

**State of Arizona**  
**Board of Behavioral Health Examiners**

Arizona Revised Statutes

Title 32 – Professions and Occupations

Chapter 33 – Behavioral Health Professionals

## **Article 1 Board of Behavioral Health Examiners**

### 32-3251. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the board of behavioral health examiners.
2. "Client" means a patient who receives behavioral health services from a person licensed pursuant to this chapter.
3. "Credentialing committee" means a committee established pursuant to this chapter.
4. "Letter of concern" means a nondisciplinary written document sent by the board to notify a licensee that, while there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.
5. "Licensee" means a person licensed pursuant to this chapter.
6. "Practice of behavioral health" means the practice of marriage and family therapy, professional counseling, social work and substance abuse counseling pursuant to this chapter.
7. "Practice of marriage and family therapy" means the professional application of family systems theories, principles and techniques to treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral. The practice of marriage and family therapy includes:
  - (a) Assessment, appraisal and diagnosis.
  - (b) The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.
8. "Practice of professional counseling" means the professional application of mental health, psychological and human development theories, principles and techniques to:
  - (a) Facilitate human development and adjustment throughout the human life span.
  - (B) Assess and facilitate career development.
  - (c) Treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral.
  - (d) Manage symptoms of mental illness.
  - (e) Assess, appraise, evaluate, diagnose and treat individuals, couples, families and groups through the use of psychotherapy.
9. "Practice of social work" means the professional application of social work theory, principles, methods and techniques to:
  - (a) Treat mental and emotional disorders.

- (b) Assist individuals, families, groups and communities to enhance or restore the ability to function physically, socially, emotionally, mentally and economically.
- (c) Assess, appraise, diagnose, evaluate and treat individuals, couples, families and groups through the use of psychotherapy.

10. "Practice of substance abuse counseling" means the professional application of general counseling theories, principles and techniques as specifically adapted, based on research and clinical experience, to the specialized needs and characteristics of persons who are experiencing substance abuse, chemical dependency and related problems and to the families of those persons. The practice of substance abuse counseling includes the following as they relate to substance abuse and chemical dependency issues:

- (a) Assessment, appraisal and diagnosis.
- (b) The use of psychotherapy for the purpose of evaluation, diagnosis and treatment of individuals, couples, families and groups.

11. "Psychotherapy" means a variety of treatment methods developing out of generally accepted theories about human behavior and development.

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

- (a) Conviction of a felony. Conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the conviction.
- (b) Use of fraud or deceit in connection with rendering services as a licensee or in establishing qualifications pursuant to this chapter.
- (c) Any oral or written misrepresentation of a fact by an applicant or licensee:
  - (i) To secure or attempt to secure the issuance or renewal of a license.
  - (ii) In any statements provided during an investigation or disciplinary proceeding by the board.
  - (iii) Regarding the licensee's skills or the value of any treatment provided or to be provided.
- (d) Any false, fraudulent or deceptive statement connected with the practice of behavioral health, including false or misleading advertising by the licensee or the licensee's staff or a representative compensated by the licensee.
- (e) Securing or attempting to secure the issuance or renewal of a license by knowingly taking advantage of the mistake of another person or the board.
- (f) Active habitual intemperance in the use of alcohol or active habitual substance abuse.
- (g) Using a controlled substance that is not prescribed for use during a prescribed course of treatment.
- (h) Obtaining a fee by fraud, deceit or misrepresentation.
  - (i) Aiding or abetting a person who is not licensed pursuant to this chapter to purport to be a licensed behavioral health professional in this state.
  - (j) Conduct that the board determines is gross negligence or repeated negligence in the licensee's profession.
  - (k) Any conduct or practice that is contrary to recognized standards of ethics in the behavioral health profession or that constitutes a danger to the health, welfare or safety of a client.

- (l) Any conduct, practice or condition that impairs the ability of the licensee to safely and competently practice the licensee's profession.
- (m) Engaging or offering to engage as a licensee in activities that are not congruent with the licensee's professional education, training or experience.
- (n) Failing to comply with or violating, attempting to violate or assisting in or abetting the violation of any provision of this chapter, any rule adopted pursuant to this chapter, any lawful order of the board, or any formal order, consent agreement, term of probation or stipulated agreement issued under this chapter.
- (o) Failing to furnish information within a specified time to the board or its investigators or representatives if legally requested by the board.
- (p) Failing to conform to minimum practice standards as developed by the board.
- (q) Failing or refusing to maintain adequate records of behavioral health services provided to a client.
- (r) Providing behavioral health services that are clinically unjustified or unsafe or otherwise engaging in activities as a licensee that are unprofessional by current standards of practice.
- (s) Terminating behavioral health services to a client without making an appropriate referral for continuation of care for the client if continuing behavioral health services are indicated.
- (t) Disclosing a professional confidence or privileged communication except as may otherwise be required by law or permitted by a valid written release.
- (u) Failing to allow the board or its investigators on demand to examine and have access to documents, reports and records in any format maintained by the licensee that relate to the licensee's practice of behavioral health.
- (v) Any sexual conduct between a licensee and a client or former client.
- (w) Providing behavioral health services to any person with whom the licensee has had sexual contact.
- (x) Exploiting a client, former client or supervisee. For the purposes of this subdivision, "exploiting" means taking advantage of a professional relationship with a client, former client or supervisee for the benefit or profit of the licensee.
- (y) Engaging in a dual relationship with a client that could impair the licensee's objectivity or professional judgment or create a risk of harm to the client. For the purposes of this subdivision, "dual relationship" means a licensee simultaneously engages in both a professional and nonprofessional relationship with a client that is avoidable and not incidental.
- (z) Engaging in physical contact between a licensee and a client if there is a reasonable possibility of physical or psychological harm to the client as a result of that contact.
- (aa) Sexually harassing a client, former client, research subject, supervisee or coworker. For the purposes of this subdivision, "sexually harassing" includes sexual advances, sexual solicitation, requests for sexual favors, unwelcome comments or gestures or any other verbal or physical conduct of a sexual nature.
- (bb) Harassing, exploiting or retaliating against a client, former client, research subject, supervisee, coworker or witness or a complainant in a disciplinary investigation or proceeding involving a licensee.
- (cc) Failing to take reasonable steps to inform potential victims and appropriate authorities if the licensee becomes aware during the course of providing or supervising behavioral health services that a client's condition indicates a clear and imminent danger to the client or others.

