



Bill Number: S.B. 1474

Barto Floor Amendment

Reference to: printed bill

Amendment drafted by: Leg Council

FLOOR AMENDMENT EXPLANATION

- **Permits the Director of the Department of Health Services to suspend or revoke the license of a healthcare institution for violating provisions relating to experimentation on or transferring of a human fetus or embryo or any of its parts; and adds to the definition of unprofessional conduct for certain licensed physicians any violation of provisions relating to experimentation on or transferring of a human fetus or embryo or any of its parts.**
- **Prohibits the physician-patient privilege from preventing the production of documents or records relevant to an investigation relating to experimentation on or the transferring of a human fetus or embryo or parts.**

Amendment explanation prepared by Emily Mercado

2/24/2016

BARTO FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1474
(Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

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

1 United States or Canada approved by the board whose function is that of
2 approving hospitals for internship, fellowship or residency training.

3 5. "Approved school of medicine" means any school or college offering
4 a course of study that, on successful completion, results in the degree of
5 doctor of medicine and whose course of study has been approved or accredited
6 by an educational or professional association, recognized by the board,
7 including the association of American medical colleges, the association of
8 Canadian medical colleges or the American medical association.

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

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

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

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

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

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

28 12. "Health care institution" means any facility as defined in section
29 36-401, any person authorized to transact disability insurance, as defined in
30 title 20, chapter 6, article 4 or 5, any person who is issued a certificate
31 of authority pursuant to title 20, chapter 4, article 9 or any other
32 partnership, association or corporation that provides health care to
33 consumers.

34 13. "Immediate family" means the spouse, natural or adopted children,
35 father, mother, brothers and sisters of the doctor and the natural or adopted
36 children, father, mother, brothers and sisters of the doctor's spouse.

37 14. "Letter of reprimand" means a disciplinary letter that is issued by
38 the board and that informs the physician that the physician's conduct

1 violates state or federal law and may require the board to monitor the
2 physician.

3 15. "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 16. "Medical assistant" means an unlicensed person who meets the
8 requirements of section 32-1456, has completed an education program approved
9 by the board, assists in a medical practice under the supervision of a doctor
10 of medicine, physician assistant or nurse practitioner and performs delegated
11 procedures commensurate with the assistant's education and training but does
12 not diagnose, interpret, design or modify established treatment programs or
13 perform any functions that would violate any statute applicable to the
14 practice of medicine.

15 17. "Medical peer review" means:

16 (a) The participation by a doctor of medicine in the review and
17 evaluation of the medical management of a patient and the use of resources
18 for patient care.

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

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

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

25 (b) When considered with other indications of medical incompetence,
26 failing to obtain a scaled score of at least seventy-five percent on the
27 written special purpose licensing examination.

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

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

33 21. "Physician" means a doctor of medicine WHO IS licensed pursuant to
34 this chapter.

35 22. "Practice of medicine" means the diagnosis, the treatment or the
36 correction of or the attempt or the claim to be able to diagnose, treat or
37 correct any and all human diseases, injuries, ailments, infirmities, ~~OR~~ OR
38 deformities, physical or mental, real or imaginary, by any means, methods,
39 devices or instrumentalities, except as the same may be among the acts or

1 persons not affected by this chapter. The practice of medicine includes the
2 practice of medicine alone or the practice of surgery alone, or both.

3 23. "Restrict" means taking a disciplinary 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 medically incompetent or
6 guilty of unprofessional conduct.

7 24. "Special purpose licensing examination" means an examination **THAT**
8 **IS** developed by the national board of medical examiners on behalf of the
9 federation of state medical boards for use by state licensing boards to test
10 the basic medical competence of physicians who are applying for licensure and
11 who have been in practice for a considerable period of time in another
12 jurisdiction and to determine the competence of a physician **WHO IS** under
13 investigation by a state licensing board.

14 25. "Teaching hospital's accredited graduate medical education program"
15 means that the hospital is incorporated and has an internship, fellowship or
16 residency training program that is accredited by the accreditation council
17 for graduate medical education, the American medical association, the
18 association of American medical colleges, the royal college of physicians and
19 surgeons of Canada or a similar body in the United States or Canada **THAT IS**
20 approved by the board **AND** whose function is that of approving hospitals for
21 internship, fellowship or residency training.

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

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

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

29 (b) Intentionally disclosing a professional secret or intentionally
30 disclosing a privileged communication except as either act may otherwise be
31 required by law.

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

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

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

1 (f) Habitual intemperance in the use of alcohol or habitual substance
2 abuse.

