

REFERENCE TITLE: chiropractic board; disciplinary action

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

SB 1271

Introduced by
Senator Allen

AN ACT

AMENDING SECTION 32-924, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF CHIROPRACTIC EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-924, Arizona Revised Statutes, is amended to
3 read:
4 32-924. Grounds for disciplinary action; hearing; civil
5 penalty; definition
6 A. The following are grounds for disciplinary action, regardless of
7 where they occur:
8 1. Employment of fraud or deception in securing a license.
9 2. Practicing chiropractic under a false or assumed name.
10 3. Impersonating another practitioner.
11 4. Habitual use of alcohol, narcotics or stimulants to the extent of
12 incapacitating the licensee for the performance of professional duties.
13 5. Unprofessional or dishonorable conduct of a character likely to
14 deceive or defraud the public or tending to discredit the profession.
15 6. Conviction of a misdemeanor involving moral turpitude or of a
16 felony.
17 7. Gross malpractice, repeated malpractice or any malpractice
18 resulting in the death of a patient.
19 8. Representing that a manifestly incurable condition can be
20 permanently cured, or that a curable condition can be cured within a stated
21 time, if this is not true.
22 9. Offering, undertaking or agreeing to cure or treat a condition by a
23 secret means, method, device or instrumentality.
24 10. Refusing to divulge to the board on demand the means, method,
25 device or instrumentality used in the treatment of a condition.
26 11. Giving or receiving or aiding or abetting the giving or receiving
27 of rebates, either directly or indirectly.
28 12. Acting or assuming to act as a member of the board if this is not
29 true.
30 13. Advertising in a false, deceptive or misleading manner.
31 14. Refusal, revocation or suspension of a license by any other state
32 or country, unless it can be shown that the action was not taken for reasons
33 that relate to the ability to safely and skillfully practice chiropractic or
34 to any act of unprofessional conduct.
35 15. Any conduct or practice contrary to recognized standards **OF ETHICS**
36 in chiropractic or any conduct or practice that constitutes a danger to the
37 health, welfare or safety of the patient or the public or any conduct,
38 practice or condition that impairs the ability of the licensee to safely and
39 skillfully practice chiropractic.
40 16. Violating or attempting to violate, directly or indirectly, or
41 assisting in or abetting the violation of or conspiring to violate any of the
42 provisions of this chapter or any board order.

1 17. Failing to sign the physician's name, wherever required, in any
2 capacity as "chiropractic doctor", "chiropractic physician" or "doctor of
3 chiropractic" or failing to use and affix the initials "D.C." after the
4 physician's name.

5 18. Failing to place or cause to be placed the word or words
6 "chiropractic", "chiropractor", "chiropractic doctor" or "chiropractic
7 physician" in any sign or advertising media.

8 19. Using physiotherapy without passing an examination in that subject
9 and without being certified in that specialty by the board.

10 20. Using acupuncture without passing an examination in that subject
11 and without being certified in that specialty by the board.

12 21. Engaging in sexual intercourse or oral sexual contact with a
13 patient in the course of treatment.

14 22. Billing or otherwise charging a patient or third party payor for
15 services, appliances, tests, equipment, an x-ray examination or other
16 procedures not actually provided.

17 23. Intentionally misrepresenting to or omitting a material fact from
18 the patient or third party payor concerning charges, services, appliances,
19 tests, equipment, an x-ray examination or other procedures offered or
20 provided.

21 24. Advertising chiropractic services, appliances, tests, equipment,
22 x-ray examinations or other procedures for a specified price without also
23 specifying the services, procedures or items included in the advertised
24 price.

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

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

31 27. Advertising a specialty or procedure that requires a separate
32 examination or certificate of specialty, unless the licensee has satisfied
33 the applicable requirements of this chapter.

34 28. Solicitation by the licensee or by the licensee's compensated agent
35 of any person who is not previously known by the licensee or the licensee's
36 agent, and who at the time of the solicitation is vulnerable to undue
37 influence, including any person known to have experienced any of the
38 following within the last fifteen days:

39 (a) Involvement in a motor vehicle accident.

40 (b) Involvement in a work-related accident.

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

42 B. The board on its own motion or on receipt of a complaint may
43 investigate any information that appears to show that a doctor of
44 chiropractic is or may be in violation of this chapter or board rules or is
45 or may be mentally or physically unable to safely engage in the practice of

1 chiropractic. The board shall notify the licensee as to the content of the
2 complaint as soon as is reasonable. Any person who reports or provides
3 information to the board in good faith is not subject to civil damages as a
4 result of that action.

