

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

CHAPTER 122
SENATE BILL 1339

AN ACT

AMENDING SECTIONS 32-1401, 32-1501, 32-1854 AND 32-1901.01, 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.

44 8. "Direct supervision" means that a physician, physician assistant
45 licensed pursuant to chapter 25 of this title or nurse practitioner certified
46 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 claim to be able to diagnose, treat or
15 correct any and all human diseases, injuries, ailments, infirmities,
16 deformities, physical or mental, real or imaginary, by any means, methods,
17 devices or instrumentalities, except as the same may be among the acts or
18 persons not affected by this chapter. The practice of medicine includes the
19 practice of medicine alone or the practice of surgery alone, or both.

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

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

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

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

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

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

1 (b) Intentionally disclosing a professional secret or intentionally
2 disclosing a privileged communication except as either act may otherwise be
3 required by law.

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

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

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

11 (f) Habitual intemperance in the use of alcohol or habitual substance
12 abuse.

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

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

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

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

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

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

27 (m) Representing that a manifestly incurable disease or infirmity can
28 be permanently cured, or that any disease, ailment or infirmity can be cured
29 by a secret method, procedure, treatment, medicine or device, if this is not
30 true.

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

34 (o) Action that is taken against a doctor of medicine by another
35 licensing or regulatory jurisdiction due to that doctor's mental or physical
36 inability to engage safely in the practice of medicine or the doctor's
37 medical incompetence or for unprofessional conduct as defined by that
38 jurisdiction and that corresponds directly or indirectly to an act of
39 unprofessional conduct prescribed by this paragraph. The action taken may
40 include refusing, denying, revoking or suspending a license by that
41 jurisdiction or a surrendering of a license to that jurisdiction, otherwise
42 limiting, restricting or monitoring a licensee by that jurisdiction or
43 placing a licensee on probation by that jurisdiction.

44 (p) Sanctions imposed by an agency of the federal government,
45 including restricting, suspending, limiting or removing a person from the

1 practice of medicine or restricting that person's ability to obtain financial
2 remuneration.

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

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

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

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

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

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

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

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

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

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

44 (i) Engaging in or soliciting sexual relationships, whether consensual
45 or nonconsensual.

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

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

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

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

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

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

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

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

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

32 (i) Adequate informed patient consent.

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

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

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

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

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

1 (kk) Failing to dispense drugs and devices in compliance with article
2 6 of this chapter.

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

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

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

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

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

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

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

35 (ss) Prescribing, dispensing or furnishing a prescription medication
36 or a prescription-only device as defined in section 32-1901 to a person
37 unless the licensee first conducts a physical **OR MENTAL HEALTH STATUS**
38 examination of that person or has previously established a doctor-patient
39 relationship. **THE PHYSICAL OR MENTAL HEALTH STATUS EXAMINATION MAY BE**
40 **CONDUCTED DURING A REAL-TIME TELEMEDICINE ENCOUNTER WITH AUDIO AND VIDEO**
41 **CAPABILITY IF THE TELEMEDICINE AUDIO AND VIDEO CAPABILITY MEETS THE ELEMENTS**
42 **REQUIRED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, UNLESS THE**
43 **EXAMINATION IS FOR THE PURPOSE OF OBTAINING A WRITTEN CERTIFICATION FROM THE**
44 **PHYSICIAN FOR THE PURPOSES OF TITLE 36, CHAPTER 28.1.** This subdivision does
45 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 OR
3 PROVIDES A CONSULTATION REQUESTED BY THE PATIENT'S REGULAR TREATING LICENSED
4 HEALTH CARE PROFESSIONAL.

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

6 (iii) Prescriptions written to prepare a patient for a medical
7 examination.

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

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

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

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

26 (viii) PRESCRIPTIONS WRITTEN BY A LICENSEE THROUGH A TELEMEDICINE
27 PROGRAM THAT IS COVERED BY THE POLICIES AND PROCEDURES ADOPTED BY THE
28 ADMINISTRATOR OF A HOSPITAL OR OUTPATIENT TREATMENT CENTER.

29 (tt) Performing office based surgery using sedation in violation of
30 board rules.

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

32 Sec. 2. Section 32-1501, Arizona Revised Statutes, is amended to read:
33 32-1501. Definitions

34 In this chapter, unless the context otherwise requires:

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

38 2. "Active license" means a current valid license to practice
39 naturopathic medicine.

40 3. "Adequate medical records" means legible medical records
41 containing, at a minimum, sufficient information to identify the patient,
42 support the diagnosis, describe the treatment, accurately document the
43 results, indicate advice and cautionary warning provided to the patient and
44 provide sufficient information for a similarly qualified practitioner to
45 assume continuity of the patient's care at any point in the course of
46 treatment.

