

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SENATE BILL 1339

AN ACT

AMENDING SECTIONS 32-1401 AND 32-1854, ARIZONA REVISED STATUTES; RELATING TO
THE PRESCRIBING OF MEDICATIONS.

(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, produced by hand
9 or electronically, containing, at a minimum, sufficient information to
10 identify the patient, support the diagnosis, justify the treatment,
11 accurately document the results, indicate advice and cautionary warnings
12 provided to the patient and provide sufficient information for another
13 practitioner to assume continuity of the patient's care at any point in the
14 course of treatment.

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

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

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

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

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

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

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

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

1 8. "Direct supervision" means that a physician, physician assistant
2 licensed pursuant to chapter 25 of this title or nurse practitioner certified
3 pursuant to chapter 15 of this title is within the same room or office suite
4 as the medical assistant in order to be available for consultation regarding
5 those tasks the medical assistant performs pursuant to section 32-1456.

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

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

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

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

22 13. "Immediate family" means the spouse, natural or adopted children,
23 father, mother, brothers and sisters of the doctor and the natural or adopted
24 children, father, mother, brothers and sisters of the doctor's spouse.

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

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

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

41 17. "Medical peer review" means:

42 (a) The participation by a doctor of medicine in the review and
43 evaluation of the medical management of a patient and the use of resources
44 for patient care.

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

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

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

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

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

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

15 21. "Physician" means a doctor of medicine licensed pursuant to this
16 chapter.

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

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

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

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

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

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

6 (a) Violating any federal or state laws, rules or regulations
7 applicable to the practice of medicine.

8 (b) Intentionally disclosing a professional secret or intentionally
9 disclosing a privileged communication except as either act may otherwise be
10 required by law.

11 (c) False, fraudulent, deceptive or misleading advertising by a doctor
12 of medicine or the doctor's staff, employer or representative.

13 (d) Committing a felony, whether or not involving moral turpitude, or
14 a misdemeanor involving moral turpitude. In either case, conviction by any
15 court of competent jurisdiction or a plea of no contest is conclusive
16 evidence of the commission.

17 (e) Failing or refusing to maintain adequate records on a patient.

18 (f) Habitual intemperance in the use of alcohol or habitual substance
19 abuse.

20 (g) Using controlled substances except if prescribed by another
21 physician for use during a prescribed course of treatment.

22 (h) Prescribing or dispensing controlled substances to members of the
23 physician's immediate family.

24 (i) Prescribing, dispensing or administering schedule II controlled
25 substances as defined in section 36-2513 including amphetamines and similar
26 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a
27 period in excess of thirty days in any one year, or the non-therapeutic use
28 of injectable amphetamines.

29 (j) Prescribing, dispensing or administering any controlled substance
30 or prescription-only drug for other than accepted therapeutic purposes.

31 (k) Signing a blank, undated or predated prescription form.

32 (l) Conduct that the board determines is gross malpractice, repeated
33 malpractice or any malpractice resulting in the death of a patient.

34 (m) Representing that a manifestly incurable disease or infirmity can
35 be permanently cured, or that any disease, ailment or infirmity can be cured
36 by a secret method, procedure, treatment, medicine or device, if this is not
37 true.

38 (n) Refusing to divulge to the board on demand the means, method,
39 procedure, modality of treatment or medicine used in the treatment of a
40 disease, injury, ailment or infirmity.

41 (o) Action that is taken against a doctor of medicine by another
42 licensing or regulatory jurisdiction due to that doctor's mental or physical
43 inability to engage safely in the practice of medicine or the doctor's
44 medical incompetence or for unprofessional conduct as defined by that

1 jurisdiction and that corresponds directly or indirectly to an act of
2 unprofessional conduct prescribed by this paragraph. The action taken may
3 include refusing, denying, revoking or suspending a license by that
4 jurisdiction or a surrendering of a license to that jurisdiction, otherwise
5 limiting, restricting or monitoring a licensee by that jurisdiction or
6 placing a licensee on probation by that jurisdiction.

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

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

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

16 (s) Violating or attempting to violate, directly or indirectly, or
17 assisting in or abetting the violation of or conspiring to violate any
18 provision of this chapter.

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

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

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

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

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

40 (y) The use of experimental forms of diagnosis and treatment without
41 adequate informed patient consent, and without conforming to generally
42 accepted experimental criteria, including protocols, detailed records,
43 periodic analysis of results and periodic review by a medical peer review

1 committee as approved by the federal food and drug administration or its
2 successor agency.

