

REFERENCE TITLE: **medical imaging equipment; services; self-referrals**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1559

Introduced by
Senators O'Halleran, Allen

AN ACT

**AMENDING SECTIONS 32-1401, 32-1501 AND 32-3201, ARIZONA REVISED STATUTES;
AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTION 32-3213; RELATING TO HEALTH PROFESSIONALS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1401, Arizona Revised Statutes, is amended to
3 read:

4 32-1401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Active license" means a valid and existing license to practice
7 medicine.

8 2. "Adequate records" means legible medical records containing, at a
9 minimum, sufficient information to identify the patient, support the
10 diagnosis, justify the treatment, accurately document the results, indicate
11 advice and cautionary warnings provided to the patient and provide sufficient
12 information for another practitioner to assume continuity of the patient's
13 care at any point in the course of treatment.

14 3. "Advisory letter" means a nondisciplinary letter to notify a
15 licensee that either:

16 (a) While there is insufficient evidence to support disciplinary
17 action, the board believes that continuation of the activities that led to
18 the investigation may result in further board action against the licensee.

19 (b) The violation is a minor or technical violation that is not of
20 sufficient merit to warrant disciplinary action.

21 (c) While the licensee has demonstrated substantial compliance through
22 rehabilitation or remediation that has mitigated the need for disciplinary
23 action, the board believes that repetition of the activities that led to the
24 investigation may result in further board action against the licensee.

25 4. "Approved hospital internship, residency or clinical fellowship
26 program" means a program at a hospital that at the time the training occurred
27 was legally incorporated and that had a program that was approved for
28 internship, fellowship or residency training by the accreditation council for
29 graduate medical education, the association of American medical colleges, the
30 royal college of physicians and surgeons of Canada or any similar body in the
31 United States or Canada approved by the board whose function is that of
32 approving hospitals for internship, fellowship or residency training.

33 5. "Approved school of medicine" means any school or college offering
34 a course of study that, on successful completion, results in the degree of
35 doctor of medicine and whose course of study has been approved or accredited
36 by an educational or professional association, recognized by the board,
37 including the association of American medical colleges, the association of
38 Canadian medical colleges or the American medical association.

39 6. "Board" means the Arizona medical board.

40 7. "Completed application" means that the applicant has supplied all
41 required fees, information and correspondence requested by the board on forms
42 and in a manner acceptable to the board.

43 8. "Direct supervision" means that a physician, physician assistant
44 licensed pursuant to chapter 25 of this title or nurse practitioner certified
45 pursuant to chapter 15 of this title is within the same room or office suite

1 as the medical assistant in order to be available for consultation regarding
2 those tasks the medical assistant performs pursuant to section 32-1456.

3 9. "Dispense" means the delivery by a doctor of medicine of a
4 prescription drug or device to a patient, except for samples packaged for
5 individual use by licensed manufacturers or repackagers of drugs, and
6 includes the prescribing, administering, packaging, labeling and security
7 necessary to prepare and safeguard the drug or device for delivery.

8 10. "Doctor of medicine" means a natural person holding a license,
9 registration or permit to practice medicine pursuant to this chapter.

10 11. "Full-time faculty member" means a physician employed full time as
11 a faculty member while holding the academic position of assistant professor
12 or a higher position at an approved school of medicine.

13 12. "Health care institution" means any facility as defined in section
14 36-401, any person authorized to transact disability insurance, as defined in
15 title 20, chapter 6, article 4 or 5, any person who is issued a certificate
16 of authority pursuant to title 20, chapter 4, article 9 or any other
17 partnership, association or corporation that provides health care to
18 consumers.

19 13. "Immediate family" means the spouse, natural or adopted children,
20 father, mother, brothers and sisters of the doctor and the natural or adopted
21 children, father, mother, brothers and sisters of the doctor's spouse.

22 14. "Letter of reprimand" means a disciplinary letter that is issued by
23 the board and that informs the physician that the physician's conduct
24 violates state or federal law and may require the board to monitor the
25 physician.

26 15. "Limit" means taking a nondisciplinary action that alters the
27 physician's practice or professional activities if the board determines that
28 there is evidence that the physician is or may be mentally or physically
29 unable to safely engage in the practice of medicine.

30 16. "Medical assistant" means an unlicensed person who meets the
31 requirements of section 32-1456, has completed an education program approved
32 by the board, assists in a medical practice under the supervision of a doctor
33 of medicine, physician assistant or nurse practitioner and performs delegated
34 procedures commensurate with the assistant's education and training but does
35 not diagnose, interpret, design or modify established treatment programs or
36 perform any functions that would violate any statute applicable to the
37 practice of medicine.

38 17. "Medical peer review" means:

39 (a) The participation by a doctor of medicine in the review and
40 evaluation of the medical management of a patient and the use of resources
41 for patient care.

42 (b) Activities relating to a health care institution's decision to
43 grant or continue privileges to practice at that institution.

44 18. "Medically incompetent" means a person who the board determines is
45 incompetent based on a variety of factors, including:

1 (a) A lack of sufficient medical knowledge or skills, or both, to a
2 degree likely to endanger the health of patients.

3 (b) When considered with other indications of medical incompetence,
4 failing to obtain a scaled score of at least seventy-five per cent on the
5 written special purpose licensing examination.

6 19. "Medicine" means allopathic medicine as practiced by the recipient
7 of a degree of doctor of medicine.

8 20. "Office based surgery" means a medical procedure conducted in a
9 physician's office or other outpatient setting that is not part of a licensed
10 hospital or licensed ambulatory surgical center.

11 21. "Physician" means a doctor of medicine licensed pursuant to this
12 chapter.