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

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

11 6. "Approved postdoctoral training" or "postdoctoral training" means
12 that the program in which the training occurred or is being conducted has
13 been approved for specialty training or for graduate medical education in
14 naturopathic medicine by the board or approved or accredited by an
15 educational or professional association recognized by the board or by another
16 state's or country's licensing agency recognized by the board.

17 7. "Approved preceptorship program" or "preceptorship" means that the
18 program in which the training occurred or is being conducted has been
19 approved for preceptorship training for physicians or for graduates of a
20 school of naturopathic medicine by the board or was approved or accredited by
21 an educational or professional association recognized by the board or by
22 another state's or country's licensing agency recognized by the board.

23 8. "Approved school of naturopathic medicine" or "school of
24 naturopathic medicine" means a school or college determined by the board to
25 have an educational program that meets standards prescribed by the council on
26 naturopathic medical education, or its successor agency, and that offers a
27 course of study that, on successful completion, results in the awarding of
28 the degree of doctor of naturopathic medicine and whose course of study is
29 either of the following:

30 (a) Accredited or a candidate for accreditation by an accrediting
31 agency recognized by the United States secretary of education as a
32 specialized accrediting agency for schools of naturopathic medicine or its
33 successor.

34 (b) Accredited or a candidate for accreditation by an accrediting
35 agency recognized by the council for higher education accreditation or its
36 successor.

37 9. "Board" means the naturopathic physicians medical board.

38 10. "Chelation therapy" means an experimental medical therapy to
39 restore cellular homeostasis through the use of intravenous, metal-binding
40 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation
41 therapy does not include experimental therapy used to treat heavy metal
42 poisoning.

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

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

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

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

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

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

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

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

16 (i) Vitamins, chelation therapy and drugs used in emergency
17 resuscitation and stabilization.

18 (ii) Minerals.

19 (iii) Nutrients. For the purposes of this item, "nutrient" means a
20 substance that provides nourishment for growth or metabolism and that is
21 manufactured and supplied for intravenous use by a manufacturer registered
22 with the United States food and drug administration or compounded by a
23 pharmacy licensed by the state board of pharmacy.

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

28 (c) Cancer chemotherapeutics classified as legend drugs.

29 (d) Antipsychotics.

30 16. "General supervision" means that the physician is available for
31 consultation regarding procedures that the physician has authorized and for
32 which the physician remains responsible.

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

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

43 19. "Letter of reprimand" means a disciplinary letter that is issued by
44 the board and that informs a person who is regulated under this chapter that
45 the person's conduct violates state or federal law but does not require the

1 board to restrict the person's license, certificate or registration because
2 the person's conduct did not result in harm to a patient or to the public.

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

7 21. "Medical assistant" or "naturopathic medical assistant" means a
8 person who is certified by the board as a medical assistant, who assists a
9 doctor of naturopathic medicine and who may perform delegated procedures that
10 are commensurate with the assistant's education and training under the direct
11 supervision of a doctor of naturopathic medicine and that do not include
12 diagnosing, designing or modifying established treatment programs or those
13 procedures prohibited by the board or by this chapter.

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

18 23. "Natural substance" means a homeopathic, botanical, nutritional or
19 other supplement that does not require a prescription pursuant to federal law
20 before it is prescribed, dispensed or otherwise furnished to a patient and
21 that is prescribed by a physician licensed pursuant to this chapter to
22 enhance health, prevent disease or treat a medical condition diagnosed by the
23 physician.

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

26 25. "Naturopathic medicine" means medicine as taught in approved
27 schools of naturopathic medicine and in clinical, internship, preceptorship
28 and postdoctoral training programs approved by the board and practiced by a
29 recipient of a degree of doctor of naturopathic medicine licensed pursuant to
30 this chapter.

31 26. "Nurse" means a person licensed pursuant to chapter 15 of this
32 title.

33 27. "Physician" means a doctor of naturopathic medicine licensed
34 pursuant to this chapter.

35 28. "Practice of naturopathic medicine" means a medical system of
36 diagnosing and treating diseases, injuries, ailments, infirmities and other
37 conditions of the human mind and body including by natural means, drugless
38 methods, drugs, nonsurgical methods, devices, physical, electrical, hygienic
39 and sanitary measures and all forms of physical agents and modalities.

40 29. "Restrict" means taking a disciplinary action that alters the
41 physician's practice or professional activities if the board determines that
42 there is evidence that the physician is or may be medically incompetent or
43 guilty of unprofessional conduct.

44 30. "Specialist" means a physician who has successfully completed
45 approved postdoctoral training, who is certified by a specialty board of

1 examiners recognized by the board and who is certified by the board to
2 practice the specialty pursuant to this chapter.

