

Senate Engrossed

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

# SENATE BILL 1470

AN ACT

AMENDING SECTIONS 32-3101, 32-3103, 32-3104, 32-3105 AND 32-3106, ARIZONA  
REVISED STATUTES; RELATING TO THE REGULATION OF HEALTH PROFESSIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-3101, Arizona Revised Statutes, is amended to  
3 read:

4 32-3101. Definitions

5 In this chapter, unless the context otherwise requires:

6 ~~2-~~ 1. "Certification" means a voluntary process by which a  
7 regulatory entity grants recognition to an individual who has met certain  
8 prerequisite qualifications specified by that regulatory entity and who  
9 may assume or use the word "certified" in a title or designation to  
10 perform prescribed health professional tasks.

11 ~~3-~~ 2. "Grandfather clause" means a provision applicable to  
12 practitioners actively engaged in the regulated health profession before  
13 the effective date of a law that exempts the practitioners from meeting  
14 the prerequisite qualifications set forth in the law to perform prescribed  
15 occupational tasks.

16 ~~1-~~ 3. "~~Applicant~~ HEALTH PROFESSIONAL group" means any health  
17 professional group or organization, any individual or any other interested  
18 party that proposes that any health professional group not presently  
19 regulated be regulated or that proposes to increase the scope of practice  
20 of a health profession.

21 4. "Health professions" means professions THAT ARE regulated  
22 pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21,  
23 25, 28, 29, 33, 34, 35, 39 or 41 of this title, title 36, chapter 6,  
24 article 7 or title 36, chapter 17.

25 5. "Increase the scope of practice" means to engage in conduct  
26 beyond the authority granted to a health profession by law.

27 6. "Inspection" means the periodic examination of practitioners by  
28 a state agency in order to ascertain whether the practitioners' occupation  
29 is being carried out in a fashion consistent with the public health,  
30 safety and welfare.

31 ~~7. "Legislative committees of reference" means joint subcommittees~~  
32 ~~composed of the members of the appropriate standing committees of the~~  
33 ~~house of representatives and senate appointed pursuant to section 41-2954.~~

34 ~~8-~~ 7. "Licensure" or "license" means an individual,  
35 nontransferable authorization to carry on a health activity that would  
36 otherwise be unlawful in this state in the absence of the permission, and  
37 that is based on qualifications that include graduation from an accredited  
38 or approved program and acceptable performance on a qualifying examination  
39 or a series of examinations.

40 ~~9-~~ 8. "Practitioner" means an individual who has achieved  
41 knowledge and skill by practice and who is actively engaged in a specified  
42 health profession.

~~10.~~ 9. "Public member" means an individual who is not and never has been a member or spouse of a member of the health profession being regulated and who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

~~11.~~ 10. "Registration" means the formal notification that, before rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner, the location, nature and operation of the health activity to be practiced and, if required by a regulatory entity, a description of the service to be provided.

~~12.~~ 11. "Regulatory entity" means any board, commission, agency or department of this state that regulates one or more health professions in this state.

~~13.~~ 12. "State agency" means any department, board, commission or agency of this state.

Sec. 2. Section 32-3103, Arizona Revised Statutes, is amended to read:

32-3103. Regulation of health professions; legislation; criteria

A. Regulation shall not be imposed on any unregulated health profession except for the exclusive purpose of protecting the public interest. ~~IT IS NOT A LEGITIMATE USE OF STATE POWER TO PROTECT EXISTING BUSINESSES AND AGENCIES, WHETHER PUBLICLY OR PRIVATELY OWNED, AGAINST COMPETITION.~~ All proposed legislation to regulate a health profession for the first time shall be reviewed according to the following criteria, ~~AND THE~~ health profession shall be regulated by this state only if:

1. THERE IS CREDIBLE EVIDENCE THAT THE unregulated practice ~~can~~  
~~clearly harm or endanger~~ OF THAT HEALTH PROFESSION POSES A SPECIFIC HARM  
OR DANGER TO the public health, safety or welfare and the potential for  
harm is easily recognizable and not remote or dependent on tenuous  
argument.

