



ARIZONA STATE SENATE
Fifty-First Legislature, First Regular Session

FACT SHEET FOR S.B. 1374

behavioral health examiners board

Purpose

Continues the Board of Behavioral Health Examiners (Board) for four years, eliminates credentialing committees, establishes academic review committees, provides licensure by endorsement, and modifies licensure requirements, Board membership, and Director duties.

Background

The Board was originally established in 1988, to provide voluntary certification to professionals in the fields of counseling, marriage and family therapy, social work and substance abuse. In 2003, the Legislature converted this process into mandatory licensure for these four professions. The duties of the Board are to adopt rules, issue licenses to qualified individuals, establish and collect fees, conduct investigations and take disciplinary actions as necessary, and establish and enforce compliance with professional standards and rules of conduct for licenses.

The Board consists of eight members, including four professional members and four public members, all appointed by the Governor for three-year terms, not exceeding more than two full consecutive terms. Each of the four professional Board members represents one of the four behavioral health licensing areas (social work, counseling, marriage and family therapy, and substance abuse counseling) and is appointed from each of the four credentialing committees. The four credentialing committees: 1) review licensure applications; 2) conduct investigations and hearings; and 3) consist of four professional members and one public member, all appointed by the Governor for three-year terms.

During the 2007 interim, the Senate Health and House of Representatives Health Committee of Reference (COR) conducted a sunset review of the Board. The COR recommended continuing the Board for five years and recommended that the Joint Legislative Audit Committee consider scheduling a performance audit of the Board as soon as possible. During the 2012 interim, the Office of the Auditor General (OAG) completed a performance audit of the Board and in November 2012, the Senate Healthcare and Medical Liability Reform and House Employment and Regulatory Affairs COR conducted a sunset review hearing to receive public testimony and consider factors, including the OAG's audit to determine whether the Board ought to be continued, modified or terminated. The COR recommended to continue the Board for four years.

Statute requires the Board to deposit 10 percent of the monies it collects into the state General Fund (GF). If the Board is not continued, the GF revenue would decrease by a corresponding amount. As to the Board's fund, the measure requires the Board to establish a monitoring program, additional rules be drafted, and training requirements for Board members, which may cause an added expense.

Provisions

Board Members

1. Eliminates the four credentialing committee professional members and adds eight members, including two licensed professionals from each of the four disciplines (social work, counseling, marriage and family therapy, and substance abuse counseling).
2. Modifies the requirements of the four public members as follows:
 - a) prohibits the person (or household member) from being a licensee or eligible for licensure unless the member (or household member) has been retired from active practice for at least five years, rather than the person or person's spouse never having been a behavioral health professional;
 - b) prohibits the person from having a current substantial financial interest, rather than ever having had any financial interest, in an entity that directly provides behavioral health services; and
 - c) eliminates the provision a person cannot have engaged in any activity directly related to the practice of behavioral health.
3. Requires each Board member to complete a 12-hour training program within three months after appointment as outlined.

Board and Executive Director (Effective October 31, 2015)

4. Requires an investigative employee to complete a training program within one year of hire as outlined, and requires the employee be supervised by a trained investigator until program completed.
5. Instructs the Board to do the following:
 - a) adopt rules on curricula of regionally accredited institutions and maintain a list of those programs;
 - b) maintain a registry of licensees who have met the requirements to provide supervision to applicants in the same profession; and
 - c) adopt rules on approving persons who wish to provide supervision but who are licensed in a different profession than the applicant.
6. Requires the Board, if the Board has appointed an academic review committee (Committee), to consult with that Committee before approving examinations for licenses as outlined.
7. Requires applicants when applying for licensure to furnish documentation as prescribed by rule.

Executive Director

8. Directs the Board to appoint an Executive Director (Director), on or after January 31, 2014.
9. Outlines the following requirements of the Director:
 - a) perform administrative duties;
 - b) employ professional consultants and agents necessary for investigations;
 - c) dismiss complaints as outlined; and

- d) enter into agreements, if authorized by the Board, with licensees for the confidential treatment, rehabilitation and monitoring of chemical dependency as outlined.

