavioral health examiners.

38 (e) The Arizona state boxing commission.

39 (f) The state board of chiropractic examiners.

40 (g) The board of cosmetology.

41 (h) The state board of dental examiners.

42 (i) The state board of funeral directors and embalmers.

43 (j) The Arizona game and fish commission.

44 (k) The board of homeopathic ~~medical~~ AND INTEGRATED MEDICINE  
45 examiners.

- 1 (l) The Arizona medical board.
- 2 (m) The naturopathic physicians board of medical examiners.
- 3 (n) The state board of nursing.
- 4 (o) The board of examiners of nursing care institution administrators
- 5 and adult care home managers.
- 6 (p) The board of occupational therapy examiners.
- 7 (q) The state board of dispensing opticians.
- 8 (r) The state board of optometry.
- 9 (s) The Arizona board of osteopathic examiners in medicine and
- 10 surgery.
- 11 (t) The Arizona peace officer standards and training board.
- 12 (u) The Arizona state board of pharmacy.
- 13 (v) The board of physical therapy examiners.
- 14 (w) The state board of podiatry examiners.
- 15 (x) The state board for private postsecondary education.
- 16 (y) The state board of psychologist examiners.
- 17 (z) The board of respiratory care examiners.
- 18 (aa) The structural pest control commission.
- 19 (bb) The state board of technical registration.
- 20 (cc) The Arizona state veterinary medical examining board.
- 21 (dd) The acupuncture board of examiners.
- 22 (ee) The Arizona regulatory board of physician assistants.
- 23 (ff) The board of athletic training.
- 24 (gg) The board of massage therapy.

25 Sec. 18. Homeopaths; change of licensure renewal date;  
26 prorating of fees

27 In the first year of the change to a licensure renewal date that is  
28 based on the month in which the board of homeopathic and integrated medicine  
29 examiners initially issued a homeopathic physician's license, the executive  
30 director shall prorate the annual license renewal fee for each licensee by  
31 dividing the annual amount by twelve and multiplying the result by the number  
32 of months remaining between January 1, 2009 and the renewal month.