2. The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability.

3. The public cannot be effectively protected by other means in a more ~~cost-beneficial~~ **COST-BENEFICIAL** manner.

B. BEFORE THE LEGISLATURE ENACTS LEGISLATION THAT AFFECTS ANY SPECIFIC OCCUPATION, PRACTICE OR ACT OF A HEALTH PROFESSION THAT HAS NOT PREVIOUSLY BEEN REGULATED AND after evaluating the criteria prescribed in subsection A OF THIS SECTION and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a health profession not previously regulated by law, THE LEGISLATURE SHALL IMPLEMENT the least restrictive alternative method of regulation ~~shall be implemented~~ TO ADDRESS THE SPECIFIC HARM OR DANGER IDENTIFIED, consistent with the public interest and the following:

1        1. If existing common law and statutory civil actions and criminal  
2 prohibitions are not sufficient to eradicate existing harm, the regulation  
3 shall provide for stricter civil actions and criminal prohibitions.

4        2. If a service is being performed for individuals ~~which~~ THAT  
5 involves a hazard to the public health, safety or welfare, the regulation  
6 shall impose inspection requirements and enable an appropriate state  
7 agency to enforce violations by injunctive relief in court.

8        3. If the threat to the public health, safety or economic  
9 well-being is relatively small as a result of the operation of the health  
10 profession, the regulation shall implement a system of registration.

11       4. If the consumer may have a substantial basis for relying on the  
12 services of a practitioner, the regulation shall implement a system of  
13 certification.

14       5. If it is apparent that adequate regulation cannot be achieved by  
15 means other than licensing, the regulation shall implement a system of  
16 licensing.

17       6. IF A LESS RESTRICTIVE REGULATION CANNOT ADDRESS A SPECIFIC HARM  
18 OR DANGER IDENTIFIED IN SUBSECTION B OF THIS SECTION, THE REGULATION MAY  
19 INCLUDE LICENSURE BY THIS STATE.

20       C. AN INDIVIDUAL WHO IS LICENSED OR CERTIFIED IN ANOTHER STATE OR  
21 JURISDICTION OF THE UNITED STATES IS NOT SUBJECT TO ANY ADDITIONAL  
22 REGULATORY REQUIREMENT TO BECOME LICENSED OR CERTIFIED IN THIS STATE,  
23 EXCEPT TO ADDRESS A SPECIFIC HARM OR DANGER THAT IS UNIQUE TO THIS STATE.

24       Sec. 3. Section 32-3104, Arizona Revised Statutes, is amended to  
25 read:

26       32-3104. Health professional groups; written report;  
27       legislative committees; hearings

28       ~~Applicant~~ HEALTH PROFESSIONAL groups shall submit a written report  
29 explaining the factors prescribed in section 32-3105 or 32-3106 to the  
30 president of the senate and the speaker of the house of  
31 representatives. The report shall be submitted ~~on or before September 1~~  
32 before the start of the legislative session for which the legislation is  
33 proposed. THE HOUSE OF REPRESENTATIVES AND THE SENATE BY RULE MAY SET AN  
34 EARLIER REPORT DEADLINE. The president of the senate ~~or~~ AND the speaker  
35 of the house of representatives shall assign the written report to the  
36 appropriate legislative ~~committee of reference~~ COMMITTEES. The  
37 legislative ~~committee of reference~~ COMMITTEES shall ~~study~~ CONSIDER the  
38 written report ~~and deliver the report of its recommendations to the~~  
39 ~~speaker of the house of representatives, the president of the senate, the~~  
40 ~~governor and, if appropriate, the regulatory board of the health~~  
41 ~~profession on or before December 1 of the year in which the report is~~  
42 ~~submitted. Legislative committees of reference may hold hearings as they~~  
43 ~~deem necessary.~~ IN CONNECTION WITH ANY LEGISLATION TO INITIALLY LICENSE A  
44 HEALTH PROFESSIONAL OR TO EXPAND THE SCOPE OF PRACTICE OF A HEALTH  
45 PROFESSION. If a health professional group proposes to increase the scope

