

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 ~~4.~~ 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.

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.