3 (z) Engaging in sexual conduct with a current patient or with a former
4 patient within six months after the last medical consultation unless the
5 patient was the licensee's spouse at the time of the contact or, immediately
6 preceding the physician-patient relationship, was in a dating or engagement
7 relationship with the licensee. For the purposes of this subdivision,
8 "sexual conduct" includes:

9 (i) Engaging in or soliciting sexual relationships, whether consensual
10 or nonconsensual.

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

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

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

19 (bb) Representing or claiming to be a medical specialist if this is
20 not true.

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

23 (dd) Failing to furnish information in a timely manner to the board or
24 the board's investigators or representatives if legally requested by the
25 board.

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

30 (ff) Knowingly failing to disclose to a patient on a form that is
31 prescribed by the board and that is dated and signed by the patient or
32 guardian acknowledging that the patient or guardian has read and understands
33 that the doctor has a direct financial interest in a separate diagnostic or
34 treatment agency or in nonroutine goods or services that the patient is being
35 prescribed and if the prescribed treatment, goods or services are available
36 on a competitive basis. This subdivision does not apply to a referral by one
37 doctor of medicine to another doctor of medicine within a group of doctors of
38 medicine practicing together.

39 (gg) Using chelation therapy in the treatment of arteriosclerosis or
40 as any other form of therapy, with the exception of treatment of heavy metal
41 poisoning, without:

42 (i) Adequate informed patient consent.

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

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

6 (hh) Prescribing, dispensing or administering anabolic-androgenic
7 steroids to a person for other than therapeutic purposes.

8 (ii) Lack of or inappropriate direction, collaboration or direct
9 supervision of a medical assistant or a licensed, certified or registered
10 health care provider employed by, supervised by or assigned to the physician.

11 (jj) Knowingly making a false or misleading statement to the board or
12 on a form required by the board or in a written correspondence, including
13 attachments, with the board.

14 (kk) Failing to dispense drugs and devices in compliance with article
15 6 of this chapter.

16 (ll) Conduct that the board determines is gross negligence, repeated
17 negligence or negligence resulting in harm to or the death of a patient.

18 (mm) The representation by a doctor of medicine or the doctor's staff,
19 employer or representative that the doctor is boarded or board certified if
20 this is not true or the standing is not current or without supplying the full
21 name of the specific agency, organization or entity granting this standing.

22 (nn) Refusing to submit to a body fluid examination or any other
23 examination known to detect the presence of alcohol or other drugs as
24 required by the board pursuant to section 32-1452 or pursuant to a board
25 investigation into a doctor of medicine's alleged substance abuse.

26 (oo) Failing to report in writing to the Arizona medical board or the
27 Arizona regulatory board of physician assistants any evidence that a doctor
28 of medicine or a physician assistant is or may be medically incompetent,
29 guilty of unprofessional conduct or mentally or physically unable to safely
30 practice medicine or to perform as a physician assistant.

31 (pp) The failure of a physician who is the chief executive officer,
32 the medical director or the medical chief of staff of a health care
33 institution to report in writing to the board that the hospital privileges of
34 a doctor of medicine have been denied, revoked, suspended, supervised or
35 limited because of actions by the doctor that appear to show that the doctor
36 is or may be medically incompetent, is or may be guilty of unprofessional
37 conduct or is or may be unable to engage safely in the practice of medicine.

38 (qq) Claiming to be a current member of the board, its staff or a
39 board medical consultant if this is not true.

40 (rr) Failing to make patient medical records in the physician's
41 possession promptly available to a physician assistant, a nurse practitioner,
42 a person licensed pursuant to this chapter or a podiatrist, chiropractor,
43 naturopathic physician, osteopathic physician or homeopathic physician
44 licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper

1 authorization to do so from the patient, a minor patient's parent, the
2 patient's legal guardian or the patient's authorized representative or
3 failing to comply with title 12, chapter 13, article 7.1.