1 of practice of its profession, copies of the written report shall be sent  
2 to the regulatory board of the health profession for review and comment.  
3 If applicable, the regulatory board of the health profession shall make  
4 recommendations based on the report submitted by ~~applicant~~ HEALTH  
5 PROFESSIONAL groups to the extent requested by the legislative committees  
6 ~~of reference~~. THE HEALTH COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND  
7 THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR  
8 COMMITTEES, MAY CONDUCT HEARINGS ON THE WRITTEN REPORT BEFORE THE  
9 LEGISLATIVE SESSION CONVENES.

10 Sec. 4. Section 32-3105, Arizona Revised Statutes, is amended to  
11 read:

12 32-3105. Applicants for regulation; factors

13 ~~Applicant~~ HEALTH PROFESSIONAL groups for regulation shall explain  
14 each of the following factors to the extent requested by the legislative  
15 committees ~~of reference~~:

16 1. ~~A definition of the problem and~~ Why regulation is necessary,  
17 including:

18 (a) The nature of the potential harm to the public if the health  
19 profession is not regulated and the extent to which there is a threat to  
20 public health and safety.

21 (b) The extent to which consumers need and will benefit from a  
22 method of regulation identifying competent practitioners and indicating  
23 typical employers, if any, of practitioners in the health profession.

24 (c) The extent of autonomy a practitioner has, as indicated by the  
25 following:

26 (i) The extent to which the health profession calls for independent  
27 judgment and the extent of skill or experience required in making the  
28 independent judgment.

29 (ii) The extent to which practitioners are supervised.

30 2. The efforts made to address the problem, including:

31 (a) Voluntary efforts, if any, by members of the health profession  
32 to either:

33 (i) Establish a code of ethics.

34 (ii) Help resolve disputes between health practitioners and  
35 consumers.

36 (b) Recourse to and the extent of use of applicable law and whether  
37 it could be amended to control the problem.

38 3. The alternatives considered, including:

39 (a) Regulation of business employers or practitioners rather than  
40 employee practitioners.

41 (b) Regulation of the program or service rather than the individual  
42 practitioners.

43 (c) Registration of all practitioners.

44 (d) Certification of all practitioners.

45 (e) Other alternatives.

1 (f) Why the use of the alternatives specified in this paragraph  
2 would not be adequate to protect the public interest.

3 (g) Why licensing would serve to protect the public interest.

4 4. The benefit to the public if regulation is granted, including:

5 (a) The extent to which the incidence of specific problems present  
6 in the unregulated health profession can reasonably be expected to be  
7 reduced by regulation.

8 (b) Whether the public can identify qualified practitioners.

9 (c) The extent to which the public can be confident that qualified  
10 practitioners are competent, including:

11 (i) Whether the proposed regulatory entity would be a board  
12 composed of members of the profession and public members or a state  
13 agency, or both, and, if appropriate, their respective responsibilities in  
14 administering the system of registration, certification or licensure,  
15 including the composition of the board and the number of public members,  
16 if any, the powers and duties of the board or state agency regarding  
17 examinations and for cause revocation, suspension and nonrenewal of  
18 registrations, certificates or licenses, the adoption of rules and canons  
19 of ethics, the conduct of inspections, the receipt of complaints and  
20 disciplinary action taken against practitioners and how fees would be  
21 levied and collected to pay for the expenses of administering and  
22 operating the regulatory system.

23 (ii) If there is a grandfather clause, whether grandfathered  
24 practitioners will be required to meet the prerequisite qualifications  
25 established by the regulatory entity at a later date.