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

5 (a) Intentionally disclosing a professional secret or intentionally
6 disclosing a privileged communication except as either of these may otherwise
7 be required by law.

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

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

13 (d) Habitual intemperance in the use of alcohol or any substance
14 abuse.

15 (e) The illegal use of any narcotic or hypnotic drugs, or illegal
16 substances.

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

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

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

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

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

29 (k) Representing that a manifestly incurable disease, injury, ailment
30 or infirmity can be permanently cured, or falsely or fraudulently
31 representing that a curable disease, injury, ailment or infirmity can be
32 cured within a stated time.

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

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

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

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

44 (p) Immorality or misconduct that tends to discredit the naturopathic
45 profession.

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

6 (r) Any conduct or practice that is contrary to recognized standards
7 of ethics of the naturopathic profession, any conduct or practice that does
8 or might constitute a danger to the health, welfare or safety of the patient
9 or the public, or any conduct, practice or condition that does or might
10 impair the ability to safely and skillfully practice as a doctor of
11 naturopathic medicine.

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

14 (t) Violating or attempting to violate, directly or indirectly, or
15 assisting in or abetting the violation of, or conspiring to violate this
16 chapter or board rules.

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

20 (v) Failing or refusing to maintain adequate medical records on a
21 patient or failing or refusing to make medical records in the physician's
22 possession promptly available to another physician or health care provider
23 who is licensed pursuant to chapter 7, 8, 13, 15, 17 or 29 of this title on
24 request and receipt of proper authorization to do so from the patient, a
25 minor patient's parent, the patient's legal guardian or the patient's
26 authorized representative or failing to comply with title 12, chapter 13,
27 article 7.1.

28 (w) Referring a patient to a diagnostic or treatment facility or
29 prescribing goods and services without disclosing in writing to the patient
30 that the physician has a pecuniary interest in the facility, goods or
31 services to which the patient is referred or prescribed. This subdivision
32 does not apply to a referral by one physician or practitioner to another
33 physician or practitioner within a group of physicians or practitioners
34 practicing together.

35 (x) Sexual intimacies with a patient in the course of direct
36 treatment.

37 (y) Failing to dispense drugs and devices in compliance with article 4
38 of this chapter.

39 (z) Administering, dispensing or prescribing any drug or a device for
40 other than an accepted therapeutic purpose.

41 (aa) Falsely representing or holding oneself out as being a specialist
42 or representation by a doctor of naturopathic medicine or the doctor's staff,
43 employer or representative that the doctor is boarded or board certified if
44 this is not true or that standing is not current.

1 (bb) Delegating professional duties and responsibilities to a person
2 if the person has not been approved or qualified by licensure or by
3 certification to perform these duties or responsibilities.

4 (cc) Failing to appropriately supervise a naturopathic medical
5 student, a nurse, a medical assistant, a health care provider or a technician
6 employed by or assigned to the physician during the performance of delegated
7 professional duties and responsibilities.

8 (dd) Using experimental forms of diagnosis or treatment without
9 adequate informed consent of the patient or the patient's legal guardian and
10 without conforming to experimental criteria including protocols, detailed
11 records, periodic analysis of results and periodic review by a medical peer
12 review committee as approved by the federal food and drug administration or
13 its successor agency.

14 (ee) Failing to furnish information in a timely manner to the board or
15 investigators or representatives of the board if this information is legally
16 requested by the board and failing to allow properly authorized board
17 personnel on demand to examine and have access to documents, reports and
18 records maintained by the physician that relate to the physician's medical
19 practice or medically related activities.

20 (ff) Failing to report in writing to the board evidence that a person
21 licensed, certified or registered pursuant to this chapter is or may be
22 medically incompetent, guilty of unprofessional conduct or mentally or
23 physically unable to safely practice or assist in the practice of
24 naturopathic medicine.

25 (gg) Conducting or engaging in an internship, preceptorship or
26 clinical training program in naturopathic medicine without being approved and
27 registered by the board for that internship, preceptorship or clinical
28 training program.

29 (hh) Signing a blank, undated or predated prescription form.

30 (ii) Conduct that the board determines is gross negligence, repeated
31 negligence or negligence resulting in harm or death to a patient.

32 (jj) Knowingly making a false or misleading statement in oral
33 testimony to the board on a form required by the board or in written
34 correspondence to the board, including attachments to that correspondence.