13 22. "Practice of medicine" means the diagnosis, the treatment or the
14 correction of or the attempt or the holding of oneself out as being able to
15 diagnose, treat or correct any and all human diseases, injuries, ailments,
16 infirmities, deformities, physical or mental, real or imaginary, by any
17 means, methods, devices or instrumentalities, except as the same may be among
18 the acts or persons not affected by this chapter. The practice of medicine
19 includes the practice of medicine alone or the practice of surgery alone, or
20 both.

21 23. "Restrict" means taking a disciplinary action that alters the
22 physician's practice or professional activities if the board determines that
23 there is evidence that the physician is or may be medically incompetent or
24 guilty of unprofessional conduct.

25 24. "Special purpose licensing examination" means an examination
26 developed by the national board of medical examiners on behalf of the
27 federation of state medical boards for use by state licensing boards to test
28 the basic medical competence of physicians who are applying for licensure and
29 who have been in practice for a considerable period of time in another
30 jurisdiction and to determine the competence of a physician under
31 investigation by a state licensing board.

32 25. "Teaching hospital's accredited graduate medical education program"
33 means that the hospital is incorporated and has an internship, fellowship or
34 residency training program that is accredited by the accreditation council
35 for graduate medical education, the American medical association, the
36 association of American medical colleges, the royal college of physicians and
37 surgeons of Canada or a similar body in the United States or Canada approved
38 by the board whose function is that of approving hospitals for internship,
39 fellowship or residency training.

40 26. "Teaching license" means a valid license to practice medicine as a
41 full-time faculty member of an approved school of medicine or a teaching
42 hospital's accredited graduate medical education program.

43 27. "Unprofessional conduct" includes the following, whether occurring
44 in this state or elsewhere:

- 1 (a) Violating any federal or state laws, rules or regulations
2 applicable to the practice of medicine.
- 3 (b) Intentionally disclosing a professional secret or intentionally
4 disclosing a privileged communication except as either act may otherwise be
5 required by law.
- 6 (c) False, fraudulent, deceptive or misleading advertising by a doctor
7 of medicine or the doctor's staff, employer or representative.
- 8 (d) Committing a felony, whether or not involving moral turpitude, or
9 a misdemeanor involving moral turpitude. In either case, conviction by any
10 court of competent jurisdiction or a plea of no contest is conclusive
11 evidence of the commission.
- 12 (e) Failing or refusing to maintain adequate records on a patient.
- 13 (f) Habitual intemperance in the use of alcohol or habitual substance
14 abuse.
- 15 (g) Using controlled substances except if prescribed by another
16 physician for use during a prescribed course of treatment.
- 17 (h) Prescribing or dispensing controlled substances to members of the
18 physician's immediate family.
- 19 (i) Prescribing, dispensing or administering schedule II controlled
20 substances as defined in section 36-2513 including amphetamines and similar
21 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a
22 period in excess of thirty days in any one year, or the non-therapeutic use
23 of injectable amphetamines.
- 24 (j) Prescribing, dispensing or administering any controlled substance
25 or prescription-only drug for other than accepted therapeutic purposes.
- 26 (k) Signing a blank, undated or predated prescription form.
- 27 (l) Conduct that the board determines is gross malpractice, repeated
28 malpractice or any malpractice resulting in the death of a patient.
- 29 (m) Representing that a manifestly incurable disease or infirmity can
30 be permanently cured, or that any disease, ailment or infirmity can be cured
31 by a secret method, procedure, treatment, medicine or device, if such is not
32 the fact.
- 33 (n) Refusing to divulge to the board on demand the means, method,
34 procedure, modality of treatment or medicine used in the treatment of a
35 disease, injury, ailment or infirmity.
- 36 (o) Action that is taken against a doctor of medicine by another
37 licensing or regulatory jurisdiction due to that doctor's mental or physical
38 inability to engage safely in the practice of medicine, **DUE TO** the doctor's
39 medical incompetence or for unprofessional conduct as defined by that
40 jurisdiction and that corresponds directly or indirectly to an act of
41 unprofessional conduct prescribed by this paragraph. The action taken may
42 include refusing, denying, revoking or suspending a license by that
43 jurisdiction or a surrendering of a license to that jurisdiction, otherwise
44 limiting, restricting or monitoring a licensee by that jurisdiction or
45 placing a licensee on probation by that jurisdiction.

1 (p) Sanctions imposed by an agency of the federal government,
2 including restricting, suspending, limiting or removing a person from the
3 practice of medicine or restricting that person's ability to obtain financial
4 remuneration.

5 (q) Any conduct or practice that is or might be harmful or dangerous
6 to the health of the patient or the public.

7 (r) Violating a formal order, probation, consent agreement or
8 stipulation issued or entered into by the board or its executive director
9 under this chapter.

10 (s) Violating or attempting to violate, directly or indirectly, or
11 assisting in or abetting the violation of or conspiring to violate any
12 provision of this chapter.

13 (t) Knowingly making any false or fraudulent statement, written or
14 oral, in connection with the practice of medicine or if applying for
15 privileges or renewing an application for privileges at a health care
16 institution.

17 (u) Charging a fee for services not rendered or dividing a
18 professional fee for patient referrals among health care providers or health
19 care institutions or between these providers and institutions or a
20 contractual arrangement that has the same effect. This subdivision does not
21 apply to payments from a medical researcher to a physician in connection with
22 identifying and monitoring patients for a clinical trial regulated by the
23 United States food and drug administration.

24 (v) Obtaining a fee by fraud, deceit or misrepresentation.

25 (w) Charging or collecting a clearly excessive fee. In determining if
26 a fee is clearly excessive, the board shall consider the fee or range of fees
27 customarily charged in the state for similar services in light of modifying
28 factors such as the time required, the complexity of the service and the
29 skill requisite to perform the service properly. This subdivision does not
30 apply if there is a clear written contract for a fixed fee between the
31 physician and the patient that has been entered into before the provision of
32 service.