26 (iii) The nature of the standards proposed for registration,  
27 certification or licensure as compared with the standards of other  
28 jurisdictions.

29 (iv) Whether the regulatory entity would be authorized to enter  
30 into reciprocity agreements with other jurisdictions.

31 (v) The nature and duration of any training, including whether the  
32 training includes a substantial amount of supervised field experience,  
33 whether training programs exist in this state, if there will be an  
34 experience requirement, whether the experience must be acquired under a  
35 registered, certified or licensed practitioner, whether there are  
36 alternative routes of entry or methods of meeting the prerequisite  
37 qualifications, whether all applicants will be required to pass an  
38 examination, and if an examination is required, by whom it will be  
39 developed and how the costs of development will be met.

40 (d) Assurance of the public that practitioners have maintained  
41 their competence, including:

42 (i) Whether the registration, certification or licensure will carry  
43 an expiration date.

1 (ii) Whether renewal will be based only on payment of a fee or  
2 whether renewal will involve reexamination, peer review or other  
3 enforcement.

4 5. The extent to which regulation might harm the public, including:

5 (a) The extent to which regulation will restrict entry into the  
6 health profession, including:

7 (i) Whether the proposed standards are more restrictive than  
8 necessary to ensure safe and effective performance.

9 (ii) Whether the proposed legislation requires registered,  
10 certified or licensed practitioners in other jurisdictions who migrate to  
11 this state to qualify in the same manner as state applicants for  
12 registration, certification and licensure if the other jurisdiction has  
13 substantially equivalent requirements for registration, certification or  
14 licensure as those in this state.

15 (b) Whether there are professions similar to that of the ~~applicant~~  
16 ~~HEALTH PROFESSIONAL~~ group ~~which~~ THAT should be included in, or portions of  
17 the ~~applicant~~ ~~HEALTH PROFESSIONAL~~ group ~~which~~ THAT should be excluded  
18 from, the proposed legislation.

19 6. The maintenance of standards including:

20 (a) Whether effective quality assurance standards exist in the  
21 health profession, such as legal requirements associated with specific  
22 programs that define or enforce standards or a code of ethics.

23 (b) How the proposed legislation will ~~assure~~ ENSURE quality,  
24 including:

25 (i) The extent to which a code of ethics, if any, will be adopted.

26 (ii) The grounds for suspension or revocation of registration,  
27 certification or licensure.

28 7. A description of the group proposed for regulation, including a  
29 list of associations, organizations and other groups representing the  
30 practitioners in this state, an estimate of the number of practitioners in  
31 each group and whether the groups represent different levels of practice.

32 8. The expected costs of regulation, including:

33 (a) The impact THAT registration, certification or licensure will  
34 have on the costs of the services to the public.

35 (b) The cost to this state and to the general public of  
36 implementing the proposed legislation.

37 Sec. 5. Section 32-3106, Arizona Revised Statutes, is amended to  
38 read:

39 32-3106. Applicants for increase in scope of practice;  
40 legislation; criteria

41 A. ~~Applicant~~ ~~HEALTH PROFESSIONAL~~ groups ~~for~~ SEEKING AN increased  
42 scope of practice shall explain each of the following factors to the  
43 extent requested by the legislative ~~committee of reference~~ COMMITTEES:

44 1. ~~A definition of the problem and~~ Why a change in scope of  
45 practice is ~~necessary~~ BENEFICIAL, including the extent to which HEALTH

1 CARE consumers ~~need and~~ will benefit from practitioners with this scope of  
2 practice.

3 ~~2. The extent to which the public can be confident that qualified~~  
4 ~~practitioners are competent including:~~

5 ~~(a) Evidence that the profession's regulatory board has functioned~~  
6 ~~adequately in protecting the public.~~