4 (ss) Prescribing, dispensing or furnishing a prescription medication
5 or a prescription-only device as defined in section 32-1901 to a person
6 unless the licensee first conducts a physical **OR MENTAL HEALTH STATUS**
7 examination of that person or has previously established a doctor-patient
8 relationship. **THE PHYSICAL OR MENTAL HEALTH STATUS EXAMINATION MAY BE**
9 **CONDUCTED DURING A REAL-TIME TELEMEDICINE ENCOUNTER WITH AUDIO AND VIDEO**
10 **CAPABILITY IF THE TELEMEDICINE AUDIO AND VIDEO CAPABILITY MEETS THE ELEMENTS**
11 **REQUIRED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, UNLESS THE**
12 **EXAMINATION IS FOR THE PURPOSE OF OBTAINING A WRITTEN CERTIFICATION FROM THE**
13 **PHYSICIAN FOR THE PURPOSES OF TITLE 36, CHAPTER 28.1.** This subdivision does
14 not apply to:

15 (i) A physician who provides temporary patient supervision on behalf
16 of the patient's regular treating licensed health care professional **OR**
17 **PROVIDES A CONSULTATION REQUESTED BY THE PATIENT'S REGULAR TREATING LICENSED**
18 **HEALTH CARE PROFESSIONAL.**

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

20 (iii) Prescriptions written to prepare a patient for a medical
21 examination.

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

28 (v) Prescriptions written or antimicrobials dispensed to a contact as
29 defined in section 36-661 who is believed to have had significant exposure
30 risk as defined in section 36-661 with another person who has been diagnosed
31 with a communicable disease as defined in section 36-661 by the prescribing
32 or dispensing physician.

33 (vi) Prescriptions written or prescription medications issued for
34 administration of immunizations or vaccines listed in the United States
35 centers for disease control and prevention's recommended immunization
36 schedule to a household member of a patient.

37 (vii) Prescriptions for epinephrine auto-injectors written or
38 dispensed for a school district or charter school to be stocked for emergency
39 use pursuant to section 15-157.

40 (viii) **PRESCRIPTIONS WRITTEN BY A LICENSEE THROUGH A TELEMEDICINE**
41 **PROGRAM THAT IS COVERED BY THE POLICIES AND PROCEDURES ADOPTED BY THE**
42 **ADMINISTRATOR OF A HOSPITAL OR OUTPATIENT TREATMENT CENTER.**

43 (tt) Performing office based surgery using sedation in violation of
44 board rules.

1 (uu) Practicing medicine under a false or assumed name in this state.

2 Sec. 2. Section 32-1854, Arizona Revised Statutes, is amended to read:

3 32-1854. Definition of unprofessional conduct

4 For the purposes of this chapter, "unprofessional conduct" includes the
5 following acts, whether occurring in this state or elsewhere:

6 1. Willfully betraying a professional secret or willfully violating a
7 privileged communication except as either of these may otherwise be required
8 by law. This paragraph does not prevent members of the board from exchanging
9 information with the licensing and disciplinary boards of other states,
10 territories or districts of the United States or with foreign countries or
11 with osteopathic medical organizations located in this state or in any state,
12 district or territory of this country or in any foreign country.

13 2. Committing a felony, whether or not involving moral turpitude, or a
14 misdemeanor involving moral turpitude. In either case conviction by any
15 court of competent jurisdiction is conclusive evidence of the commission.

16 3. Practicing medicine while under the influence of alcohol, narcotic
17 or hypnotic drugs or any substance that impairs or may impair the licensee's
18 ability to safely and skillfully practice medicine.

19 4. Being diagnosed by a physician licensed under this chapter or
20 chapter 13 of this title or a psychologist licensed under chapter 19.1 of
21 this title as excessively or illegally using alcohol or a controlled
22 substance.

23 5. Prescribing, dispensing or administering controlled substances or
24 prescription-only drugs for other than accepted therapeutic purposes.

25 6. Engaging in the practice of medicine in a manner that harms or may
26 harm a patient or that the board determines falls below the community
27 standard.

28 7. Impersonating another physician.

29 8. Acting or assuming to act as a member of the board if this is not
30 true.

31 9. Procuring, renewing or attempting to procure or renew a license to
32 practice osteopathic medicine by fraud or misrepresentation.

33 10. Having professional connection with or lending one's name to an
34 illegal practitioner of osteopathic medicine or any of the other healing
35 arts.

36 11. Representing that a manifestly incurable disease, injury, ailment
37 or infirmity can be permanently cured or that a curable disease, injury,
38 ailment or infirmity can be cured within a stated time, if this is not true.

39 12. Failing to reasonably disclose and inform the patient or the
40 patient's representative of the method, device or instrumentality the
41 licensee uses to treat the patient's disease, injury, ailment or infirmity.