Confidential Monitoring Program

- 10. Requires, rather than permits, the Board to establish a confidential program (program) for the monitoring of licensees who have chemical dependence or medical, psychiatric, psychological or behavioral health disorders that may impact safe practices.
- 11. Stipulates that a licensee who materially fails to comply with a program requirement shall be reported to the Board and terminated from the program.
- 12. Specifies stipulated agreements are not public records if the following conditions are met:
 - a) licensee voluntarily agrees to participate in the program;
 - b) licensee complies with all treatment requirements or recommendations;
 - c) licensee refrains from professional practice until approved by the treatment program and the Director;
 - d) licensee complies with all monitoring requirements; and
 - e) licensee's professional employer is notified of the licensee's chemical dependency and program participation and is provided a copy of the agreement.
- 13. Negates the confidentiality protections of records when a licensee is terminated from a program due to failing to comply with requirements.

Academic Review Committees (Effective December 31, 2013)

- 14. Permits Board to establish an Academic Review Committee (Committee) for each licensure area to:
 - a) review applications referred by the Board or Director to verify whether an applicant has met educational or work supervisory requirements;
 - b) make specific findings and recommendations on application deficiencies; and
 - c) review requests and make recommendations for curriculum approval applications.
- 15. Requires a Committee to be comprised of three members who have been Arizona residents at least a year and one of whom must be a licensee who has at least five years of applicable work experience.
- 16. Requires two Committee members to have served within the previous five years as faculty at a regionally accredited institution in an applicable program.
- 17. States Committee members shall annually elect their leadership, serve at the Board's pleasure for three-year staggered terms, not serve more than two full consecutive terms, and are eligible to receive up to \$30 for each day spent performing their duties.
- 18. Immunizes Committee members from suit for actions taken in good faith as outlined.

License by Endorsement

- 19. Eliminates a reciprocal license and allows for a license by endorsement with the following requirement modifications:
 - a) allows a person's current license or certificate that is in good standing in more than one state, rather than only in one state, to be considered;
 - b) reduces the time a person has to have been licensed or certified in the applicable discipline and level (in other states) from a minimum of five years to three;

- c) changes the time required for the person to have been engaged in practice from a minimum of 6000 hours during the five years before applying to a minimum of 3600 hours for at least three years before applying;
 - d) requires a person to have met the outlined requirements in effect when the person was licensed in other states, rather than requires there to have been minimum outlined requirements in place at licensure; and
 - e) requires a person to submit a notarized affidavit listing all U.S. jurisdictions the person has been licensed or certified within the practice of behavioral health and any disciplinary actions taken.
20. Requires a person seeking a license by endorsement in any of the following areas to have earned at least a master's degree, in the applicable field, granted by a regionally accredited institution:
- a) licensed clinical social worker (LCSW);
 - b) licensed professional counselor (LPC);
 - c) licensed marriage and family therapist (LMFT); or
 - d) licensed independent substance abuse counselor (LISAC).
21. Allows a LCSW, LPC, LMFT, or LISAC licensed by endorsement to practice without direct supervision of a licensee and eliminates the requirements a reciprocal license holder to complete in order to obtain a regular license.

Disciplinary Matters

- 22. Requires the Board to consult with licensed or retired behavioral health professionals to review complaints related to professional standards or ethics, scope or standard of care.
- 23. Stipulates the Board must require, on determination of reasonable cause, a mental, physical or psychological examination, assessment or skills evaluation necessary to determine the licensee's competence or ability to practice safely.
- 24. Allows a licensee to file a written response with the Board within 30 days after receiving a letter of concern from the Board.
- 25. Prohibits the Board from acting on any complaint received on a violation that occurred more than seven years before the complaint is received.
- 26. Forbids the Board from opening an investigation based on anonymous complaints.
- 27. Requires the Board to use the burden of proof of *clear and convincing* for disciplinary matters.
- 28. Requires the Board to make an investigative file, which has been redacted, available to the licensee under investigation at least five business days before the Board meets to consider the complaint.
- 29. Prohibits the Board, when reviewing applications, from considering the fact that an applicant had a license refused or revoked for unprofessional conduct from January 1, 2009 to January 1, 2017.