- (dd) Failing to comply with the laws of the appropriate licensing or credentialing authority to provide behavioral health services by electronic means in all governmental jurisdictions where the client receiving these services resides.
- (ee) Giving or receiving a payment, kickback, rebate, bonus or other remuneration for a referral.
- (ff) Failing to report in writing to the board information that would cause a reasonable licensee to believe that another licensee is guilty of unprofessional conduct or is physically or mentally unable to provide behavioral health services competently or safely. This duty does not extend to information provided by a licensee that is protected by the behavioral health professional-client privilege unless the information indicates a clear and imminent danger to the client or others or is otherwise subject to mandatory reporting requirements pursuant to state or federal law.
- (gg) Failing to follow federal and state laws regarding the storage, use and release of confidential information regarding a client's personal identifiable information or care.
- (hh) Failing to retain records pursuant to section 12-2297.
- (ii) Violating any federal or state law, rule or regulation applicable to the practice of behavioral health.
- (jj) Failing to make client records in the licensee's possession available in a timely manner to another health professional or licensee on receipt of proper authorization to do so from the client, a minor client's parent, the client's legal guardian or the client's authorized representative.
- (kk) Failing to make client records in the licensee's possession promptly available to the client, a minor client's parent, the client's legal guardian or the client's authorized representative on receipt of proper authorization to do so from the client, a minor client's parent, the client's legal guardian or the client's authorized representative.
- (ll) Being the subject of the revocation, suspension, surrender or any other disciplinary sanction of a professional license, certificate or registration or other adverse action related to a professional license, certificate or registration in another jurisdiction or country, including the failure to report the adverse action to the board. The action taken may include refusing, denying, revoking or suspending a license or certificate, the surrendering of a license or certificate, otherwise limiting, restricting or monitoring a licensee or placing a licensee on probation.
- (mm) Any sanction imposed by an agency of the federal government that involves restricting, suspending, limiting or removing the licensee's ability to obtain financial remuneration for behavioral health services.
- (nn) Violating the security of any licensure examination materials.
- (oo) The use of fraud or deceit in connection with taking or assisting another person in taking a licensure examination.

32-3252. Board of behavioral health examiners; appointment; qualifications; terms; organization; compensation; immunity

A. The board of behavioral health examiners is established consisting of one professional member from each credentialing committee established pursuant to this chapter and four public members appointed by the governor.

B. Each professional board member shall:

1. Be a resident of this state for not less than one year before appointment.
2. Be an active licensee in good standing.

3. Have at least five years of experience in an area of behavioral health licensed pursuant to this chapter.

C. Each public member shall:

1. Be a resident of this state for not less than one year before appointment.
2. Be at least twenty-one years of age.
3. Not be or have ever been a behavioral health professional or the spouse of a behavioral health professional.
4. Not have or have ever had any financial interest in the provision of behavioral health services.
5. Not have engaged in any activity directly related to the practice of behavioral health.

D. The term of office of board members is three years to begin and end on the third Monday in January. A member shall not serve more than two full consecutive terms.

E. The board shall annually elect a chairman and secretary-treasurer from its membership.

F. Board members are eligible to receive compensation as determined pursuant to section 38-611 for each day actually and necessarily spent in the performance of their duties.

G. Board members and personnel are personally immune from suit with respect to all acts done and actions taken in good faith and in furtherance of the purposes of this chapter.

#### 32-3253. Powers and duties

A. The board shall:

1. Adopt rules consistent with and necessary or proper to carry out the purposes of this chapter.
2. Administer and enforce this chapter, rules adopted pursuant to this chapter and orders of the board.
3. Issue a license by examination, reciprocity or temporary recognition to, and renew the license of, each person who is qualified to be licensed pursuant to this chapter. The board must issue or deny a license within one hundred eighty days after the applicant submits a completed application.
4. Establish a licensure fee schedule annually, by a formal vote at a regular board meeting.
5. Collect fees and spend monies.
6. Keep a record of all persons licensed pursuant to this chapter, actions taken on all applications for licensure, actions involving renewal, suspension, revocation or denial of a license or probation of licensees and the receipt and disbursement of monies.
7. Adopt an official seal for attestation of licensure and other official papers and documents.
8. Employ temporary or permanent personnel as it deems necessary.
9. Conduct investigations and determine on its own motion if a licensee or an applicant has engaged in unprofessional conduct, is incompetent or is mentally or physically unable to engage in the practice of behavioral health.
10. Conduct disciplinary actions pursuant to this chapter and board rules.

11. Establish and enforce standards or criteria of programs or other mechanisms to ensure the continuing competence of licensees.
12. Establish and enforce compliance with professional standards and rules of conduct for licensees.
13. Engage in a full exchange of information with the licensing and disciplinary boards and professional associations for behavioral health professionals in this state and other jurisdictions.
14. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions, money or property from any public or private source, including the federal government. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from section 35-190 relating to lapsing of appropriations.

B. The board may join professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of behavioral health, protect the health and welfare of the public or assist and facilitate the work of the board.

C. The board may establish a confidential program for the monitoring of licensees who are chemically dependent and who enroll in a rehabilitation program that meets the criteria prescribed by the board. The board may take further action if a licensee refuses to enter into a stipulated agreement or fails to comply with the terms of a stipulated agreement. In order to protect the public health and safety, the confidentiality requirements of this subsection do not apply if a licensee does not comply with the stipulated agreement.