33 (x) Fetal experiments conducted in violation of section 36-2302.

34 (y) The use of experimental forms of diagnosis and treatment without
35 adequate informed patient consent, and without conforming to generally
36 accepted experimental criteria, including protocols, detailed records,
37 periodic analysis of results and periodic review by a medical peer review
38 committee as approved by the federal food and drug administration or its
39 successor agency.

40 (z) Engaging in sexual conduct with a current patient or with a former
41 patient within six months after the last medical consultation unless the
42 patient was the licensee's spouse at the time of the contact or, immediately
43 preceding the physician-patient relationship, was in a dating or engagement
44 relationship with the licensee. For the purposes of this subdivision,
45 "sexual conduct" includes:

1 (i) Engaging in or soliciting sexual relationships, whether consensual
2 or nonconsensual.

3 (ii) Making sexual advances, requesting sexual favors or engaging in
4 any other verbal conduct or physical contact of a sexual nature.

5 (iii) Intentionally viewing a completely or partially disrobed patient
6 in the course of treatment if the viewing is not related to patient diagnosis
7 or treatment under current practice standards.

8 (aa) Procuring or attempting to procure a license to practice medicine
9 or a license renewal by fraud, by misrepresentation or by knowingly taking
10 advantage of the mistake of another person or an agency.

11 (bb) Representing or holding oneself out as being a medical specialist
12 when such is not the fact.

13 (cc) Maintaining a professional connection with or lending one's name
14 to enhance or continue the activities of an illegal practitioner of medicine.

15 (dd) Failing to furnish information in a timely manner to the board or
16 the board's investigators or representatives if legally requested by the
17 board.

18 (ee) Failing to allow properly authorized board personnel on demand to
19 examine and have access to documents, reports and records maintained by the
20 physician that relate to the physician's medical practice or medically
21 related activities.

22 ~~(ff) Knowingly failing to disclose to a patient on a form that is~~
23 ~~prescribed by the board and that is dated and signed by the patient or~~
24 ~~guardian acknowledging that the patient or guardian has read and understands~~
25 ~~that the doctor has a direct financial interest in a separate diagnostic or~~
26 ~~treatment agency or in nonroutine goods or services that the patient is being~~
27 ~~prescribed and if the prescribed treatment, goods or services are available~~
28 ~~on a competitive basis. This subdivision does not apply to a referral by one~~
29 ~~doctor of medicine to another doctor of medicine within a group of doctors of~~
30 ~~medicine practicing together.~~

31 ~~(gg)~~ (ff) Using chelation therapy in the treatment of arteriosclerosis
32 or as any other form of therapy, with the exception of treatment of heavy
33 metal poisoning, without:

34 (i) Adequate informed patient consent.

35 (ii) Conforming to generally accepted experimental criteria, including
36 protocols, detailed records, periodic analysis of results and periodic review
37 by a medical peer review committee.

38 (iii) Approval by the federal food and drug administration or its
39 successor agency.

40 ~~(hh)~~ (gg) Prescribing, dispensing or administering anabolic-androgenic
41 steroids to a person for other than therapeutic purposes.

42 ~~(ii)~~ (hh) Lack of or inappropriate direction, collaboration or direct
43 supervision of a medical assistant or a licensed, certified or registered
44 health care provider employed by, supervised by or assigned to the physician.

1 ~~(jj)~~ (ii) Knowingly making a false or misleading statement to the
2 board or on a form required by the board or in a written correspondence,
3 including attachments, with the board.

4 ~~(kk)~~ (jj) Failing to dispense drugs and devices in compliance with
5 article 6 of this chapter.

6 ~~(ll)~~ (kk) Conduct that the board determines is gross negligence,
7 repeated negligence or negligence resulting in harm to or the death of a
8 patient.

9 ~~(mm)~~ (ll) The representation by a doctor of medicine or the doctor's
10 staff, employer or representative that the doctor is boarded or board
11 certified if this is not true or the standing is not current or without
12 supplying the full name of the specific agency, organization or entity
13 granting this standing.

14 ~~(nn)~~ (mm) Refusing to submit to a body fluid examination or any other
15 examination known to detect the presence of alcohol or other drugs as
16 required by the board pursuant to section 32-1452 or pursuant to a board
17 investigation into a doctor of medicine's alleged substance abuse.

18 ~~(oo)~~ (nn) Failing to report in writing to the Arizona medical board or
19 the Arizona regulatory board of physician assistants any evidence that a
20 doctor of medicine or a physician assistant is or may be medically
21 incompetent, guilty of unprofessional conduct or mentally or physically
22 unable to safely practice medicine or to perform as a physician assistant.

23 ~~(pp)~~ (oo) The failure of a physician who is the chief executive
24 officer, the medical director or the medical chief of staff of a health care
25 institution to report in writing to the board that the hospital privileges of
26 a doctor of medicine have been denied, revoked, suspended, supervised or
27 limited because of actions by the doctor that appear to show that the doctor
28 is or may be medically incompetent, is or may be guilty of unprofessional
29 conduct or is or may be unable to engage safely in the practice of medicine.

30 ~~(qq)~~ (pp) Representing oneself to be a current member of the board,
31 its staff or a board medical consultant if this is not true.

32 ~~(rr)~~ (qq) Failing to make patient medical records in the physician's
33 possession promptly available to a physician assistant, a nurse practitioner,
34 a person licensed pursuant to this chapter or a podiatrist, chiropractor,
35 naturopathic physician, osteopathic physician or homeopathic physician
36 licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper
37 authorization to do so from the patient, a minor patient's parent, the
38 patient's legal guardian or the patient's authorized representative or
39 failing to comply with title 12, chapter 13, article 7.1.