7 ~~(b) Whether effective quality assurance standards exist in the~~  
8 ~~health profession, such as legal requirements associated with specific~~  
9 ~~programs that define or endorse standards or a code of ethics.~~

10 ~~(c) Evidence that state approved educational programs provide or~~  
11 ~~are willing to provide core curriculum adequate to prepare practitioners~~  
12 ~~at the proposed level.~~

13 2. WHETHER THE PROPOSED SCOPE OF PRACTICE IS TAUGHT IN ACCREDITED  
14 PROFESSIONAL SCHOOLS FOR THE PROFESSION, IN POSTGRADUATE TRAINING PROGRAMS  
15 OR IN CONTINUING EDUCATION PROGRAMS.

16 3. WHETHER THE PROPOSED SCOPE OF PRACTICE IS TESTED ON NATIONAL  
17 BOARD EXAMINATIONS FOR APPLICANTS FOR PROFESSIONAL LICENSURE.

18 ~~3.~~ 4. The extent to which ~~an increase in the scope of practice may~~  
19 ~~harm the public including the extent to which, IF ANY, an increased scope~~  
20 ~~of practice will restrict entry into practice OF ANY OTHER INDIVIDUALS and~~  
21 ~~whether the proposed legislation requires registered, certified or~~  
22 ~~licensed~~ practitioners in other jurisdictions who migrate to this state to  
23 qualify in the same manner ~~as state applicants for registration,~~  
24 ~~certification and licensure~~ if the other jurisdiction has substantially  
25 equivalent requirements for registration, certification or licensure as  
26 those in this state.

27 ~~4. The cost to this state and to the general public of implementing~~  
28 ~~the proposed increase in scope of practice.~~

29 5. THE RELEVANT HEALTH PROFESSIONAL LICENSURE LAWS, IF ANY, IN  
30 OTHER STATES.

31 6. RECOMMENDATIONS, IF ANY, FROM THE APPLICABLE LICENSING BOARD AND  
32 FROM PROFESSIONAL DEGREE AND TRAINING PROGRAMS IN THIS STATE.

33 B. THE LEGISLATURE SHALL REVIEW ANY LEGISLATION TO INCREASE A SCOPE  
34 OF PRACTICE ACCORDING TO THE FOLLOWING CRITERIA:

35 1. AN INDIVIDUAL WHO GRADUATES FROM AN ACCREDITED HEALTH  
36 PROFESSIONAL TRAINING PROGRAM, PASSES THE REQUIRED NATIONAL BOARD  
37 EXAMINATIONS AND BECOMES LICENSED IN THIS STATE IS PRESUMED TO BE FULLY  
38 QUALIFIED TO PROVIDE THE FULL SCOPE OF PROFESSIONAL SERVICES FOR WHICH THE  
39 INDIVIDUAL IS TRAINED.

40 2. ANY LIMIT ON A HEALTH PROFESSION SCOPE OF PRACTICE MUST BE ONLY  
41 FOR THE EXCLUSIVE PURPOSE OF PROTECTING THE PUBLIC INTEREST FROM A CLEAR  
42 AND IDENTIFIED SPECIFIC HARM.



1           3. ANY PROPOSED INCREASE IN A SCOPE OF PRACTICE THAT WILL RESTRICT  
2 OTHER INDIVIDUALS FROM ENGAGING IN THE HEALTH PROFESSION TO A GREATER  
3 DEGREE THAN IN CURRENT LAW MUST HAVE CREDIBLE EVIDENCE THAT THE PROPOSED  
4 CHANGE IS REQUIRED.

5           4. THERE IS A PRESUMPTION THAT HAVING ADDITIONALLY TRAINED HEALTH  
6 PROFESSIONALS PROVIDING AN EXPANDED RANGE OF PROFESSIONAL HEALTH CARE  
7 SERVICES WILL HAVE A BENEFICIAL EFFECT FOR A COMMUNITY AND SHOULD BE  
8 ENCOURAGED AND SUPPORTED.