#### 32-3254. Board of behavioral health examiners fund

A. A board of behavioral health examiners fund is established. Pursuant to sections 35-146 and 35-147, the board shall deposit ten per cent of all monies received by the board in the state general fund and deposit the remaining ninety per cent in the board of behavioral health examiners fund.

B. All monies deposited in the board of behavioral health examiners fund are subject to section 35-143.01.

### **Article 2 Professional Credentialing Committees**

#### 32-3261. Credentialing committees; appointment; qualifications; terms; compensation; organization; immunity

A. The following credentialing committees are established:

1. Social work.
2. Counseling.
3. Marriage and family therapy.
4. Substance abuse counseling and treatment.

B. The governor shall appoint four professional members and one public member to each credentialing committee.

C. Each professional credentialing committee member shall:

1. Be a resident of this state for not less than one year before appointment.
2. Be an active licensee in good standing.
3. Have at least five years of experience in an area of behavioral health licensed pursuant to this chapter.

D. Each public member shall:

1. Be a resident of this state for not less than one year before appointment.
2. Be at least twenty-one years of age.
3. Not be or have ever been a behavioral health professional or the spouse of a behavioral health professional.
4. Not have or have ever had any financial interest in the provision of behavioral health services.
5. Not have engaged in any activity directly related to the practice of behavioral health.

E. The term of office of credentialing committee members is three years to begin and end on the third Monday in January. A member shall not serve more than two full consecutive terms.

F. Credentialing committee members are eligible to receive compensation as determined pursuant to section 38-611 for each day actually and necessarily spent in the performance of their duties.

G. A credentialing committee shall annually elect a chairman and secretary from its membership.

H. Credentialing committee members are personally immune from suit with respect to all acts done and actions taken in good faith and in furtherance of the purposes of this chapter.

#### 32-3262. Credentialing committees; duties

A credentialing committee shall:

1. Administer and enforce this chapter, rules adopted pursuant to this chapter and board orders.
2. Review licensure and licensure renewal applications and recommend the approval or denial of licensure and licensure renewal to the board.
3. Conduct investigations and hearings regarding charges of violations of this chapter and board rules and orders and make recommendations to the board pursuant to this chapter.

### **Article 3 Licensure**

#### 32-3271. Exceptions to licensure; jurisdiction

A. This chapter does not apply to:

1. A person who is currently licensed, certified or regulated pursuant to another chapter of this title and who provides services within the person's scope of practice if the person does not claim to be licensed pursuant to this chapter.
  2. A person who is not a resident of this state if the person:
    - (a) Performs behavioral health services in this state for not more than ninety days in any one calendar year as prescribed by board rule.
    - (b) Is authorized to perform these services pursuant to the laws of the state or country in which the person resides or pursuant to the laws of a federally recognized tribe.
    - (c) Informs the client of the limited nature of these services and that the person is not licensed in this state.
  3. A rabbi, priest, minister or member of the clergy of any religious denomination or sect if the activities and services that person performs are within the scope of the performance of the regular or specialized ministerial duties of an established and legally recognizable church, denomination or sect and the person performing the services remains accountable to the established authority of the church, denomination or sect.
  4. A member run self-help or self-growth group if no member of the group receives direct or indirect financial compensation.
  5. A behavioral health technician or behavioral health paraprofessional who is employed by an agency licensed by the department of health services.
  6. A person contracting with the supreme court or a person employed by or contracting with an agency under contract with the supreme court who is otherwise ineligible to be licensed or who is in the process of applying to be licensed under this chapter as long as that person is in compliance with the supreme court contract conditions regarding professional counseling services and practices only under supervision.
  7. A person who is employed by the department of economic security and who practices social work, marriage and family therapy, substance abuse counseling, counseling and case management within the scope of the person's job duties and under direct supervision by the department of economic security.
  8. A student, intern or trainee who is pursuing a course of study in social work, counseling, marriage and family therapy, substance abuse counseling or case management in a regionally accredited institution of higher education or training institution if the person's activities are performed under qualified supervision and are part of the person's supervised course of study.
  9. A person who is practicing social work, counseling and case management and who is employed by an agency licensed by the department of economic security.
  10. A paraprofessional employed by the department of economic security or by an agency licensed by the department of economic security.
  11. A christian science practitioner if all of the following are true:
    - (a) The person is not providing psychotherapy.
    - (b) The activities and services the person performs are within the scope of the performance of the regular or specialized duties of a christian science practitioner.
    - (c) The person remains accountable to the established authority of the practitioner's church.
  12. A person who is not providing psychotherapy.
- B. A person who provides services pursuant to subsection A, paragraph 2 is deemed to have agreed to the jurisdiction of the board and to be bound by the laws of this state.

### 32-3272. Fees

A. For issuance of a license pursuant to this chapter, the board shall establish and charge reasonable fees not to exceed five hundred dollars.

B. For renewal of a license pursuant to this chapter, the board shall establish and charge reasonable fees of:

1. Until June 30, 2011, not to exceed three hundred fifty dollars.
2. Beginning July 1, 2011, not to exceed five hundred dollars. The board shall not increase fees pursuant to this paragraph more than twenty-five dollars each year.

C. The board shall establish fees to produce monies that approximate the cost of maintaining the board and the credentialing committees.

### 32-3273. License renewal; continuing education

A. Except as provided in section 32-4301, a license issued pursuant to this chapter is renewable biennially by paying the renewal fee prescribed by the board and submitting evidence satisfactory to the appropriate credentialing committee of completion of relevant continuing education experience as determined by the appropriate credentialing committee during the previous twenty-four month period.

B. The board shall send notice in writing of required relevant continuing education experience to each licensee at least ninety days before the renewal date.