35 (kk) The failure of a physician who is the chief medical officer, the
36 executive officer or the chief of staff of an internship, a preceptorship or
37 a clinical training program to report in writing to the board that the
38 privileges of a doctor of naturopathic medicine, a naturopathic medical
39 student or a medical assistant have been denied, limited, revoked or
40 suspended because that doctor's, student's or assistant's actions appear to
41 indicate that the person is or may be medically incompetent, is or may be
42 guilty of unprofessional conduct or is or may be unable to safely engage or
43 assist in the practice of naturopathic medicine.

44 (ll) Action taken against a doctor of naturopathic medicine by a
45 licensing or regulatory board in another jurisdiction due to that doctor's
46 mental or physical inability to engage safely in the practice of naturopathic

1 medicine or the doctor's medical incompetence or for unprofessional conduct
2 as defined by that licensing or regulatory board and that corresponds
3 directly or indirectly to an act of unprofessional conduct prescribed by this
4 paragraph. The action taken may include refusing, denying, revoking or
5 suspending a license, otherwise limiting, restricting or monitoring a
6 licensee or placing a licensee on probation by that licensing or regulatory
7 board.

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

12 (nn) Violating any formal order, probation, consent agreement or
13 stipulation issued or entered into by the board pursuant to this chapter.

14 (oo) Refusing to submit to a body fluid examination pursuant to a
15 board investigation of alleged substance abuse by a doctor of naturopathic
16 medicine.

17 (pp) 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 this effect.

21 (qq) Obtaining a fee by fraud, deceit or misrepresentation.

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

30 (ss) With the exception of heavy metal poisoning, using chelation
31 therapy in the treatment of arteriosclerosis or as any other form of therapy
32 without adequate informed patient consent and without conforming to generally
33 accepted experimental criteria, including protocols, detailed records,
34 periodic analysis of results and periodic review by a medical peer review
35 committee.

36 (tt) Using a controlled substance unless it is prescribed by another
37 physician for use during a prescribed course of treatment.

38 (uu) Prescribing, dispensing or administering anabolic androgenic
39 steroids for other than therapeutic purposes.

40 (vv) Except in an emergency or urgent care situation, prescribing or
41 dispensing a controlled substance to a member of the naturopathic physician's
42 immediate family.

43 (ww) Prescribing, dispensing or furnishing a prescription medication
44 or a prescription-only device as defined in section 32-1901 to a person
45 unless the licensee first conducts a physical examination of that person or
46 has previously established a doctor-patient relationship. **THE PHYSICAL**

1 EXAMINATION MAY BE CONDUCTED DURING A REAL-TIME TELEMEDICINE ENCOUNTER WITH
2 AUDIO AND VIDEO CAPABILITY IF THE TELEMEDICINE AUDIO AND VIDEO CAPABILITY
3 MEETS THE ELEMENTS REQUIRED BY THE CENTERS FOR MEDICARE AND MEDICAID
4 SERVICES, UNLESS THE EXAMINATION IS FOR THE PURPOSE OF OBTAINING A WRITTEN
5 CERTIFICATION FROM THE PHYSICIAN FOR THE PURPOSES OF TITLE 36, CHAPTER 28.1.

6 This subdivision does not apply to:

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

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

10 (iii) Prescriptions written to prepare a patient for a medical
11 examination.

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

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

23 (vi) PRESCRIPTIONS WRITTEN BY A LICENSEE THROUGH A TELEMEDICINE
24 PROGRAM THAT IS COVERED BY THE POLICIES AND PROCEDURES ADOPTED BY THE
25 ADMINISTRATOR OF A HOSPITAL OR OUTPATIENT TREATMENT CENTER.

26 (xx) If medical treatment is considered experimental or
27 investigational, failing to include in a patient's record a consent to
28 treatment document that is signed by the patient or the patient's parent or
29 legal guardian and that indicates that the patient or the patient's parent or
30 legal guardian has been informed of the risk of any treatment to be provided
31 and the expected cost of that treatment.

32 Sec. 3. Section 32-1854, Arizona Revised Statutes, is amended to read:
33 32-1854. Definition of unprofessional conduct

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

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

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

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

4 4. Being diagnosed by a physician licensed under this chapter or
5 chapter 13 of this title or a psychologist licensed under chapter 19.1 of
6 this title as excessively or illegally using alcohol or a controlled
7 substance.

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

10 6. Engaging in the practice of medicine in a manner that harms or may
11 harm a patient or that the board determines falls below the community
12 standard.

13 7. Impersonating another physician.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 24. Nontherapeutic use of injectable amphetamines.

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

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

30 27. Using experimental forms of therapy without adequate informed
31 patient consent or without conforming to generally accepted criteria and
32 complying with federal and state statutes and regulations governing
33 experimental therapies.