40 ~~(ss)~~ (rr) Prescribing, dispensing or furnishing a prescription
41 medication or a prescription-only device as defined in section 32-1901 to a
42 person unless the licensee first conducts a physical examination of that
43 person or has previously established a doctor-patient relationship. This
44 subdivision does not apply to:

1 (i) A physician who provides temporary patient supervision on behalf
2 of the patient's regular treating licensed health care professional.

3 (ii) Emergency medical situations as defined in section 41-1831.

4 (iii) Prescriptions written to prepare a patient for a medical
5 examination.

6 (iv) Prescriptions written or prescription medications issued for use
7 by a county or tribal public health department for immunization programs, ~~OR~~
8 emergency treatment, ~~OR~~ in response to an infectious disease investigation,
9 public health emergency, infectious disease outbreak or act of bioterrorism.
10 For the purposes of this item, "bioterrorism" has the same meaning prescribed
11 in section 36-781.

12 ~~(tt)~~ (ss) Performing office based surgery using sedation in violation
13 of board rules.

14 ~~(uu)~~ (tt) Practicing medicine under a false or assumed name in this
15 state.

16 Sec. 2. Section 32-1501, Arizona Revised Statutes, is amended to read:

17 32-1501. Definitions

18 In this chapter, unless the context otherwise requires:

19 1. "Accepted therapeutic purpose" means treatment of a disease,
20 injury, ailment or infirmity that is competent and generally recognized as
21 safe and effective.

22 2. "Active license" means a current valid license to practice
23 naturopathic medicine.

24 3. "Adequate medical records" means medical records containing
25 sufficient information to identify the patient, the diagnosis and the
26 treatment prescribed.

27 4. "Approved clinical training program" or "clinical training program"
28 means a program for naturopathic medical students in which the training
29 occurred or is being conducted by or in conjunction with an approved school
30 of naturopathic medicine.

31 5. "Approved internship program" or "internship" means that the
32 program in which the training occurred or is being conducted has been
33 approved for internship training for physicians or for graduates of a school
34 of naturopathic medicine by the board or was approved or accredited by an
35 educational or professional association recognized by the board or by another
36 state's or country's licensing agency recognized by the board.

37 6. "Approved postdoctoral training" or "postdoctoral training" means
38 that the program in which the training occurred or is being conducted has
39 been approved for specialty training or for graduate medical education in
40 naturopathic medicine by the board or approved or accredited by an
41 educational or professional association recognized by the board or by another
42 state's or country's licensing agency recognized by the board.

43 7. "Approved preceptorship program" or "preceptorship" means that the
44 program in which the training occurred or is being conducted has been
45 approved for preceptorship training for physicians or for graduates of a

1 school of naturopathic medicine by the board or was approved or accredited by
2 an educational or professional association recognized by the board or by
3 another state's or country's licensing agency recognized by the board.

4 8. "Approved school of naturopathic medicine" or "school of
5 naturopathic medicine" means a school or college determined by the board to
6 have an educational program that meets standards prescribed by the council on
7 naturopathic medical education, or its successor agency, and that offers a
8 course of study that, on successful completion, results in the awarding of
9 the degree of doctor of naturopathic medicine and whose course of study is
10 either of the following:

11 (a) Accredited or a candidate for accreditation by an accrediting
12 agency recognized by the United States secretary of education as a
13 specialized accrediting agency for schools of naturopathic medicine or its
14 successor.

15 (b) Accredited or a candidate for accreditation by an accrediting
16 agency recognized by the council for higher education accreditation or its
17 successor.

18 9. "Board" means the naturopathic physicians board of medical
19 examiners.

20 10. "Chelation therapy" means an experimental medical therapy to
21 restore cellular homeostasis through the use of intravenous, metal-binding
22 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation
23 therapy does not include experimental therapy used to treat heavy metal
24 poisoning.

25 11. "Completed application" means that the applicant paid the required
26 fees and supplied all documents and information as requested by the board and
27 in a manner acceptable to the board.

28 12. "Controlled substance" means a drug, substance or immediate
29 precursor in schedules I through V of title 36, chapter 27, article 2.

30 13. "Direct supervision" means that a physician who is licensed
31 pursuant to this chapter or chapter 13, 17 or 29 of this title:

32 (a) Is physically present and within sight or sound of the person
33 supervised and is available for consultation regarding procedures that the
34 physician has authorized and for which the physician remains responsible.

35 (b) Has designated a person licensed pursuant to this chapter or
36 chapter 13, 17 or 29 of this title to provide direct supervision in the
37 physician's absence.

38 14. "Doctor of naturopathic medicine" or "doctor" means a natural
39 person licensed to practice naturopathic medicine under this chapter.

40 15. "Drug" has the same meaning prescribed in section 32-1901 but does
41 not include:

42 (a) Intravenous administration of legend drugs, except for:

43 (i) Vitamins, chelation therapy and drugs used in emergency
44 resuscitation and stabilization.

45 (ii) Minerals.

1 (b) Controlled substances listed as schedule I or II controlled
2 substances as defined in the federal controlled substances act of 1970 (21
3 United States Code section 802), except morphine and any homeopathic
4 preparations that are also controlled substances.

5 (c) Cancer chemotherapeutics classified as legend drugs.

6 (d) Antipsychotics.

7 16. "General supervision" means that the physician is available for
8 consultation regarding procedures that the physician has authorized and for
9 which the physician remains responsible.

10 17. "Legend drug" means any drug defined by section 503(b) of the
11 federal food, drug and cosmetic act and under which definition its label is
12 required to bear the statement "Rx only".

13 18. "Letter of concern" means a nondisciplinary advisory letter that is
14 issued by the board to a person who is regulated under this chapter and that
15 states that while there is insufficient evidence to support disciplinary
16 action the board believes that the person should modify or eliminate certain
17 practices and that continuation of the activities that led to the information
18 being submitted to the board may result in action against the person's
19 license, certificate or registration.