C. A licensee must satisfy the continuing education requirements that are prescribed by the board by rule and that are designed to provide the necessary understanding of ethics, cultural competency, current developments, skills, procedures and treatments related to behavioral health and to ensure the continuing competence of licensees. The board shall adopt rules to prescribe the manner of documenting compliance with this subsection.

### 32-3274. Reciprocity

A. The board may issue a reciprocal license to a person in that person's particular behavioral health profession if the person is licensed or certified by another state regulatory agency at an equivalent or higher practice level as determined by the board, pays the fee prescribed by the board and meets all of the following requirements:

1. The person is currently licensed or certified in behavioral health by another state regulatory agency and the license or certification is current and in good standing.
2. The person has been licensed or certified in the discipline applied for and at the same practice level as determined by the board for a minimum of five years.
3. The person was engaged in the practice of behavioral health in the state issuing the license or certification used by the person to qualify for a reciprocal license pursuant to this section for a minimum of six thousand hours during the five years before applying for reciprocal licensure.

4. There were minimum education, work experience and clinical supervision requirements in effect at the time the person was licensed or certified by the other state regulatory agency and the licensing or certifying state agency verifies that the person met those requirements in order to be licensed or certified in the other state.
5. The person passed an examination required for the license sought pursuant to article 5, 6, 7 or 8 of this chapter.
6. The person meets the basic requirements for licensure prescribed by section 32-3275.
7. The person meets any other requirements prescribed by the board.

B. A person issued a license pursuant to this section shall practice behavioral health only under the direct supervision of a licensee.

C. A person issued a reciprocal license pursuant to this section may apply for a regular license if the person meets all of the following requirements:

1. The person has completed a minimum of one thousand six hundred hours of supervised work experience in the practice of behavioral health in this state within at least twelve months after issuance of the reciprocal license.
2. During the supervised work experience period required in paragraph 1 of this subsection, the person receives at least fifty hours of qualifying clinical supervision as determined by the board.
3. The person demonstrates competency to practice behavioral health as determined by the board.

D. The board by rule may prescribe a procedure to issue licenses pursuant to this section.

#### 32-3275. Requirements for licensure

An applicant for licensure must meet all of the following requirements:

1. Submit an application as prescribed by the board.
2. Be at least twenty-one years of age.
3. Be of good moral character. The board's standard to determine good moral character shall not violate federal discrimination laws.
4. Pay all applicable fees prescribed by the board.
5. Have the physical and mental capability to safely and competently engage in the practice of behavioral health.
6. Not have committed any act or engaged in any conduct that would constitute grounds for disciplinary action against a licensee pursuant to this chapter.
7. Not have had a professional license or certificate refused, revoked, suspended or restricted in any regulatory jurisdiction in the United States or in another country for reasons that relate to

unprofessional conduct. If the board finds that the applicant committed an act or engaged in conduct that would constitute grounds for disciplinary action in this state, the board shall determine to its satisfaction that the conduct has been corrected, monitored and resolved. If the matter has not been resolved, the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

8. Not have voluntarily surrendered a license or certificate in another regulatory jurisdiction in the United States or any other country while under investigation for conduct that relates to unprofessional conduct. If another jurisdiction has taken disciplinary action against an applicant, the board shall determine to its satisfaction that the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that jurisdiction, the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

9. Not have a complaint, allegation or investigation pending before another regulatory jurisdiction in the United States or another country that relates to unprofessional conduct. If an applicant has any such complaints, allegations or investigations pending, the board shall suspend the application process and may not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved.

32-3276. Notice of address and telephone number changes; penalties

A. A licensee must provide the board with the licensee's current residence address and telephone number, office address and telephone number and promptly and in writing inform the board of each change in residence address and telephone number and office address and telephone number.

B. The board may assess the costs incurred by the board in locating a licensee and impose a penalty of not to exceed one hundred dollars against a licensee who does not notify the board pursuant to subsection A within thirty days after the change of address or telephone number.

32-3277. Expired licenses; reinstatement

A. A person who does not renew a license is ineligible to practice pursuant to this chapter.

B. The board may reinstate an expired license if the person submits an application for reinstatement within ninety days after the expiration of the license. The application must document to the board's satisfaction that the applicant has met the renewal requirements prescribed by this chapter and include a late renewal penalty prescribed by the board by rule.

32-3278. Inactive license

A. The board by rule may establish procedures for a licensee to delay renewal of the license for good cause and to place the licensee on inactive status. A person on inactive status shall not practice behavioral health or claim to be a licensee.

B. A licensee on inactive status may request reinstatement of the license to active status by submitting a license renewal application.

#### 32-3279. Probationary and temporary licenses

A. If an applicant does not meet the basic requirements for licensure prescribed in section 32-3275, the board may issue a probationary license that is subject to any of the following:

1. A requirement that the licensee's practice be supervised.
2. A restriction on the licensee's practice.
3. A requirement that the licensee begin or continue medical or psychiatric treatment.
4. A requirement that the licensee participate in a specified rehabilitation program.
5. A requirement that the licensee abstain from alcohol and other drugs.

B. If the board offers a probationary license, the board shall notify the applicant in writing of the:

1. Applicant's specific deficiencies.
2. Probationary period.
3. Applicant's right to reject the terms of probation.
4. Applicant's right to a hearing on the board's denial of the application.

C. The board by rule may prescribe a procedure to issue temporary licenses. At a minimum, these rules must include the following provisions:

1. A person issued a temporary license may practice behavioral health only under the direct supervision of a licensee.
2. A temporary license expires on the date specified by the board and not more than one year after the date of issuance.
3. A temporary license may contain restrictions as to time, place and supervision that the board deems appropriate.
4. The board may summarily revoke a temporary license without a hearing.
5. The board's denial of a licensure application terminates a temporary license.