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

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

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

- 1 31. Obtaining a fee by fraud, deceit or misrepresentation.
- 2 32. Failing to report to the board an osteopathic physician and surgeon
3 who is or may be guilty of unprofessional conduct or is or may be mentally or
4 physically unable safely to engage in the practice of medicine.
- 5 33. Referring a patient to a diagnostic or treatment facility or
6 prescribing goods and services without disclosing that the physician has a
7 direct pecuniary interest in the facility, goods or services to which the
8 patient has been referred or prescribed. This paragraph does not apply to a
9 referral by one physician to another physician within a group of physicians
10 practicing together.
- 11 34. Lack of or inappropriate direction, collaboration or supervision of
12 a licensed, certified or registered health care provider or office personnel
13 employed by or assigned to the physician in the medical care of patients.
- 14 35. Violating a federal law, a state law or a rule applicable to the
15 practice of medicine.
- 16 36. Prescribing or dispensing controlled substances or
17 prescription-only medications without establishing and maintaining adequate
18 patient records.
- 19 37. Failing to dispense drugs and devices in compliance with article 4
20 of this chapter.
- 21 38. Any conduct or practice that endangers a patient's or the public's
22 health or may reasonably be expected to do so.
- 23 39. Any conduct or practice that impairs the licensee's ability to
24 safely and skillfully practice medicine or that may reasonably be expected to
25 do so.
- 26 40. With the exception of heavy metal poisoning, using chelation
27 therapy in the treatment of arteriosclerosis or as any other form of therapy
28 without adequate informed patient consent and without conforming to generally
29 accepted experimental criteria, including protocols, detailed records,
30 periodic analysis of results and periodic review by a medical peer review
31 committee.
- 32 41. Prescribing, dispensing or administering anabolic-androgenic
33 steroids to a person for other than therapeutic purposes.
- 34 42. Engaging in sexual conduct with a current patient or with a former
35 patient within six months after the last medical consultation unless the
36 patient was the licensee's spouse at the time of the contact or, immediately
37 preceding the physician-patient relationship, was in a dating or engagement
38 relationship with the licensee. For the purposes of this paragraph, "sexual
39 conduct" includes:
- 40 (a) Engaging in or soliciting sexual relationships, whether consensual
41 or nonconsensual.
- 42 (b) Making sexual advances, requesting sexual favors or engaging in
43 any other verbal conduct or physical conduct of a sexual nature.
- 44 43. Fetal experiments conducted in violation of section 36-2302.
- 45 44. Conduct that the board determines constitutes gross negligence,
46 repeated negligence or negligence that results in harm or death of a patient.

1 45. Conduct in the practice of medicine that evidences moral unfitness
2 to practice medicine.

3 46. Engaging in disruptive or abusive behavior in a professional
4 setting.

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

11 (a) The licensee makes the disclosure on a form prescribed by the
12 board.

13 (b) The patient or the patient's guardian or parent acknowledges by
14 signing the form that the licensee has disclosed the licensee's direct
15 financial interest.

16 48. Prescribing, dispensing or furnishing a prescription medication or
17 a prescription-only device to a person if the licensee has not conducted a
18 physical OR MENTAL HEALTH STATUS examination of that person or has not
19 previously established a physician-patient relationship. THE PHYSICAL OR
20 MENTAL HEALTH STATUS EXAMINATION MAY BE CONDUCTED DURING A REAL-TIME
21 TELEMEDICINE ENCOUNTER WITH AUDIO AND VIDEO CAPABILITY IF THE TELEMEDICINE
22 AUDIO AND VIDEO CAPABILITY MEETS THE ELEMENTS REQUIRED BY THE CENTERS FOR
23 MEDICARE AND MEDICAID SERVICES, UNLESS THE EXAMINATION IS FOR THE PURPOSE OF
24 OBTAINING A WRITTEN CERTIFICATION FROM THE PHYSICIAN FOR THE PURPOSES OF
25 TITLE 36, CHAPTER 28.1. This paragraph does not apply to:

26 (a) Emergencies.

27 (b) A LICENSEE WHO PROVIDES PATIENT CARE ON BEHALF OF THE PATIENT'S
28 REGULAR TREATING LICENSED HEALTH CARE PROFESSIONAL OR PROVIDES A CONSULTATION
29 REQUESTED BY THE PATIENT'S REGULAR TREATING LICENSED HEALTH CARE
30 PROFESSIONAL.

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

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

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

42 49. If a licensee provides medical care by computer, failing to
43 disclose the licensee's license number and the board's address and telephone
44 number.

45 Sec. 4. Section 32-1901.01, Arizona Revised Statutes, is amended to
46 read:

1 12. Denial or discipline of a permittee's permit to manufacture, sell,
2 distribute or dispense drugs, devices, poisons, hazardous substances or
3 precursor chemicals in another jurisdiction and the permit was not
4 reinstated.