20 19. "Letter of reprimand" means a disciplinary letter that is issued by
21 the board and that informs a person who is regulated under this chapter that
22 the person's conduct violates state or federal law but does not require the
23 board to restrict the person's license, certificate or registration because
24 the person's conduct did not result in harm to a patient or to the public.

25 20. "Limit" means taking a nondisciplinary action that alters the
26 physician's practice or professional activities if the board determines that
27 there is evidence that the physician is or may be mentally or physically
28 unable to safely engage in the practice of medicine.

29 21. "Medical assistant" or "naturopathic medical assistant" means a
30 person who is certified by the board as a medical assistant, who assists a
31 doctor of naturopathic medicine and who may perform delegated procedures that
32 are commensurate with the assistant's education and training under the direct
33 supervision of a doctor of naturopathic medicine and that do not include
34 diagnosing, designing or modifying established treatment programs or those
35 procedures prohibited by the board or by this chapter.

36 22. "Medically incompetent" means a person who is licensed, certified
37 or registered pursuant to this chapter and who lacks sufficient naturopathic
38 medical knowledge or skills, or both, to a degree that is likely to endanger
39 the health of patients.

40 23. "Naturopathic medical student" means a person who is enrolled in a
41 course of study at an approved school of naturopathic medicine.

42 24. "Naturopathic medicine" means medicine as taught in approved
43 schools of naturopathic medicine and in clinical, internship, preceptorship
44 and postdoctoral training programs approved by the board and practiced by a

1 recipient of a degree of doctor of naturopathic medicine licensed pursuant to
2 this chapter.

3 25. "Nurse" means a person licensed pursuant to chapter 15 of this
4 title.

5 26. "Physician" means a doctor of naturopathic medicine licensed
6 pursuant to this chapter.

7 27. "Practice of naturopathic medicine" means a medical system of
8 diagnosing and treating diseases, injuries, ailments, infirmities and other
9 conditions of the human mind and body including by natural means, drugless
10 methods, drugs, nonsurgical methods, devices, physical, electrical, hygienic
11 and sanitary measures and all forms of physical agents and modalities.

12 28. "Restrict" means taking a disciplinary action that alters the
13 physician's practice or professional activities if the board determines that
14 there is evidence that the physician is or may be medically incompetent or
15 guilty of unprofessional conduct.

16 29. "Specialist" means a physician who has successfully completed
17 approved postdoctoral training, who is certified by a specialty board of
18 examiners recognized by the board and who is certified by the board to
19 practice the specialty pursuant to this chapter.

20 30. "Unprofessional conduct" includes the following, whether occurring
21 in this state or elsewhere:

22 (a) Intentionally disclosing a professional secret or intentionally
23 disclosing a privileged communication except as either of these may otherwise
24 be required by law.

25 (b) Any dishonorable conduct reflecting unfavorably on the profession.

26 (c) Committing a felony, whether or not involving moral turpitude, or
27 a misdemeanor involving moral turpitude. In either case conviction by any
28 court of competent jurisdiction or a plea of no contest is conclusive
29 evidence of the commission of the felony or misdemeanor.

30 (d) Habitual intemperance in the use of alcohol or any substance
31 abuse.

32 (e) The illegal use of any narcotic or hypnotic drugs, or illegal
33 substances.

34 (f) Conduct that the board determines is gross malpractice, repeated
35 malpractice or any malpractice resulting in the death of a patient.

36 (g) Impersonating another doctor of naturopathic medicine or any other
37 practitioner of the healing arts.

38 (h) Falsely acting or assuming to act as a member, an employee or an
39 authorized agent of the board.

40 (i) Procuring or attempting to procure a license or a certificate
41 pursuant to this chapter by fraud, by misrepresentation or by knowingly
42 taking advantage of the mistake of another person or agency.

43 (j) Having professional connection with or lending one's name to
44 enhance or continue the activities of an illegal physician or an illegal
45 practitioner of any healing art.

1 (k) Representing that a manifestly incurable disease, injury, ailment
2 or infirmity can be permanently cured, or falsely or fraudulently
3 representing that a curable disease, injury, ailment or infirmity can be
4 cured within a stated time.

5 (l) Offering, undertaking or agreeing to cure or treat a disease,
6 injury, ailment or infirmity by a secret means, method, treatment, medicine,
7 substance, device or instrumentality.

8 (m) Refusing to divulge to the board on demand the means, method,
9 treatment, medicine, substance, device or instrumentality used in the
10 treatment of a disease, injury, ailment or infirmity.

11 (n) Giving or receiving, or aiding or abetting the giving or receiving
12 of, rebates, either directly or indirectly.

13 (o) Knowingly making any false or fraudulent statement, written or
14 oral, in connection with the practice of naturopathic medicine or any
15 naturopathic treatment method.

16 (p) Immorality or misconduct that tends to discredit the naturopathic
17 profession.

18 (q) Refusal, revocation or suspension of a license by any other state,
19 district or territory of the United States or any other country, unless it
20 can be shown that this action was not due to reasons that relate to the
21 ability to safely and skillfully practice as a doctor of naturopathic
22 medicine or to any act of unprofessional conduct in this paragraph.

23 (r) Any conduct or practice that is contrary to recognized standards
24 of ethics of the naturopathic profession, any conduct or practice that does
25 or might constitute a danger to the health, welfare or safety of the patient
26 or the public, ~~or~~ or any conduct, practice or condition that does or might
27 impair the ability to safely and skillfully practice as a doctor of
28 naturopathic medicine.

29 (s) Failure to observe any federal, state, county or municipal law
30 relating to public health as a physician in this state.

31 (t) Violating or attempting to violate, directly or indirectly, or
32 assisting in or abetting the violation of, or conspiring to violate any ~~of~~
33 ~~the~~ provisions of this chapter or board rules.

