



## Arizona Council of Human Service Providers

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# SB 1374: BOARD OF BEHAVIORAL HEALTH STATUTORY CHANGES AND CONTINUATION

## BACKGROUND

As part of the sunset process numerous concerns have been raised about the statutory structure and procedures of the Board of Behavioral Health Examiners. SB 1374, as passed by the Senate, incorporates the efforts of numerous stakeholder groups including licensees, professional associations, behavioral health organizations, educators, board representatives and other interested parties. The statutory changes address licensing, discipline, and organizational restructuring.

## PROVISIONS

### Licensing

As the expansion of behavioral health services through public programs and private insurance approaches, the BBHE plays an important role as the gatekeeper of some of the professions necessary to provide those services. The present statutes and rules create numerous problems in the licensing of professionals including ambiguous standards, inconsistent decisions, delays in granting applications and other inappropriate barriers to licensing. SB 1374 makes changes to reciprocity, supervised work experience, curriculum and educational requirements, the process of license consideration and the circumstances under which a license can be withdrawn.

**Reciprocity:** The reciprocity statute is amended to reflect the endorsement process, to allow endorsement after three years of practice in one or more states and to remove the requirement of supervised practice after receipt of an independent license through endorsement.

**Supervised Work Experience:** Independent practitioners in Social Work, Counseling, Marriage and Family Therapy and Substance Abuse Counseling must, in addition to meeting educational and testing requirements, demonstrate a period of supervised work experience both in the direct treatment of clients and the provision of other services and preparation. The proposed statutory provisions would clarify the number of hours required and the types of activities which would be acceptable and provide for the maintenance of information for determining the qualification of individuals to be used as supervisors. It would also require the Board to set out all requirements in rule.

**Curriculum and Education:** The educational requirements for applicants for counseling licenses who have attended programs without national certification have been particularly problematic. The statutory changes would provide an opportunity for educational institutions to seek prior approval for their curriculum (with a fee set by the Board), clarify core content courses, allow credit for programs operating on quarters rather than semesters and allow for consideration of subjects embedded in coursework.

**Restructuring License Consideration and Other Provisions:** The present requirement of consideration of every license by a credentialing committee has led to unnecessary delays. The proposed language would, in two years, remove credentialing committees and create academic review committees with specially qualified members, to make recommendations to the Board regarding issues of curriculum and supervised work experience. The bill also contains provisions for application withdrawals with a special provision for Board consideration if an application withdrawal could avoid review for unprofessional conduct.

## **Discipline**

The proposed statutory amendments are designed to improve the delays in processing complaints identified by the Auditor General's Office, generate more consistent disciplinary findings and address concerns about fairness.

***Restructure:*** The present disciplinary structure requires consideration by Credentialing Committees for each profession. This results in delays and potentially inconsistent findings and penalties for similar actions. The proposed statutory changes would adopt the model utilized by a number of other healthcare licensing boards and remove the role of the Credentialing Committees. The Board membership would be expanded to include more professional members and complaints involving professional issues such as scope of practice and standard of care would be reviewed by a professional who would offer recommendations to the Board.

***Impairment Program:*** Although the Board has the authority to adopt the impairment program utilized by other healthcare professional boards, it has never done so. The proposed statutory changes would require the establishment of such a program and its expansion to include behavioral health issues as well as substance abuse. The language would also require licensees participating in the program to bear financial responsibility for treatment and monitoring.

***Addressing Issues of Fairness*** The proposed statutory changes would specifically address issues related to fairness several of which have been adopted by other healthcare professional boards: no anonymous complaints, clarification of the burden of proof, no complaints older than 7 years (except instances of malpractice), a reasonable basis for ordering tests, maintenance of records and access to investigatory files. In addition, training would be required of investigators and a board member would, within one year of appointment, be required to be trained in judicial processes and temperament and responsibilities for administrative management. A temporary provision also allows those licensees who have had an application denied or a license revoked to seek review of the conduct upon which denial or revocation was based.

## **Board Restructure**

In addition to the removal of the credentialing committees, the professional membership of the Board would be expanded by four professional members and an Executive Director position would be established by statute. The per diem allowed would be increased to eighty-five dollars. The qualifications for public membership, which are presently significantly onerous, will be amended to reflect those established for other healthcare professional boards.

## **Board Continuation and Rule Making**

The Board would be continued until July, 2017 to provide for Legislative review after completion of the restructuring and rule adoption with the Auditor General including in its continuing audit a review of the compliance of adopted rules with statutory authority and a report to the Joint Legislative Audit Committee. Rules required under the new statutes would be the subject of a modified rule making process to include stakeholder notification, preliminary stakeholder meetings, at least two public meetings and a the publication of an impact study.