42 13. Refusing to divulge to the board on demand the means, method,
43 device or instrumentality used in the treatment of a disease, injury, ailment
44 or infirmity.

1 14. Charging a fee for services not rendered or dividing a professional
2 fee for patient referrals. This paragraph does not apply to payments from a
3 medical researcher to a physician in connection with identifying and
4 monitoring patients for clinical trial regulated by the United States food
5 and drug administration.

6 15. Knowingly making any false or fraudulent statement, written or
7 oral, in connection with the practice of medicine or when applying for or
8 renewing privileges at a health care institution or a health care program.

9 16. Advertising in a false, deceptive or misleading manner.

10 17. Representing or claiming to be an osteopathic medical specialist if
11 the physician has not satisfied the applicable requirements of this chapter
12 or board rules.

13 18. The denial of or disciplinary action against a license by any other
14 state, territory, district or country, unless it can be shown that this
15 occurred for reasons that did not relate to the person's ability to safely
16 and skillfully practice osteopathic medicine or to any act of unprofessional
17 conduct as provided in this section.

18 19. Any conduct or practice contrary to recognized standards of ethics
19 of the osteopathic medical profession.

20 20. Violating or attempting to violate, directly or indirectly, or
21 assisting in or abetting the violation of or conspiring to violate any of the
22 provisions of this chapter.

23 21. Failing or refusing to establish and maintain adequate records on a
24 patient as follows:

25 (a) If the patient is an adult, for at least seven years after the
26 last date the licensee provided the patient with medical or health care
27 services.

28 (b) If the patient is a child, either for at least three years after
29 the child's eighteenth birthday or for at least seven years after the last
30 date the licensee provided that patient with medical or health care services,
31 whichever date occurs first.

32 (c) If the patient dies before the expiration of the dates prescribed
33 in subdivision (a) or (b) of this paragraph, for at least three years after
34 the patient's death.

35 22. Using controlled substances or prescription-only drugs unless they
36 are provided by a medical practitioner, as defined in section 32-1901, as
37 part of a lawful course of treatment.

38 23. Prescribing controlled substances to members of one's immediate
39 family unless there is no other physician available within fifty miles to
40 treat a member of the family and an emergency exists.

41 24. Nontherapeutic use of injectable amphetamines.

42 25. Violating a formal order, probation or a stipulation issued by the
43 board under this chapter.

1 26. Charging or collecting an inappropriate fee. This paragraph does
2 not apply to a fee that is fixed in a written contract between the physician
3 and the patient and entered into before treatment begins.

4 27. Using experimental forms of therapy without adequate informed
5 patient consent or without conforming to generally accepted criteria and
6 complying with federal and state statutes and regulations governing
7 experimental therapies.

8 28. Failing to make patient medical records in the physician's
9 possession promptly available to a physician assistant, a nurse practitioner,
10 a person licensed pursuant to this chapter or a podiatrist, chiropractor,
11 naturopathic physician, physician or homeopathic physician licensed under
12 chapter 7, 8, 13, 14 or 29 of this title on receipt of proper authorization
13 to do so from the patient, a minor patient's parent, the patient's legal
14 guardian or the patient's authorized representative or failing to comply with
15 title 12, chapter 13, article 7.1.

16 29. Failing to allow properly authorized board personnel to have, on
17 presentation of a subpoena, access to any documents, reports or records that
18 are maintained by the physician and that relate to the physician's medical
19 practice or medically related activities pursuant to section 32-1855.01.

20 30. Signing a blank, undated or predated prescription form.

21 31. Obtaining a fee by fraud, deceit or misrepresentation.

22 32. Failing to report to the board an osteopathic physician and surgeon
23 who is or may be guilty of unprofessional conduct or is or may be mentally or
24 physically unable safely to engage in the practice of medicine.

25 33. Referring a patient to a diagnostic or treatment facility or
26 prescribing goods and services without disclosing that the physician has a
27 direct pecuniary interest in the facility, goods or services to which the
28 patient has been referred or prescribed. This paragraph does not apply to a
29 referral by one physician to another physician within a group of physicians
30 practicing together.

31 34. Lack of or inappropriate direction, collaboration or supervision of
32 a licensed, certified or registered health care provider or office personnel
33 employed by or assigned to the physician in the medical care of patients.

34 35. Violating a federal law, a state law or a rule applicable to the
35 practice of medicine.