34 (u) False, fraudulent, deceptive or misleading advertising or
35 advertising the quality of a medical or health care service by a physician or
36 by the physician's staff, employer or representative.

37 (v) Failing or refusing to maintain adequate medical records on a
38 patient or failing or refusing to make medical records in the physician's
39 possession promptly available to another physician or health care provider
40 who is licensed pursuant to chapter 7, 8, 13, 15, 17 or 29 of this title on
41 request and receipt of proper authorization to do so from the patient, a
42 minor patient's parent, the patient's legal guardian or the patient's
43 authorized representative or failing to comply with title 12, chapter 13,
44 article 7.1.

1 ~~(w) Referring a patient to a diagnostic or treatment facility or~~
2 ~~prescribing goods and services without disclosing in writing to the patient~~
3 ~~that the physician has a pecuniary interest in the facility, goods or~~
4 ~~services to which the patient is referred or prescribed. This subdivision~~
5 ~~does not apply to a referral by one physician or practitioner to another~~
6 ~~physician or practitioner within a group of physicians or practitioners~~
7 ~~practicing together.~~

8 ~~(x)~~ (w) Sexual intimacies with a patient in the course of direct
9 treatment.

10 ~~(y)~~ (x) Failing to dispense drugs and devices in compliance with
11 article 4 of this chapter.

12 ~~(z)~~ (y) Administering, dispensing or prescribing any drug or a device
13 for other than an accepted therapeutic purpose.

14 ~~(aa)~~ (z) Falsely representing or holding oneself out as being a
15 specialist or representation by a doctor of naturopathic medicine or the
16 doctor's staff, employer or representative that the doctor is boarded or
17 board certified if this is not true or that standing is not current.

18 ~~(bb)~~ (aa) Delegating professional duties and responsibilities to a
19 person if the person has not been approved or qualified by licensure or by
20 certification to perform these duties or responsibilities.

21 ~~(cc)~~ (bb) Failing to appropriately supervise a naturopathic medical
22 student, a nurse, a medical assistant, a health care provider or a technician
23 employed by or assigned to the physician during the performance of delegated
24 professional duties and responsibilities.

25 ~~(dd)~~ (cc) Using experimental forms of diagnosis or treatment without
26 adequate informed consent of the patient or the patient's legal guardian and
27 without conforming to experimental criteria including protocols, detailed
28 records, periodic analysis of results and periodic review by a medical peer
29 review committee as approved by the federal food and drug administration or
30 its successor agency.

31 ~~(ee)~~ (dd) Failing to furnish information in a timely manner to the
32 board or investigators or representatives of the board if this information is
33 legally requested by the board and failing to allow properly authorized board
34 personnel on demand to examine and have access to documents, reports and
35 records maintained by the physician that relate to the physician's medical
36 practice or medically related activities.

37 ~~(ff)~~ (ee) Failing to report in writing to the board evidence that a
38 person licensed, certified or registered pursuant to this chapter is or may
39 be medically incompetent, guilty of unprofessional conduct or mentally or
40 physically unable to safely practice or assist in the practice of
41 naturopathic medicine.

42 ~~(gg)~~ (ff) Conducting or engaging in an internship, preceptorship or
43 clinical training program in naturopathic medicine without being approved and
44 registered by the board for that internship, preceptorship or clinical
45 training program.

- 1 ~~(hh)~~ (gg) Signing a blank, undated or predated prescription form.
- 2 ~~(ii)~~ (hh) Conduct that the board determines is gross negligence,
- 3 repeated negligence or negligence resulting in harm or death to a patient.
- 4 ~~(jj)~~ (ii) Knowingly making a false or misleading statement in oral
- 5 testimony to the board on a form required by the board or in written
- 6 correspondence to the board, including attachments to that correspondence.
- 7 ~~(kk)~~ (jj) The failure of a physician who is the chief medical officer,
- 8 the executive officer or the chief of staff of an internship, a preceptorship
- 9 or a clinical training program to report in writing to the board that the
- 10 privileges of a doctor of naturopathic medicine, a naturopathic medical
- 11 student or a medical assistant have been denied, limited, revoked or
- 12 suspended because that doctor's, student's or assistant's actions appear to
- 13 indicate that the person is or may be medically incompetent, is or may be
- 14 guilty of unprofessional conduct or is or may be unable to safely engage or
- 15 assist in the practice of naturopathic medicine.
- 16 ~~(ll)~~ (kk) Action taken against a doctor of naturopathic medicine by a
- 17 licensing or regulatory board in another jurisdiction due to that doctor's
- 18 mental or physical inability to engage safely in the practice of naturopathic
- 19 medicine, **DUE TO** the doctor's medical incompetence or for unprofessional
- 20 conduct as defined by that licensing or regulatory board and that corresponds
- 21 directly or indirectly to an act of unprofessional conduct prescribed by this
- 22 paragraph. The action taken may include refusing, denying, revoking or
- 23 suspending a license, otherwise limiting, restricting or monitoring a
- 24 licensee or placing a licensee on probation by that licensing or regulatory
- 25 board.
- 26 ~~(mm)~~ (ll) Sanctions imposed by an agency of the federal government,
- 27 including restricting, suspending, limiting or removing a person from the
- 28 practice of naturopathic medicine or restricting that person's ability to
- 29 obtain financial remuneration.
- 30 ~~(nn)~~ (mm) Violating any formal order, probation, consent agreement or
- 31 stipulation issued or entered into by the board pursuant to this chapter.
- 32 ~~(oo)~~ (nn) Refusing to submit to a body fluid examination pursuant to a
- 33 board investigation of alleged substance abuse by a doctor of naturopathic
- 34 medicine.
- 35 ~~(pp)~~ (oo) Charging a fee for services not rendered or dividing a
- 36 professional fee for patient referrals among health care providers or health
- 37 care institutions or between these providers and institutions or a
- 38 contractual arrangement that has this effect.
- 39 ~~(qq)~~ (pp) Obtaining a fee by fraud, deceit or misrepresentation.
- 40 ~~(rr)~~ (qq) Charging or collecting a clearly excessive fee. In
- 41 determining if a fee is clearly excessive, the board shall consider the fee
- 42 or range of fees customarily charged in this state for similar services, in
- 43 light of modifying factors such as the time required, the complexity of the
- 44 service and the skill required to perform the service properly. This
- 45 subdivision does not apply if there is a clear written contract for a fixed

1 fee between the physician and the patient that was entered into before the
2 service was provided.