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

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

7 (i) Prescribing, dispensing or administering schedule II controlled
8 substances as defined in section 36-2513 including amphetamines and similar
9 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a
10 period in excess of thirty days in any one year, or the nontherapeutic use of
11 injectable amphetamines.

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

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

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

17 (m) Representing that a manifestly incurable disease or infirmity can
18 be permanently cured, or that any disease, ailment or infirmity can be cured
19 by a secret method, procedure, treatment, medicine or device, if this is not
20 true.

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

24 (o) Action that is taken against a doctor of medicine by another
25 licensing or regulatory jurisdiction due to that doctor's mental or physical
26 inability to engage safely in the practice of medicine or the doctor's
27 medical incompetence or for unprofessional conduct as defined by that
28 jurisdiction and that corresponds directly or indirectly to an act of
29 unprofessional conduct prescribed by this paragraph. The action taken may
30 include refusing, denying, revoking or suspending a license by that
31 jurisdiction or a surrendering of a license to that jurisdiction, otherwise
32 limiting, restricting or monitoring a licensee by that jurisdiction or
33 placing a licensee on probation by that jurisdiction.

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

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

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

4 (s) Violating or attempting to violate, directly or indirectly, or
5 assisting in or abetting the violation of or conspiring to violate any
6 provision of this chapter.

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

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

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

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

27 (x) ~~Fetal experiments conducted~~ ~~CONDUCT THAT IS~~ in violation of
28 section 36-2302.

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

35 (z) Engaging in sexual conduct with a current patient or with a former
36 patient within six months after the last medical consultation unless the
37 patient was the licensee's spouse at the time of the contact or, immediately
38 preceding the physician-patient relationship, was in a dating or engagement

1 relationship with the licensee. For the purposes of this subdivision,
2 "sexual conduct" includes:

3 (i) Engaging in or soliciting sexual relationships, whether consensual
4 or nonconsensual.

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

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

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

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

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

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

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

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

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

36 (i) Adequate informed patient consent.

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

1 (iii) Approval by the ~~federal~~ UNITED STATES food and drug
2 administration or its successor agency.

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

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

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

11 (kk) Failing to dispense drugs and devices in compliance with article
12 6 of this chapter.

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

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

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

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

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

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

37 (rr) Failing to make patient medical records in the physician's
38 possession promptly available to a physician assistant, a nurse practitioner,
39 a person licensed pursuant to this chapter or a podiatrist, chiropractor,

1 naturopathic physician, osteopathic physician or homeopathic physician
2 licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper
3 authorization to do so from the patient, a minor patient's parent, the
4 patient's legal guardian or the patient's authorized representative or
5 failing to comply with title 12, chapter 13, article 7.1.

6 (ss) Prescribing, dispensing or furnishing a prescription medication
7 or a prescription-only device as defined in section 32-1901 to a person
8 unless the licensee first conducts a physical or mental health status
9 examination of that person or has previously established a doctor-patient
10 relationship. The physical or mental health status examination may be
11 conducted during a real-time telemedicine encounter with audio and video
12 capability if the telemedicine audio and video capability meets the elements
13 required by the centers for medicare and medicaid services, unless the
14 examination is for the purpose of obtaining a written certification from the
15 physician for the purposes of title 36, chapter 28.1. This subdivision does
16 not apply to:

17 (i) A physician who provides temporary patient supervision on behalf
18 of the patient's regular treating licensed health care professional or
19 provides a consultation requested by the patient's regular treating licensed
20 health care professional.

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

22 (iii) Prescriptions written to prepare a patient for a medical
23 examination.

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

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

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

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

4 (viii) Prescriptions written by a licensee through a telemedicine
5 program that is covered by the policies and procedures adopted by the
6 administrator of a hospital or outpatient treatment center.

7 (ix) Prescriptions for naloxone hydrochloride or any other ~~opiate~~
8 **OPIOID** antagonist approved by the United States food and drug administration
9 that are written or dispensed for use pursuant to section 36-2228.

10 (tt) Performing office based surgery using sedation in violation of
11 board rules.

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

13 Sec. 2. Section 32-1854, Arizona Revised Statutes, is amended to read:
14 **32-1854. Definition of unprofessional conduct**

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

17 1. Knowingly betraying a professional secret or wilfully violating a
18 privileged communication except as either of these may otherwise be required
19 by law. This paragraph does not prevent members of the board from exchanging
20 information with the licensing and disciplinary boards of other states,
21 territories or districts of the United States or with foreign countries or
22 with osteopathic medical organizations located in this state or in any state,
23 district or territory of this country or in any foreign country.

24 2. Committing a felony or a misdemeanor involving moral turpitude. In
25 either case conviction by any court of competent jurisdiction is conclusive
26 evidence of the commission of the offense.