5 13. Committing an offense in another jurisdiction that if committed in
6 this state would be grounds for discipline.

7 14. Obtaining or attempting to obtain a permit or a permit renewal by
8 fraud, by misrepresentation or by knowingly taking advantage of the mistake
9 of another person or an agency.

10 15. Wilfully making a false report or record required by this chapter,
11 required by federal or state laws pertaining to drugs, devices, poisons,
12 hazardous substances or precursor chemicals or required for the payment for
13 drugs, devices, poisons or hazardous substances or precursor chemicals or for
14 services pertaining to such drugs or substances.

15 16. Knowingly filing with the board any application, renewal or other
16 document that contains false or misleading information.

17 17. Providing false or misleading information or omitting material
18 information in any communication to the board or the board's employees or
19 agents.

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

23 19. Violating a formal order, terms of probation, a consent agreement
24 or a stipulation issued or entered into by the board or its executive
25 director pursuant to this chapter.

26 20. Failing to comply with a board subpoena or failing to comply in a
27 timely manner with a board subpoena without providing any explanation to the
28 board for not complying with the subpoena.

29 21. Failing to provide the board, its employees or agents or an
30 authorized federal or state official conducting a site investigation,
31 inspection or audit with access to any place for which a permit has been
32 issued or for which an application for a permit has been submitted.

33 22. Failing to notify the board of a change of ownership, management or
34 pharmacist in charge.

35 23. Failing to promptly produce on the request of the official
36 conducting ~~the~~ A site investigation, inspection or audit any book, record or
37 document.

38 24. Overruling or attempting to overrule a pharmacist in matters of
39 pharmacy ethics or interpreting laws pertaining to the practice of pharmacy
40 or the distribution of drugs or devices.

41 25. Distributing premiums or rebates of any kind in connection with the
42 sale of prescription medication, other than to the prescription medication
43 recipient.

44 26. Failing to maintain effective controls against the diversion of
45 precursor chemicals to unauthorized persons or entities.

46 27. Fraudulently claiming to have performed a service.

1 28. Fraudulently charging a fee for a service.

2 29. Advertising drugs or devices, or services pertaining to drugs or
3 devices, **IN A MANNER** that is untrue or misleading in any particular, and that
4 is known, or that by the exercise of reasonable care should be known, to be
5 untrue or misleading.

6 B. In this chapter, unless the context otherwise requires, for the
7 purposes of disciplining a pharmacist, pharmacy intern or graduate intern,
8 "unprofessional conduct" means the following, whether occurring in this state
9 or elsewhere:

10 1. Addiction to the use of alcohol or other drugs to such a degree as
11 to render the licensee unfit to practice the profession of pharmacy.

12 2. Violating any federal or state law, rule or regulation relating to
13 the manufacture or distribution of drugs and devices or the practice of
14 pharmacy.

15 3. Dispensing a different drug or brand of drug in place of the drug
16 or brand of drug ordered or prescribed without the express permission in each
17 case of the orderer, or in the case of a prescription order, the medical
18 practitioner. The conduct prohibited by this paragraph does not apply to
19 substitutions authorized pursuant to section 32-1963.01.

20 4. Obtaining or attempting to obtain a license to practice pharmacy or
21 a license renewal by fraud, by misrepresentation or by knowingly taking
22 advantage of the mistake of another person or an agency.

23 5. Denial or discipline of a licensee's license to practice pharmacy
24 in another jurisdiction and the license was not reinstated.

25 6. Claiming professional superiority in compounding or dispensing
26 prescription orders.

27 7. Failing to comply with the mandatory continuing professional
28 pharmacy education requirements of sections 32-1936 and 32-1937 and rules
29 adopted by the board.

30 8. Committing a felony, whether or not involving moral turpitude, or a
31 misdemeanor involving moral turpitude or any drug related offense. In either
32 case, conviction by a court of competent jurisdiction or a plea of no contest
33 is conclusive evidence of the commission.

34 9. Working under the influence of alcohol or other drugs.

35 10. Violating a federal or state law or administrative rule relating to
36 marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled
37 substances or precursor chemicals when determined by the board or by
38 conviction in a federal or state court.

39 11. Knowingly dispensing a drug without a valid prescription order as
40 required pursuant to section 32-1968, subsection A.