3 ~~(ss)~~ (rr) With the exception of heavy metal poisoning, using chelation
4 therapy in the treatment of arteriosclerosis or as any other form of therapy
5 without adequate informed patient consent and without conforming to generally
6 accepted experimental criteria, including protocols, detailed records,
7 periodic analysis of results and periodic review by a medical peer review
8 committee.

9 ~~(tt)~~ (ss) Using a controlled substance unless it is prescribed by
10 another physician for use during a prescribed course of treatment.

11 ~~(uu)~~ (tt) Prescribing, dispensing or administering anabolic androgenic
12 steroids for other than therapeutic purposes.

13 ~~(vv)~~ (uu) Except in an emergency or urgent care situation, prescribing
14 or dispensing a controlled substance to a member of the naturopathic
15 physician's immediate family.

16 ~~(ww)~~ (vv) Prescribing, dispensing or furnishing a prescription
17 medication or a prescription-only device as defined in section 32-1901 to a
18 person unless the licensee first conducts a physical examination of that
19 person or has previously established a doctor-patient relationship. This
20 subdivision does not apply to:

21 (i) A licensee who provides temporary patient supervision on behalf of
22 the patient's regular treating licensed health care professional.

23 (ii) An emergency medical situation as defined in section 41-1831.

24 (iii) Prescriptions written to prepare a patient for a medical
25 examination.

26 (iv) Prescriptions written or prescription medications issued for use
27 by a county or tribal public health department for immunization programs or
28 emergency treatment or in response to an infectious disease investigation, a
29 public health emergency, an infectious disease outbreak or an act of
30 bioterrorism. For the purposes of this item, "bioterrorism" has the same
31 meaning prescribed in section 36-781.

32 Sec. 3. Section 32-3201, Arizona Revised Statutes, is amended to read:

33 32-3201. Definitions

34 In this chapter, unless the context otherwise requires:

35 1. "Health profession regulatory board" means any board that regulates
36 one or more health professionals in this state.

37 2. "Health professional" means a person who is certified or licensed
38 pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25,
39 28, 29, 33, 34, 35, 39, 41 or 42 of this title, title 36, chapter 4, article
40 6, title 36, chapter 6, article 7 or title 36, chapter 17.

41 3. "MEDICAL IMAGING EQUIPMENT" MEANS EQUIPMENT THAT IS USED TO PERFORM
42 MAGNETIC RESONANCE IMAGING, COMPUTED TOMOGRAPHY, POSITRON EMISSION
43 TOMOGRAPHY, NUCLEAR MEDICINE AND ANY HYBRID TECHNOLOGY THAT COMBINES ANY OF
44 THESE MODALITIES. MEDICAL IMAGING EQUIPMENT INCLUDES RELATED SUPPLIES.

1 MEDICAL IMAGING EQUIPMENT DOES NOT INCLUDE EQUIPMENT THAT IS USED FOR X-RAY
2 AND ULTRASOUND SERVICES.

3 4. "MEDICAL IMAGING SERVICES" INCLUDES:

4 (a) RADIATION THERAPY SERVICES AND SUPPLIES, AS THAT TERM IS DEFINED
5 IN SECTION 1877 OF PART D OF TITLE XVIII OF THE SOCIAL SECURITY ACT, AND ALL
6 RELATED PROFESSIONAL AND TECHNICAL COMPONENTS OF ANY DIAGNOSTIC TEST OR
7 PROCEDURE.

8 (b) RADIOLOGY AND CERTAIN OTHER IMAGING SERVICES, AS THAT TERM IS
9 DEFINED IN SECTION 1877 OF PART D OF TITLE XVIII OF THE SOCIAL SECURITY ACT,
10 AND ALL RELATED PROFESSIONAL AND TECHNICAL COMPONENTS OF ANY DIAGNOSTIC TEST
11 OR PROCEDURE, INCLUDING MAGNETIC RESONANCE IMAGING, COMPUTED TOMOGRAPHY,
12 POSITRON EMISSION TOMOGRAPHY, NUCLEAR MEDICINE AND ANY HYBRID TECHNOLOGIES
13 THAT COMBINE ANY OF THESE IMAGING MODALITIES AND RELATED SUPPLIES. MEDICAL
14 IMAGING SERVICES DOES NOT INCLUDE X-RAY AND ULTRASOUND SERVICES AND RELATED
15 PROFESSIONAL AND TECHNICAL COMPONENTS FOR X-RAY AND ULTRASOUND SERVICES.

16 ~~3-~~ 5. "Medical ~~record~~ RECORDS" has the same meaning prescribed in
17 section 12-2291 but does not include prescription orders.

18 6. "OWNERSHIP INTEREST" INCLUDES ANY DIRECT OR INDIRECT INVESTMENT,
19 OWNERSHIP, LEASEHOLD, TIMESHARING OR OTHER PROPERTY INTEREST, INCLUDING
20 OWNERSHIP INTEREST THROUGH AN IMMEDIATE FAMILY MEMBER OR A TRUST.