#### 32-3280. Fingerprinting

A. An applicant for licensure under this article other than for a temporary license, must submit a full set of fingerprints to the board, at the applicant's own expense, for the purpose of obtaining a state and federal criminal history records check pursuant to section 41-1750 and P.L. 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

B. As a condition of renewing a license, a person licensed pursuant to this chapter who has not previously done so must submit a full set of fingerprints to the board, at the licensee's own expense, for the purpose of obtaining a state and federal criminal history records check pursuant to section 41-1750 and P.L. 92-544. The department of public safety may exchange this

fingerprint data with the federal bureau of investigation. The board shall provide written notice of this requirement to all licensees at least six months before each licensee's expiration date.

C. The board shall waive the records check required in subsections A and B of this section for an applicant or licensee providing evidence acceptable to the board that the applicant or licensee holds a current class one or class two fingerprint clearance card issued by the department of public safety.

#### **Article 4 Regulation**

##### **32-3281. Disciplinary action; hearings; civil penalty**

A. A credentialing committee, on its own motion or on a complaint, may investigate any evidence that appears to show that a licensee is or may be incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of behavioral health. As part of its investigation, a credentialing committee may hold an investigational meeting pursuant to this chapter. Any person may, and a licensee and any entity licensed by the office of behavioral health licensure shall, report to the board any information that would cause a reasonable licensee to believe that another licensee is guilty of unprofessional conduct or is physically or mentally unable to provide behavioral health services competently or safely. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. It is an act of unprofessional conduct for any licensee to fail to report as required by this section. The board shall report to the office of behavioral health licensure in the department of health services any entity licensed by the office of behavioral health licensure that fails to report as required by this section.

B. A credentialing committee shall require any combination of mental, physical or oral or written competency examinations, at the licensee's own expense, and conduct necessary investigations, including investigational interviews between representatives of the board and the licensee, to fully inform itself with respect to any information filed with the board under subsection A of this section. These examinations may include biological fluid testing. The credentialing committee may require the licensee, at the licensee's expense, to undergo assessment by a rehabilitative, retraining or assessment program approved by the credentialing committee.

C. If the board finds, based on the information received pursuant to subsection A or B of this section, that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the board may restrict, limit or order a summary suspension of a license pending proceedings for revocation or other action. If the board takes action pursuant to this subsection, it must also serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days.

D. If after completing an investigational meeting the credentialing committee finds that the information provided is not of sufficient seriousness to merit disciplinary action against the licensee, the credentialing committee shall either:

1. Dismiss the complaint if, in the opinion of the credentialing committee, the complaint is without merit.
2. Recommend any of the following actions to the board:
  - (a) Dismiss if, in the opinion of the credentialing committee, the complaint is without merit.
  - (b) File a letter of concern and dismiss the complaint.
  - (c) Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

E. A complaint dismissed by the credentialing committee pursuant to subsection D, paragraph 1 of this section is not a complaint of unprofessional conduct and shall not be disclosed by the board as a complaint on the licensee's complaint history.

F. If after completing its investigation the credentialing committee believes that the information is or may be true, the credentialing committee may recommend that the board enter into a consent agreement with the licensee to limit or restrict the licensee's practice or to rehabilitate the licensee, protect the public and ensure the licensee's ability to safely engage in the practice of behavioral health. A consent agreement may also require the licensee to successfully complete a board approved rehabilitative, retraining or assessment program.

G. If on receipt of a credentialing committee's recommendation the board finds that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit direct action against the licensee, the board may take any of the following actions:

1. Dismiss if, in the opinion of the board, the complaint is without merit.
2. File a letter of concern and dismiss the complaint. The licensee may file a written response with the board within thirty days after the licensee receives the letter of concern.
3. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

H. If on receipt of a credentialing committee's recommendation the board finds that the information provided pursuant to subsection A of this section is or may be true, the board may enter into an agreement with the licensee to limit or restrict the licensee's practice or to rehabilitate the licensee, protect the public and ensure the licensee's ability to safely engage in the practice of behavioral health. The board may also require the licensee to successfully complete a board approved rehabilitative, retraining or assessment program.

I. If on receipt of a credentialing committee's recommendation the board finds that the information provided pursuant to subsection A of this section is or may be true, the board may request a formal interview with the licensee. If the licensee refuses the invitation for a formal interview or accepts and the results indicate that grounds may exist for revocation or suspension of the licensee's license for more than twelve months, the board shall issue a formal complaint and order that a hearing be held pursuant to title 41, chapter 6, article 10. If after completing a formal interview the board finds that the protection of the public requires emergency action, the

board may order a summary suspension of the licensee's license pending formal revocation proceedings or other action authorized by this section.

J. If after completing the formal interview the board finds the information provided is not of sufficient seriousness to merit suspension for more than twelve months or revocation of the license, the board may take the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.
2. File a letter of concern and dismiss the complaint. The licensee may file a written response with the board within thirty days after the licensee receives the letter of concern.
3. Issue a decree of censure. A decree of censure is an official action against the licensee's license and may include a requirement for restitution of fees to a client resulting from violations of this chapter or rules adopted pursuant to this chapter.
4. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee concerned. Probation may include temporary suspension not to exceed twelve months, restriction of the licensee's license to practice behavioral health, a requirement for restitution of fees to a client or education or rehabilitation at the licensee's own expense. If a licensee fails to comply with the terms of probation, the board shall serve the licensee with a written notice that states that the licensee is subject to a formal hearing based on the information considered by the board at the formal interview and any other acts or conduct alleged to be in violation of this chapter or rules adopted by the board pursuant to this chapter, including noncompliance with the terms of probation or a consent agreement.
5. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

K. If the board finds that the information provided in subsection A or I of this section warrants suspension or revocation of a license issued under this chapter, the board shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.