41 12. Knowingly dispensing a drug on a prescription order that was issued
42 in the course of the conduct of business of dispensing drugs pursuant to
43 diagnosis by mail or the internet, ~~—~~ **UNLESS THE ORDER WAS ANY OF THE**
44 **FOLLOWING:**

45 (a) **MADE BY A PHYSICIAN WHO PROVIDES TEMPORARY PATIENT SUPERVISION ON**
46 **BEHALF OF THE PATIENT'S REGULAR TREATING LICENSED HEALTH CARE PROFESSIONAL OR**

1 PROVIDES A CONSULTATION REQUESTED BY THE PATIENT'S REGULAR TREATING LICENSED
2 HEALTH CARE PROFESSIONAL.

3 (b) MADE IN AN EMERGENCY MEDICAL SITUATION AS DEFINED IN SECTION
4 41-1831.

5 (c) WRITTEN TO PREPARE A PATIENT FOR A MEDICAL EXAMINATION.

6 (d) WRITTEN OR THE PRESCRIPTION MEDICATIONS WERE ISSUED FOR USE BY A
7 COUNTY OR TRIBAL PUBLIC HEALTH DEPARTMENT FOR IMMUNIZATION PROGRAMS OR
8 EMERGENCY TREATMENT OR IN RESPONSE TO AN INFECTIOUS DISEASE INVESTIGATION, A
9 PUBLIC HEALTH EMERGENCY, AN INFECTIOUS DISEASE OUTBREAK OR AN ACT OF
10 BIOTERRORISM. FOR THE PURPOSES OF THIS SUBDIVISION, "BIOTERRORISM" HAS THE
11 SAME MEANING PRESCRIBED IN SECTION 36-781.

12 (e) WRITTEN OR ANTIMICROBIALS WERE DISPENSED BY THE PRESCRIBING OR
13 DISPENSING PHYSICIAN TO A CONTACT AS DEFINED IN SECTION 36-661 WHO IS
14 BELIEVED TO HAVE HAD SIGNIFICANT EXPOSURE RISK AS DEFINED IN SECTION 36-661
15 WITH ANOTHER PERSON WHO HAS BEEN DIAGNOSED WITH A COMMUNICABLE DISEASE AS
16 DEFINED IN SECTION 36-661.

17 (f) WRITTEN OR THE PRESCRIPTION MEDICATIONS WERE ISSUED FOR
18 ADMINISTRATION OF IMMUNIZATIONS OR VACCINES LISTED IN THE UNITED STATES
19 CENTERS FOR DISEASE CONTROL AND PREVENTION'S RECOMMENDED IMMUNIZATION
20 SCHEDULE TO A HOUSEHOLD MEMBER OF A PATIENT.

21 (g) FOR EPINEPHRINE AUTO-INJECTORS THAT ARE WRITTEN OR DISPENSED FOR A
22 SCHOOL DISTRICT OR CHARTER SCHOOL AND THAT ARE TO BE STOCKED FOR EMERGENCY
23 USE PURSUANT TO SECTION 15-157.

24 (h) WRITTEN BY A LICENSEE THROUGH A TELEMEDICINE PROGRAM THAT IS
25 COVERED BY THE POLICIES AND PROCEDURES ADOPTED BY THE ADMINISTRATOR OF A
26 HOSPITAL OR OUTPATIENT TREATMENT CENTER.

27 (i) WRITTEN PURSUANT TO A PHYSICAL OR MENTAL HEALTH STATUS EXAMINATION
28 THAT WAS CONDUCTED DURING A REAL-TIME TELEMEDICINE ENCOUNTER WITH AUDIO AND
29 VIDEO CAPABILITY THAT MEETS THE ELEMENTS REQUIRED BY THE CENTERS FOR MEDICARE
30 AND MEDICAID SERVICES.

31 13. Failing to report in writing to the board any evidence that a
32 pharmacist, pharmacy intern or graduate intern is or may be professionally
33 incompetent, is or may be guilty of unprofessional conduct or is or may be
34 mentally or physically unable to safely engage in the practice of pharmacy.

35 14. Failing to report in writing to the board any evidence that a
36 pharmacy technician or pharmacy technician trainee is or may be
37 professionally incompetent, is or may be guilty of unprofessional conduct or
38 is or may be mentally or physically unable to safely engage in the
39 permissible activities of a pharmacy technician or pharmacy technician
40 trainee.

41 15. Failing to report in writing to the board any evidence that a
42 permittee or a permittee's employee is or may be guilty of unethical conduct
43 or is or may be in violation of this chapter or a rule adopted under this
44 chapter.

45 16. Committing an offense in another jurisdiction that if committed in
46 this state would be grounds for discipline.

1 17. Knowingly filing with the board any application, renewal or other
2 document that contains false or misleading information.

3 18. Providing false or misleading information or omitting material
4 information in any communication to the board or the board's employees or
5 agents.

6 19. Violating or attempting to violate, directly or indirectly, or
7 assisting in or abetting in the violation of, or conspiring to violate, this
8 chapter.