***Licensed Baccalaureate Social Worker (LBSW) and Licensed Clinical Social Worker (LCSW)
(Effective October 31, 2015)***

- 30. Eliminates the requirement that a LBSW must be directly supervised as outlined when engaged in nonclinical practice.

31. Changes the post-master's degree requirement for an LCSW applicant from requiring at least two years of full-time (or part-time equivalent) experience as outlined, to requiring at least 3200 hours of experience in not less than 24 months as outlined.

32. Stipulates the 3200 hours required for post-master's experience must include at least 1600 hours of *direct client contact*, no more than 1600 hours of *indirect client services*, and at least 100 hours of clinical supervision.

Licensed Professional Counselor (LPC) (Effective October 31, 2015)

33. Expands the options an applicant for LPC may meet educational requirements by including: [21]

- a) a program with a curriculum that has been approved by the Board; and
- b) a program with a curriculum meeting requirements prescribed in Board rule.

34. Stipulates a program that is not accredited as outlined must require 700 hours of supervised clinical hours and 24 semester hours (or 34 quarter hours) in courses in eight outlined core content areas as prescribed in rule.

35. Allows the Board to accept equivalent coursework in which core content subject matter is embedded or contained within another course.

36. Changes the post-master's degree requirement for an LPC applicant from requiring at least two years of full-time (or part-time equivalent) experience as outlined, to requiring at least 3200 hours of experience in at least 24 months as outlined.

37. Stipulates the 3200 hours required for post-master's experience must include at least 1600 hours of *direct client contact*, no more than 1600 hours of *indirect client services*, and at least 100 hours of clinical supervision.

38. Provides that a program can require at least 60 semester credit hours *or* 90 quarter credit hours and applies the provision that allows an applicant who completed a degree before July 1, 1989 to satisfy practicum experience as outlined, to all Board-approved programs.

Licensed Marriage and Family Therapist (LMFT) (Effective October 31, 2015)

39. Changes the post-master's degree requirement for an LMFT applicant from requiring at least two years of full-time (or part-time equivalent) experience as outlined, to requiring at least 3200 hours of experience as outlined and prescribed by rule with at least 1600 hours of *direct client contact* and not more than 1600 of *indirect client service*.

Licensed Associate Substance Abuse Counselor (LASAC) and Licensed Independent Substance Abuse Counselor (LISAC) (Effective October 31, 2015)

40. Changes the bachelor's degree requirement for an LASAC applicant and master's degree requirement for an LISAC applicant from requiring at least two years of work experience as outlined, to requiring at least 3200 hours of experience as outlined and prescribed by rule with at least 1600 hours of *direct client contact* and not more than 1600 of *indirect client service*.

General Provisions

41. Allows an applicant who has corrected conduct and resolved the matter to the Board's satisfaction an act or conduct that would constitute grounds for disciplinary action against a licensee, to apply for licensure.
42. Permits an applicant for licensure to withdraw application before a final action by the Board.
43. Repeals credentialing committees on October 31, 2015 and replaces references of these committees with either the Board or academic review committee.
44. Defines *direct client contact*, *indirect client services*, *equivalent*, *psychoeducation* and adds to the definition of *practice of social work*.
45. Exempts the Board from rule making requirements for the purposes of this act until November 1, 2015 and directs the Board to allow interested parties to provide written comments and testimony on proposed rules.
46. Requires the Board, in relation to proposed rules, to: a) prepare a mailing list of persons who wish to be notified of hearings; b) hold at least two public hearings before rule adoption; and c) testify before the Joint Legislative Budget Committee regarding rules.
47. Continues, retroactive to July 1, 2013, the Board until July 1, 2017.
48. Repeals the Board on January 1, 2018.
49. Contains a purpose statement.
50. Makes numerous technical and conforming changes.
51. Becomes effective on the general effective date, with the delayed effective dates at noted.

Prepared by Senate Research

February 11, 2013

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