L. In a formal interview pursuant to subsection I of this section or in a hearing pursuant to subsection K of this section, the board in addition to any other action may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.

M. A letter of concern is a public document.

N. A licensee who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable to safely engage in the practice of behavioral health or to be professionally incompetent is subject to censure, probation as provided in this section, suspension of license or revocation of license or any combination of these, including a stay of action, and for a period of time or permanently and under conditions as the board deems appropriate for the protection of the public health and safety and just in the circumstance. The board may charge all costs incurred in the course of the investigation and formal hearing to the licensee it finds is in violation of this chapter. The board shall deposit, pursuant to sections 35-

146 and 35-147, monies collected pursuant to this subsection in the board of behavioral health examiners fund established by section 32-3254.

O. If the board during the course of any investigation determines that a criminal violation may have occurred involving the delivery of behavioral health services, the board shall make the evidence of violations available to the appropriate criminal justice agency for its consideration.

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

Q. Notice of a complaint and hearing is effective by a true copy of the notice being sent by certified mail to the licensee's last known address of record in the board's files. Notice of the complaint and hearing is complete on the date of its deposit in the mail.

R. In determining the appropriate disciplinary action under this section, the board shall consider all previous nondisciplinary and disciplinary actions against a licensee.

S. The board may defer action with regard to an impaired licensee who voluntarily signs an agreement, in a form satisfactory to the board, agreeing to practice restrictions and treatment and monitoring programs deemed necessary by the board to protect the public health and safety. A licensee who is impaired and who does not agree to enter into an agreement with the board is subject to other action as provided pursuant to this chapter.

T. Subject to an order duly entered by the board, a person whose license to practice behavioral health has been suspended or restricted pursuant to this chapter, whether voluntarily or by action of the board, may at reasonable intervals apply to the board for reinstatement of the license. The person shall submit the application in writing and in the form prescribed by the board. After conducting an investigation and hearing, the board may grant or deny the application or modify the original finding to reflect any circumstances that have changed sufficiently to warrant modification. The board may require the applicant to pass an examination or complete board imposed continuing education requirements or may impose any other sanctions the board deems appropriate for reentry into the practice of behavioral health.

U. A person whose license is revoked, suspended or not renewed must return the license to the offices of the board within ten days after notice of that action.

V. The board may enforce a civil penalty imposed pursuant to this section in the superior court in Maricopa county.

W. For complaints being brought before a credentialing committee or the full board, the information released to the public regarding an ongoing investigation must clearly indicate that the investigation is a pending complaint and must include the following statement: Pending complaints represent unproven allegations. On investigation, many complaints are found to be without merit or not of sufficient seriousness to merit disciplinary action against the licensee and are dismissed.

32-3282. Right to examine and copy evidence; summoning witnesses and documents; taking testimony; right to counsel

A. In connection with information received pursuant to section 32-3281, subsection A, the board or a credentialing committee or the board's or committee's authorized agents or employees at all reasonable times have access to, for the purpose of examination, and the right to copy any psychotherapy notes, documents, reports, records or other physical evidence of any person being investigated, or the reports, records and any other documents maintained by and in possession of any hospital, clinic, physician's office, laboratory, pharmacy or health care institution as defined in section 36-401 or any other public or private agency, if the psychotherapy notes, documents, reports, records or evidence relate to the specific complaint.

B. For the purpose of all investigations and proceedings conducted by a credentialing committee:

1. The board or a credentialing committee on its own initiative may issue subpoenas compelling the attendance and testimony of witnesses or demanding the production for examination or copying of documents or any other physical evidence if the evidence relates to the unauthorized practice of behavioral health or to the competence, unprofessional conduct or mental or physical ability of a licensee to safely practice. Within five days after the service of a subpoena on any person requiring the production of any evidence in that person's possession or under that person's control, the person may petition the board or the credentialing committee to revoke, limit or modify the subpoena. The board or the credentialing committee shall revoke, limit or modify a subpoena if in its opinion the evidence required does not relate to unlawful practices covered by this chapter or is not relevant to the charge that is the subject matter of the hearing or investigation or the subpoena does not describe with sufficient particularity the physical evidence required to be produced. Any member of the board or a credentialing committee and any agent designated by the board may administer oaths, examine witnesses and receive evidence.

2. Any person appearing before the board or a credentialing committee may be represented by counsel.

3. The superior court, on application by the board or a credentialing committee or by the person subpoenaed, has jurisdiction to issue an order either:

(a) Requiring the person to appear before the board or a credentialing committee or the authorized agent to produce evidence relating to the matter under investigation.

(b) Revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to unlawful practices covered by this chapter or is not relevant to grounds for disciplinary action that are the subject matter of the hearing or investigation or the subpoena does not describe with sufficient particularity the physical evidence required to be produced. Any failure to obey an order of the court may be punished by the court as contempt.

C. Records, including clinical records, reports, files or other reports or oral statements relating to examinations, findings or treatments of clients, any information from which a client or the client's family might be identified or information received and records kept by the board or a credentialing committee as a result of the investigation procedure prescribed by this chapter are not available to the public.

D. This section and any other law that makes communications between a licensee and the licensee's client a privileged communication do not apply to investigations or proceedings conducted pursuant to this chapter. The board and a credentialing committee and the board's and committee's employees, agents and representatives shall keep in confidence the names of any clients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

32-3283. Confidential relationship; privileged communications; clients with legal guardians; treatment decisions

A. The confidential relationship between a client and a licensee, including a temporary licensee, is the same as between an attorney and a client. Unless a client waives this privilege in writing or in court testimony, a licensee shall not voluntarily or involuntarily divulge information that is received by reason of the confidential nature of the behavioral health professional-client relationship.

B. A licensee shall divulge to the board information the board requires in connection with any investigation, public hearing or other proceeding.