5 C. The board may require a licensee under investigation pursuant to
6 this section to be interviewed by the board or its representatives. The
7 board may require a licensee who is under investigation pursuant to this
8 section to undergo, at the licensee's expense, any combination of medical,
9 physical or mental examinations that the board finds necessary to determine
10 the licensee's competence.

11 D. If the board finds based on the information it receives under
12 subsections B and C that the public health, safety or welfare imperatively
13 requires emergency action, and incorporates a finding to that effect in its
14 order, the board may order a summary suspension of a license pending
15 proceedings for revocation or other action. If the board takes this action
16 it shall also serve the licensee with a written notice that states the
17 charges and that the licensee is entitled to a formal hearing within sixty
18 days.

19 E. If, after completing its investigation, the board finds that the
20 information provided pursuant to this section is not of sufficient
21 seriousness to merit disciplinary action against the licensee, it may take
22 any of the following actions:

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

25 2. Issue an advisory letter. An advisory letter is a nondisciplinary
26 action and is a public document.

27 3. Issue a nondisciplinary order requiring the licensee to complete a
28 prescribed number of hours of continuing education in an area or areas
29 prescribed by the board to provide the licensee with the necessary
30 understanding of current developments, skills, procedures or treatment.
31 Failure to complete a nondisciplinary order requiring continuing education is
32 a violation of subsection A, paragraph 16.

33 F. The board may request a formal interview with the licensee
34 concerned. At a formal interview the board may receive and consider
35 pertinent documents and sworn statements of persons who may be called as
36 witnesses in a formal hearing. Legal counsel may be present and participate
37 in the formal interview. If the licensee refuses the request or if the
38 licensee accepts the request and the results of the interview indicate
39 suspension or revocation of the license may be in order, the board shall
40 issue a complaint and order that a hearing be held pursuant to title 41,
41 chapter 6, article 10. If, after the formal interview, the board finds that
42 the information provided pursuant to this section is true but is not of
43 sufficient seriousness to merit suspension or revocation of the license, it
44 may take any of the following actions:

- 1 1. Dismiss the complaint if in the board's opinion the information is
2 without merit or does not warrant sanction of the licensee.
- 3 2. Issue an advisory letter. An advisory letter is a nondisciplinary
4 action and is a public document.
- 5 3. Issue an order to cease and desist.
- 6 4. Issue a letter of concern.
- 7 5. Issue an order of censure. An order of censure is an official
8 action against the licensee and may include a requirement for restitution of
9 fees to a patient resulting from a violation of this chapter or board rules.
- 10 6. Fix a period and terms of probation best adapted to protect the
11 public health and safety and to rehabilitate or educate the licensee. Any
12 costs incidental to the terms of probation are at the licensee's own expense.
13 Probation may include restrictions on the licensee's license to practice
14 chiropractic.
- 15 7. Impose a civil penalty of not more than one thousand dollars for
16 each violation of this chapter.
- 17 8. Refuse to renew a license.
- 18 9. Issue a disciplinary or nondisciplinary order requiring the
19 licensee to complete a prescribed number of hours of continuing education in
20 an area or areas prescribed by the board to provide the licensee with the
21 necessary understanding of current developments, skills, procedures or
22 treatment.
- 23 G. If the board believes the charge is of such magnitude as to warrant
24 suspension or revocation of the license, the board shall immediately initiate
25 formal revocation or suspension proceedings pursuant to title 41, chapter 6,
26 article 10. The board shall notify a licensee of a complaint and hearing by
27 certified mail addressed to the licensee's last known address on record in
28 the board's files. The notice of a complaint and hearing is effective on the
29 date of its deposit in the mail. The board shall hold a formal hearing
30 within one hundred eighty days after that date.
- 31 H. If the licensee wishes to be present at the formal hearing in
32 person or by representation, or both, the licensee shall file with the board
33 an answer to the charges in the complaint. The answer shall be in writing,
34 verified under oath and filed within twenty days after service of the
35 complaint.
- 36 I. Any licensee who, after a hearing, is found to be in violation of
37 this chapter or board rules or is found to be mentally or physically unable
38 to safely engage in the practice of chiropractic is subject to any
39 combination of those disciplinary actions identified in subsection F or
40 suspension or revocation of the license. In addition, the board may order
41 the licensee to pay restitution or all costs incurred in the course of the
42 investigation and formal hearing in the matter, or both.
- 43 J. The board shall report allegations of evidence of criminal
44 wrongdoing to the appropriate criminal justice agency.

1 K. The board may accept the surrender of an active license from a
2 licensee who admits in writing to having violated this chapter or board
3 rules.

4 L. For the purposes of this section, "solicitation" includes contact
5 in person, by telephone, telegraph or telefacsimile or by other communication
6 directed to a specific recipient and includes any written form of
7 communication directed to a specific recipient.