21 Sec. 4. Title 32, chapter 32, article 1, Arizona Revised Statutes, is
22 amended by adding section 32-3213, to read:

23 32-3213. Health professionals; self-referrals; unlawful
24 practice

25 A. A HEALTH PROFESSIONAL SHALL MAKE A REFERRAL FOR MEDICAL IMAGING
26 SERVICES ONLY IN COMPLIANCE WITH SECTION 1877 OF PART D OF TITLE XVIII OF THE
27 SOCIAL SECURITY ACT AND REGULATIONS ADOPTED PURSUANT TO THAT ACT.

28 B. A HEALTH PROFESSIONAL WHO ENGAGES IN AN ACT OR PRACTICE IN
29 VIOLATION OF THIS SECTION COMMITS AN ACT OF UNPROFESSIONAL CONDUCT AND AN
30 UNLAWFUL PRACTICE PURSUANT TO SECTION 44-1522.

31 C. THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION APPLY REGARDLESS
32 OF THE SOURCE OF THE PAYMENT FOR THE MEDICAL IMAGING SERVICE.

33 D. THIS SECTION APPLIES TO EACH REFERRAL MADE BY A HEALTH PROFESSIONAL
34 FOR MEDICAL IMAGING SERVICES ON MEDICAL IMAGING EQUIPMENT IN WHICH THE
35 REFERRING HEALTH PROFESSIONAL HAS ANY OWNERSHIP INTEREST ON OR BEFORE
36 SEPTEMBER 1, 2007, AND FROM AND AFTER THE EARLIER OF EITHER FIVE YEARS AFTER
37 THE ORIGINAL DELIVERY DATE OF THE MEDICAL IMAGING EQUIPMENT OR JANUARY 1,
38 2012.

39 E. EACH HEALTH PROFESSIONAL WITH ANY OWNERSHIP INTEREST IN MEDICAL
40 IMAGING EQUIPMENT ON OR BEFORE SEPTEMBER 1, 2007 THAT IS USED TO PERFORM
41 MEDICAL IMAGING SERVICES MUST FILE A STATEMENT CONTAINING THE INFORMATION
42 PRESCRIBED PURSUANT TO THIS SECTION WITH THE HEALTH PROFESSIONAL'S REGULATORY
43 BOARD ON OR BEFORE SEPTEMBER 1, 2007, AND MUST RETAIN A COPY OF THIS
44 STATEMENT. A REFERRAL MADE BY A HEALTH PROFESSIONAL TO A MEDICAL IMAGING
45 PROVIDER FOR MEDICAL IMAGING SERVICES THAT ARE PERFORMED ON MEDICAL IMAGING

1 EQUIPMENT THAT IS NOT THE SUBJECT OF A STATEMENT THAT IS TIMELY FILED BY THE
2 HEALTH PROFESSIONAL PURSUANT TO THIS SECTION IS DEEMED TO BE A REFERRAL UNDER
3 THIS SECTION.

4 F. THE STATEMENT FILED AND RETAINED BY EACH HEALTH PROFESSIONAL
5 PURSUANT TO SUBSECTION E OF THIS SECTION MUST INCLUDE:

6 1. THE NAME, MANUFACTURER, SERIAL NUMBER, MODEL NUMBER, MANUFACTURING
7 DATE AND DELIVERY DATE OF THE MEDICAL IMAGING EQUIPMENT USED TO PERFORM
8 MEDICAL IMAGING SERVICES.

9 2. A COMPLETE LIST OF MEDICAL IMAGING SERVICES PERFORMED WITH THE
10 MEDICAL IMAGING EQUIPMENT.

11 3. THE DATE THE HEALTH PROFESSIONAL ACQUIRED THE OWNERSHIP INTEREST IN
12 THE MEDICAL IMAGING EQUIPMENT.

13 4. THE LOCATION OF THE MEDICAL IMAGING EQUIPMENT, AND IF THE MEDICAL
14 IMAGING EQUIPMENT IS MOBILE, THE LOCATIONS AT WHICH THE MEDICAL IMAGING
15 EQUIPMENT IS REGULARLY OPERATED.

16 5. THE NATURE OF THE HEALTH PROFESSIONAL'S OWNERSHIP INTEREST IN THE
17 MEDICAL IMAGING EQUIPMENT.

18 6. THE NAME OF THE CORPORATION, COMPANY, PROFESSIONAL MEDICAL PRACTICE
19 GROUP OR INDIVIDUAL THAT IS THE OWNER OF RECORD OF THE MEDICAL IMAGING
20 EQUIPMENT.

21 7. A COMPLETE LIST OF ALL PERSONS WHO HAVE AN OWNERSHIP INTEREST IN
22 THE MEDICAL IMAGING EQUIPMENT.

23 G. A HEALTH PROFESSIONAL WHO IS EXEMPTED FROM THE REQUIREMENTS OF THIS
24 SECTION MUST:

25 1. PROVIDE WRITTEN NOTICE THAT IS DATED AND SIGNED BY THE PATIENT OR
26 THE PATIENT'S GUARDIAN ACKNOWLEDGING THAT THE PATIENT OR GUARDIAN HAS READ
27 THE NOTICE AND UNDERSTANDS THAT THE HEALTH PROFESSIONAL HAS AN OWNERSHIP
28 INTEREST IN THE MEDICAL IMAGING EQUIPMENT USED TO PERFORM THE MEDICAL IMAGING
29 SERVICES.

30 2. INFORM THE PATIENT THAT THE PATIENT MAY RECEIVE THE MEDICAL IMAGING
31 SERVICES FROM ANOTHER HEALTH PROFESSIONAL.

32 H. THIS SECTION APPLIES TO REFERRALS FOR MEDICAL IMAGING SERVICES THAT
33 ARE MADE BEGINNING AUGUST 1, 2007.

34 Sec. 5. Retroactivity

35 This act is effective retroactively to from and after July 31, 2007.