C. The behavioral health professional-client privilege does not extend to cases in which the behavioral health professional has a duty to:

1. Inform victims and appropriate authorities that a client's condition indicates a clear and imminent danger to the client or others pursuant to this chapter.
2. Report information as required by law.

D. A client's legal guardian may make treatment decisions on behalf of the client, except that the client receiving services is the decision maker for issues:

1. That directly affect the client's physical or emotional safety, such as sexual or other exploitative relationships.
2. That the guardian agrees to specifically reserve to the client.
3. Where the right to seek behavioral health services without parental or guardian consent is established by state or federal law.

32-3284. Cease and desist orders; injunctions

A. The board or a credentialing committee may issue a cease and desist order or request that an injunction be issued by the superior court to stop a person from engaging in the unauthorized practice of behavioral health or from violating or threatening to violate a statute, rule or order that the board has issued or is empowered to enforce. If the board seeks an injunction to stop the unauthorized practice of behavioral health, it is sufficient to charge that the respondent on a day certain in a named county engaged in the practice of behavioral health without a license and without being exempt from the licensure requirements of this chapter. It is not necessary to show specific damages or injury. The cease and desist order must state the reason for its issuance and

give notice of the person's right to request a hearing under applicable procedures prescribed in title 41, chapter 6, article 10.

B. Violation of an injunction shall be punished as for contempt of court.

32-3285. Judicial review

Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

32-3286. Unlawful practice; unlawful use of title; violation; classification; civil penalty; exception

A. Except as prescribed in section 32-3271, a person not licensed pursuant to this chapter shall not engage in the practice of behavioral health.

B. A person not licensed pursuant to this chapter shall not use any of the following designations or any other designation that indicates licensure status, including abbreviations, or claim to be licensed pursuant to this chapter:

1. Licensed professional counselor.
2. Licensed associate counselor.
3. Licensed marriage and family therapist.
4. Licensed associate marriage and family therapist.
5. Licensed clinical social worker.
6. Licensed master social worker.
7. Licensed baccalaureate social worker.
8. Licensed independent substance abuse counselor.
9. Licensed associate substance abuse counselor.
10. Licensed substance abuse technician.

C. A person who violates this chapter or board rules by engaging in the unlicensed practice of behavioral health or claiming to be licensed pursuant to this chapter is guilty of a class 2 misdemeanor and is subject to a civil penalty of not more than five hundred dollars for each offense.

D. Each day that a violation is committed constitutes a separate offense.

E. All fees received for services described in this section shall be refunded by the person found guilty pursuant to this section.

F. Notwithstanding subsection A of this section and based on circumstances presented to the board, the board may sanction a person's failure to timely renew a license while continuing to engage in the practice of behavioral health as an administrative violation rather than as a violation of this section or grounds for unprofessional conduct and may impose a civil penalty of

not more than five hundred dollars. The board shall deposit, pursuant to sections 35-146 and 35-147, monies collected pursuant to this subsection in the state general fund.

## **Article 5 Social Work**

### 32-3291. Licensed baccalaureate social worker; licensure; qualifications; supervision

A. A person who wishes to be licensed by the board to engage in the practice of social work as a licensed baccalaureate social worker shall:

1. Furnish evidence satisfactory to the social work credentialing committee that the person has earned a baccalaureate degree in social work from a regionally accredited college or university in a program accredited by the council on social work education or a degree from a foreign school based on a program of study that the board determines is substantially equivalent.
2. Pass an examination approved by the social work credentialing committee.

B. A licensed baccalaureate social worker shall only engage in clinical practice under direct supervision as prescribed by the board.

C. A licensed baccalaureate social worker shall only engage in nonclinical practice under direct supervision as prescribed by the board unless the licensed baccalaureate social worker has obtained two years of supervised work experience acceptable to the board.

### 32-3292. Licensed master social worker; licensure; qualifications; supervision

A. A person who wishes to be licensed by the board to engage in the practice of social work as a licensed master social worker shall:

1. Furnish evidence satisfactory to the social work credentialing committee that the person has earned a master's or higher degree in social work from a regionally accredited college or university in a program accredited by the council on social work education or a degree from a foreign school based on a program of study that the board determines is substantially equivalent.
2. Pass an examination approved by the social work credentialing committee.

B. A licensed master social worker shall only engage in clinical practice under direct supervision as prescribed by the board.

### 32-3293. Licensed clinical social worker; licensure; qualifications

A person who wishes to be licensed by the board to engage in the practice of social work as a licensed clinical social worker shall:

1. Furnish evidence satisfactory to the social work credentialing committee that the person has:
  - (a) Earned a master's or higher degree in social work from a regionally accredited college or university in a program accredited by the council on social work education or a degree from a foreign school based on a program of study that the board determines is substantially equivalent.

(b) Received at least two years of full-time or the equivalent part-time post-master's degree experience under supervision satisfactory to the social work credentialing committee.

2. Pass an examination approved by the social work credentialing committee.

## **Article 6 Counseling**

### **32-3301. Licensed professional counselor; licensure; requirements**

A. A person who wishes to be licensed by the board to engage in the practice of professional counseling as a licensed professional counselor shall:

1. Meet the education requirements of subsection B and the work experience requirements of subsection C.
2. Pass an examination approved by the counseling credentialing committee.

B. An applicant for licensure shall furnish evidence satisfactory to the counseling credentialing committee that the person has received either of the following:

1. A master's degree or higher degree with a major emphasis in counseling from a regionally accredited college or university in a program of study that includes a minimum of forty-eight semester credit hours or the equivalent in a curriculum approved by the counseling credentialing committee. Beginning on January 1, 2008, the program of study must include a minimum of sixty semester credit hours or the equivalent in a curriculum approved by the counseling credentialing committee.
2. A master's degree or higher degree with a major emphasis in counseling from a program accredited by the council for the accreditation of counseling and related educational programs or the national council on rehabilitation education that includes a minimum of forty-eight credit hours or the equivalent. Beginning on January 1, 2008, the program must include a minimum of sixty semester credit hours.