9 20. Violating a formal order, terms of probation, a consent agreement
10 or a stipulation issued or entered into by the board or its executive
11 director pursuant to this chapter.

12 21. Failing to comply with a board subpoena or failing to comply in a
13 timely manner with a board subpoena without providing any explanation to the
14 board for not complying with the subpoena.

15 22. Refusing without just cause to allow authorized agents of the board
16 to examine documents that are required to be kept pursuant to this chapter or
17 title 36.

18 23. Participating in an arrangement or agreement to allow a
19 prescription order or a prescription medication to be left at, picked up
20 from, accepted by or delivered to a place that is not licensed as a pharmacy.
21 This paragraph does not prohibit a pharmacist or a pharmacy from using an
22 employee or a common carrier to pick up prescription orders at or deliver
23 prescription medications to the office or home of a medical practitioner, the
24 residence of a patient or a patient's hospital.

25 24. Paying rebates or entering into an agreement for the payment of
26 rebates to a medical practitioner or any other person in the health care
27 field.

28 25. Providing or causing to be provided to a medical practitioner
29 prescription order blanks or forms bearing the pharmacist's or pharmacy's
30 name, address or other means of identification.

31 26. Fraudulently claiming to have performed a professional service.

32 27. Fraudulently charging a fee for a professional service.

33 28. Failing to report a change of the licensee's home address or
34 employer as required pursuant to section 32-1926.

35 29. Failing to report a change in the licensee's residency status as
36 required pursuant to section 32-1926.01.

37 C. In this chapter, unless the context otherwise requires, for the
38 purposes of disciplining a pharmacy technician or pharmacy technician
39 trainee, "unprofessional conduct" means the following, whether occurring in
40 this state or elsewhere:

41 1. Addiction to the use of alcohol or other drugs to such a degree as
42 to render the licensee unfit to perform the licensee's employment duties.

43 2. Violating a federal or state law or administrative rule relating to
44 the manufacture or distribution of drugs or devices.

45 3. Obtaining or attempting to obtain a pharmacy technician or pharmacy
46 technician trainee license or a pharmacy technician license renewal by fraud,

1 by misrepresentation or by knowingly taking advantage of the mistake of
2 another person or an agency.

3 4. Denial or discipline of a licensee's license to practice as a
4 pharmacy technician in another jurisdiction and the license was not
5 reinstated.

6 5. Failing to comply with the mandatory continuing professional
7 education requirements of section 32-1925, subsection I and rules adopted by
8 the board.

9 6. Committing a felony, whether or not involving moral turpitude, or a
10 misdemeanor involving moral turpitude or any drug related offense. In either
11 case, conviction by a court of competent jurisdiction or a plea of no contest
12 is conclusive evidence of the commission.

13 7. Working under the influence of alcohol or other drugs.

14 8. Violating a federal or state law or administrative rule relating to
15 marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled
16 substances or precursor chemicals when determined by the board or by
17 conviction in a federal or state court.

18 9. Failing to report in writing to the board any evidence that a
19 pharmacist, pharmacy intern or graduate intern is or may be professionally
20 incompetent, is or may be guilty of unprofessional conduct or is or may be
21 mentally or physically unable to safely engage in the practice of pharmacy.

22 10. Failing to report in writing to the board any evidence that a
23 pharmacy technician or pharmacy technician trainee is or may be
24 professionally incompetent, is or may be guilty of unprofessional conduct or
25 is or may be mentally or physically unable to safely engage in the
26 permissible activities of a pharmacy technician or pharmacy technician
27 trainee.

28 11. Failing to report in writing to the board any evidence that a
29 permittee or a permittee's employee is or may be guilty of unethical conduct
30 or is or may be in violation of this chapter or a rule adopted under this
31 chapter.

32 12. Committing an offense in another jurisdiction that if committed in
33 this state would be grounds for discipline.

34 13. Knowingly filing with the board any application, renewal or other
35 document that contains false or misleading information.

36 14. Providing false or misleading information or omitting material
37 information in any communication to the board or the board's employees or
38 agents.

39 15. Violating or attempting to violate, directly or indirectly, or
40 assisting in or abetting in the violation of, or conspiring to violate, this
41 chapter.

42 16. Violating a formal order, terms of probation, a consent agreement
43 or a stipulation issued or entered into by the board or its executive
44 director pursuant to this chapter.

1 17. Failing to comply with a board subpoena or failing to comply in a
2 timely manner with a board subpoena without providing any explanation to the
3 board for not complying with the subpoena.

4 18. Failing to report a change of the licensee's home address or
5 employer as required pursuant to section 32-1926.

6 19. Failing to report a change in the licensee's residency status as
7 required pursuant to section 32-1926.01.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

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