36 36. Prescribing or dispensing controlled substances or
37 prescription-only medications without establishing and maintaining adequate
38 patient records.

39 37. Failing to dispense drugs and devices in compliance with article 4
40 of this chapter.

41 38. Any conduct or practice that endangers a patient's or the public's
42 health or may reasonably be expected to do so.

1 39. Any conduct or practice that impairs the licensee's ability to
2 safely and skillfully practice medicine or that may reasonably be expected to
3 do so.

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

10 41. Prescribing, dispensing or administering anabolic-androgenic
11 steroids to a person for other than therapeutic purposes.

12 42. Engaging in sexual conduct with a current patient or with a former
13 patient within six months after the last medical consultation unless the
14 patient was the licensee's spouse at the time of the contact or, immediately
15 preceding the physician-patient relationship, was in a dating or engagement
16 relationship with the licensee. For the purposes of this paragraph, "sexual
17 conduct" includes:

18 (a) Engaging in or soliciting sexual relationships, whether consensual
19 or nonconsensual.

20 (b) Making sexual advances, requesting sexual favors or engaging in
21 any other verbal conduct or physical conduct of a sexual nature.

22 43. Fetal experiments conducted in violation of section 36-2302.

23 44. Conduct that the board determines constitutes gross negligence,
24 repeated negligence or negligence that results in harm or death of a patient.

25 45. Conduct in the practice of medicine that evidences moral unfitness
26 to practice medicine.

27 46. Engaging in disruptive or abusive behavior in a professional
28 setting.

29 47. Failing to disclose to a patient that the licensee has a direct
30 financial interest in a prescribed treatment, good or service if the
31 treatment, good or service is available on a competitive basis. This
32 paragraph does not apply to a referral by one licensee to another licensee
33 within a group of licensees who practice together. A licensee meets the
34 disclosure requirements of this paragraph if all of the following are true:

35 (a) The licensee makes the disclosure on a form prescribed by the
36 board.

37 (b) The patient or the patient's guardian or parent acknowledges by
38 signing the form that the licensee has disclosed the licensee's direct
39 financial interest.

40 48. Prescribing, dispensing or furnishing a prescription medication or
41 a prescription-only device to a person if the licensee has not conducted a
42 physical OR MENTAL HEALTH STATUS examination of that person or has not
43 previously established a physician-patient relationship. THE PHYSICAL OR
44 MENTAL HEALTH STATUS EXAMINATION MAY BE CONDUCTED DURING A REAL-TIME

1 TELEMEDICINE ENCOUNTER WITH AUDIO AND VIDEO CAPABILITY IF THE TELEMEDICINE
2 AUDIO AND VIDEO CAPABILITY MEETS THE ELEMENTS REQUIRED BY THE CENTERS FOR
3 MEDICARE AND MEDICAID SERVICES, UNLESS THE EXAMINATION IS FOR THE PURPOSE OF
4 OBTAINING A WRITTEN CERTIFICATION FROM THE PHYSICIAN FOR THE PURPOSES OF
5 TITLE 36, CHAPTER 28.1. This paragraph does not apply to:

6 (a) Emergencies.

7 (b) A LICENSEE WHO PROVIDES PATIENT CARE ON BEHALF OF THE PATIENT'S
8 REGULAR TREATING LICENSED HEALTH CARE PROFESSIONAL OR PROVIDES A CONSULTATION
9 REQUESTED BY THE PATIENT'S REGULAR TREATING LICENSED HEALTH CARE
10 PROFESSIONAL.

11 ~~(b)~~ (c) Prescriptions written or antimicrobials dispensed to a
12 contact as defined in section 36-661 who is believed to have had significant
13 exposure risk as defined in section 36-661 with another person who has been
14 diagnosed with a communicable disease as defined in section 36-661 by the
15 prescribing or dispensing physician.

16 ~~(e)~~ (d) Prescriptions for epinephrine auto-injectors written or
17 dispensed for a school district or charter school to be stocked for emergency
18 use pursuant to section 15-157.

19 (e) PRESCRIPTIONS WRITTEN BY A LICENSEE THROUGH A TELEMEDICINE PROGRAM
20 THAT IS COVERED BY THE POLICIES AND PROCEDURES ADOPTED BY THE ADMINISTRATOR
21 OF A HOSPITAL OR OUTPATIENT TREATMENT CENTER.

22 49. If a licensee provides medical care by computer, failing to
23 disclose the licensee's license number and the board's address and telephone
24 number.