C. An applicant for licensure shall furnish evidence satisfactory to the counseling credentialing committee that the applicant has received at least two years of full-time or the equivalent part-time post-master's degree work experience in the practice of professional counseling under supervision approved by the credentialing committee. An applicant may use a doctoral-clinical internship to satisfy the requirement for one year of work experience under supervision.

D. An applicant who is deficient in curricular areas or credit hours required pursuant to subsection B, paragraph 1 or 2 may satisfy the curriculum and credit hours requirements of those paragraphs by successfully completing post-master's degree course work.

E. An applicant who completed a degree before July 1, 1989 and whose course of study did not include a practicum may substitute a one year doctoral-clinical internship or an additional year of documented post-master's degree work experience in order to satisfy the requirements of subsection B, paragraph 1.

32-3303. Licensed associate counselor; licensure; requirements; supervision

A. A person who wishes to be licensed by the board to engage in the practice of professional counseling as a licensed associate counselor shall satisfy the requirements of section 32-3301, subsections B, D and E and pass an examination approved by the counseling credentialing committee.

B. A licensed associate counselor shall only practice under direct supervision as prescribed by the board.

**Article 7 Marriage and Family Therapy**

32-3311. Licensed marriage and family therapist; qualifications

A. A person who wishes to be licensed by the board to engage in the practice of marriage and family therapy as a licensed marriage and family therapist shall furnish evidence satisfactory to the board that the person has:

1. Earned a master's or doctorate degree in behavioral science, including, but not limited to, marriage and family therapy, psychology, sociology, counseling and social work, granted by a regionally accredited college or university in a program accredited by the commission on accreditation for marriage and family therapy education or a degree based on a program of study that the board determines is substantially equivalent.
2. Completed two years of full-time or the equivalent part-time post-master's degree experience in the practice of marriage and family therapy under supervision as approved by the marriage and family therapy credentialing committee including a minimum of one thousand hours of clinical experience with couples and families.
3. Passed an examination approved by the marriage and family therapy credentialing committee.

B. The curriculum for the master's or doctorate degree in behavioral science accepted by the board pursuant to subsection A, paragraph 1 shall include a specified number of graduate courses as approved by the marriage and family therapy credentialing committee and shall be consistent with national standards of marriage and family therapy. Part of this course of study may be taken in a post-master's degree program as approved by the marriage and family therapy credentialing committee.

C. The one thousand hours of clinical experience required by subsection A, paragraph 2 shall include a combination of two hundred hours of group or individual supervision in the practice of marriage and family therapy. The one thousand hours may include one year in an approved marriage and family internship program.

32-3313. Licensed associate marriage and family therapist; licensure; requirements; supervision

A. A person who wishes to be licensed by the board to engage in the practice of marriage and family therapy as a licensed associate marriage and family therapist shall satisfy the requirements of section 32-3311, subsection A, paragraphs 1 and 3 and subsection B.

B. A licensed associate marriage and family therapist shall only practice under direct supervision as prescribed by the board.

## **Article 8 Substance Abuse Counseling**

32-3321. Licensed substance abuse technician; licensed associate substance abuse counselor; licensed independent substance abuse counselor; licensure; qualifications; supervision

A. A person who wishes to be licensed by the board to engage in the practice of substance abuse counseling as a licensed substance abuse technician shall present evidence satisfactory to the board that the person has:

1. Received one of the following:

(a) An associate of applied science degree in chemical dependency with an emphasis on counseling, as determined by the substance abuse credentialing committee, from a regionally accredited college or university.

(b) Beginning January 1, 2009, a bachelor's degree in a behavioral science with an emphasis on counseling, as determined by the substance abuse credentialing committee, from a regionally accredited college or university.

2. Passed an examination approved by the substance abuse credentialing committee.

B. A licensed substance abuse technician shall only practice under direct supervision as prescribed by the board.

C. The board may waive the education requirement for an applicant requesting licensure as a substance abuse technician if the applicant provides services pursuant to contracts or grants with the federal government under the authority of Public Law 93-638 (25 United States Code sections 450 through 450(n)) or Public Law 94-437 (25 United States Code sections 1601 through 1683). A person who becomes licensed as a substance abuse technician pursuant to this subsection shall only provide substance abuse services to those persons who are eligible for services pursuant to Public Law 93-638 (25 United States Code sections 450 through 450(n)) or Public Law 94-437 (25 United States Code section 1601 through 1683).

D. A person who wishes to be licensed by the board to engage in the practice of substance abuse counseling as a licensed associate substance abuse counselor shall present evidence satisfactory to the board that the person has:

1. Received one of the following:

(a) A bachelor's degree in a behavioral science with an emphasis on counseling, as determined by the substance abuse credentialing committee, from a regionally accredited college or university and present evidence satisfactory to that credentialing committee that the applicant has received at least two years of work experience in substance abuse counseling under supervision approved by the substance abuse credentialing committee.

(b) A master's degree or a higher degree in a behavioral science with an emphasis on counseling, as determined by the substance abuse credentialing committee, from a regionally accredited college or university.

2. Passed an examination approved by the substance abuse credentialing committee.

E. A licensed associate substance abuse counselor shall only practice under direct supervision as prescribed by the board.

F. A person who wishes to be licensed by the board to engage in the practice of substance abuse counseling as a licensed independent substance abuse counselor shall:

1. Have received a master's degree or higher degree in a behavioral science with an emphasis on counseling, as determined by the substance abuse credentialing committee, from a regionally accredited college or university.

2. Present evidence satisfactory to the substance abuse credentialing committee that the applicant has received at least two years of work experience in substance abuse counseling under supervision approved by that committee.

3. Pass an examination approved by the substance abuse credentialing committee.