House Engrossed Senate Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

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CHAPTER 155

SENATE BILL 1237

AN ACT

AMENDING SECTION 32-2081, ARIZONA REVISED STATUTES; RELATING TO PSYCHOLOGISTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-2081, Arizona Revised Statutes, is amended to read:

32-2081. Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements; civil penalty

A. The board, on its own motion, may investigate evidence that appears to show that a psychologist is psychologically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely engage in the practice of psychology. A health care institution shall, and any other person may, report to the board information that appears to show that a psychologist is psychologically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely engage in the practice of psychology. The board shall notify the psychologist about whom information has been received as to the content of the information within one hundred twenty days of receiving the information. A person who reports or provides information to the board in good faith is not subject to an action for civil damages. The board, if requested, shall not disclose the name of the person providing information unless this information is essential to proceedings conducted pursuant to this section. The board shall report a health care institution that fails to report as required by this section to the institution's licensing agency.

B. A health care institution shall inform the board when the privileges of a psychologist to practice in that institution are denied, revoked, suspended or limited because of actions by the psychologist that appear to show that that person is psychologically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely engage in the practice of psychology, along with a general statement of the reasons that led the health care institution to take this action. A health care institution shall inform the board if a psychologist under investigation resigns the psychologist's privileges or if a psychologist resigns in lieu of disciplinary action by the health care institution. Notification shall include a general statement of the reasons for the resignation.

C. The board may require the licensee to undergo any combination of mental, physical or psychological competence examinations at the licensee's expense and shall conduct investigations necessary to determine the competence and conduct of the licensee.

D. THE CHAIRMAN OF THE BOARD SHALL APPOINT A COMPLAINT SCREENING COMMITTEE OF NOT LESS THAN THREE MEMBERS OF THE BOARD INCLUDING A PUBLIC MEMBER. THE COMPLAINT SCREENING COMMITTEE IS SUBJECT TO OPEN MEETING REQUIREMENTS PURSUANT TO TITLE 38, CHAPTER 3, ARTICLE 3.1. THE COMPLAINT SCREENING COMMITTEE SHALL REVIEW ALL COMPLAINTS AND BASED ON THE INFORMATION PROVIDED PURSUANT TO SUBSECTION A OR B OF THIS SECTION, MAY TAKE EITHER OF THE FOLLOWING ACTIONS:

1. DISMISS THE COMPLAINT IF THE COMMITTEE DETERMINES THAT THE COMPLAINT IS WITHOUT MERIT. COMPLAINTS DISMISSED BY THE COMPLAINT SCREENING COMMITTEE SHALL NOT BE DISCLOSED IN RESPONSE TO A TELEPHONE INQUIRY OR PLACED ON THE BOARD'S WEB SITE.

2. REFER THE COMPLAINT TO THE FULL BOARD FOR FURTHER REVIEW AND ACTION.

~~D.~~ E. If the board finds, based on the information it receives under subsection A or B of this section, that the public health, safety or welfare requires emergency action, the board may order a summary suspension of a license pending proceedings for revocation or other action. If the board issues this order, it shall serve the licensee with a written notice of complaint and formal hearing pursuant to title 41, chapter 6, article 10, setting forth the charges made against the licensee and the licensee's right to a formal hearing before the board or an administrative law judge within sixty days.

~~E.~~ F. If the board finds that the information provided pursuant to subsection A or B of this section is not of sufficient seriousness to merit direct action against the licensee, it may take either of the following actions:

1. Dismiss if the board believes the information is without merit.

2. File a letter of concern.

~~F.~~ G. If the board believes the information provided pursuant to subsection A or B of this section is or may be true, it may request an informal interview with the psychologist. If the licensee refuses to be interviewed or if pursuant to an interview the board determines that cause may exist to revoke or suspend the license, it shall issue a formal complaint and hold a hearing pursuant to title 41, chapter 6, article 10. If as a result of an informal interview or a hearing the board determines that the facts do not warrant revocation or suspension of the license, it may take any of the following actions:

1. Dismiss if the board believes the information is without merit.

2. File a letter of concern.

3. Issue a decree of censure.

4. Fix a period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the psychologist. Probation may include temporary suspension for not to exceed twelve months, restriction of the license or restitution of fees to a client resulting from violations of this chapter. If a licensee fails to comply with a term of probation the board may file a complaint and notice of hearing pursuant to title 41, chapter 6, article 10 and take further disciplinary action.

5. Enter into an agreement with the licensee to restrict or limit the licensee's practice or activities in order to rehabilitate the psychologist, protect the public and ensure the psychologist's ability to safely engage in the practice of psychology.

~~G.~~ H. If the board finds that the information provided pursuant to subsection A or B of this section warrants suspension or revocation of a license, it shall hold a hearing pursuant to title 41, chapter 6, article 10. Notice of a complaint and hearing is fully effective by mailing a true copy to the licensee's last known address of record in the board's files. Notice is complete at the time of its deposit in the mail.

~~H.~~ I. The board may impose a civil penalty of at least three hundred dollars but not more than three thousand dollars for each violation of this chapter or a rule adopted under this chapter.

~~I.~~ J. Except as provided in section 41-1092.08, subsection H, a person may appeal a final decision made pursuant to this section to the superior court pursuant to title 12, chapter 7, article 6.

~~J.~~ K. If the board determines after a hearing that a licensee has committed an act of unprofessional conduct, is mentally or physically unable to safely engage in the practice of psychology or is psychologically incompetent, it may do any of the following in any combination and for any period of time it determines necessary:

1. Suspend or revoke the license.
2. Censure the licensee.
3. Place the licensee on probation.

~~K.~~ L. A letter of concern is a public document and may be used in future disciplinary actions against a psychologist. A decree of censure is an official action against the psychologist's license and may include a requirement that the licensee return fees to a client.

~~L.~~ M. If during the course of an investigation the board determines that a criminal violation may have occurred involving the delivery of psychological services it shall inform the appropriate criminal justice agency.

~~M.~~ N. The board shall deposit, pursuant to sections 35-146 and 35-147, all monies it collects from civil penalties pursuant to this section in the state general fund.

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.