27 3. Practicing medicine while under the influence of alcohol, a
28 dangerous drug as defined in section 13-3401, narcotic or hypnotic drugs or
29 any substance that impairs or may impair the licensee's ability to safely and
30 skillfully practice medicine.

31 4. Being diagnosed by a physician licensed under this chapter or
32 chapter 13 of this title or a psychologist licensed under chapter 19.1 of
33 this title as excessively or illegally using alcohol or a controlled
34 substance.

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

37 6. Engaging in the practice of medicine in a manner that harms or may
38 harm a patient or that the board determines falls below the community
39 standard.

- 1 7. Impersonating another physician.
- 2 8. Acting or assuming to act as a member of the board if this is not
3 true.
- 4 9. Procuring, renewing or attempting to procure or renew a license to
5 practice osteopathic medicine by fraud or misrepresentation.
- 6 10. Having professional connection with or lending one's name to an
7 illegal practitioner of osteopathic medicine or any of the other healing
8 arts.
- 9 11. Representing that a manifestly incurable disease, injury, ailment
10 or infirmity can be permanently cured or that a curable disease, injury,
11 ailment or infirmity can be cured within a stated time, if this is not true.
- 12 12. Failing to reasonably disclose and inform the patient or the
13 patient's representative of the method, device or instrumentality the
14 licensee uses to treat the patient's disease, injury, ailment or infirmity.
- 15 13. Refusing to divulge to the board on demand the means, method,
16 device or instrumentality used in the treatment of a disease, injury, ailment
17 or infirmity.
- 18 14. Charging a fee for services not rendered or dividing a
19 professional fee for patient referrals. This paragraph does not apply to
20 payments from a medical researcher to a physician in connection with
21 identifying and monitoring patients for clinical trial regulated by the
22 United States food and drug administration.
- 23 15. Knowingly making any false or fraudulent statement, written or
24 oral, in connection with the practice of medicine or when applying for or
25 renewing privileges at a health care institution or a health care program.
- 26 16. Advertising in a false, deceptive or misleading manner.
- 27 17. Representing or claiming to be an osteopathic medical specialist
28 if the physician has not satisfied the applicable requirements of this
29 chapter or board rules.
- 30 18. The denial of or disciplinary action against a license by any
31 other state, territory, district or country, unless it can be shown that this
32 occurred for reasons that did not relate to the person's ability to safely
33 and skillfully practice osteopathic medicine or to any act of unprofessional
34 conduct as provided in this section.
- 35 19. Any conduct or practice contrary to recognized standards of ethics
36 of the osteopathic medical profession.
- 37 20. Violating or attempting to violate, directly or indirectly, or
38 assisting in or abetting the violation of or conspiring to violate any of the
39 provisions of this chapter.

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

3 (a) If the patient is an adult, for at least six years after the last
4 date the licensee provided the patient with medical or health care services.

5 (b) If the patient is a child, either for at least three years after
6 the child's eighteenth birthday or for at least six years after the last date
7 the licensee provided that patient with medical or health care services,
8 whichever date occurs later.

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

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

15 24. Nontherapeutic use of injectable amphetamines.

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

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

21 27. Using experimental forms of therapy without adequate informed
22 patient consent or without conforming to generally accepted criteria and
23 complying with federal and state statutes and regulations governing
24 experimental therapies.

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

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

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

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

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

4 33. Referring a patient to a diagnostic or treatment facility or
5 prescribing goods and services without disclosing that the physician has a
6 direct pecuniary interest in the facility, goods or services to which the
7 patient has been referred or prescribed. This paragraph does not apply to a
8 referral by one physician to another physician within a group of physicians
9 practicing together.

10 34. Lack of or inappropriate direction, collaboration or supervision
11 of a licensed, certified or registered health care provider or office
12 personnel employed by or assigned to the physician in the medical care of
13 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:

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

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

5 43. ~~Fetal experiments conducted~~ CONDUCT THAT IS in violation of
6 section 36-2302.

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

9 45. Conduct in the practice of medicine that evidences moral unfitness
10 to practice medicine.

11 46. Engaging in disruptive or abusive behavior in a professional
12 setting.

13 47. Failing to disclose to a patient that the licensee has a direct
14 financial interest in a prescribed treatment, good or service if the
15 treatment, good or service is available on a competitive basis. This
16 paragraph does not apply to a referral by one licensee to another licensee
17 within a group of licensees who practice together. A licensee meets the
18 disclosure requirements of this paragraph if ~~a++~~ BOTH of the following are
19 true:

20 (a) The licensee makes the disclosure on a form prescribed by the
21 board.

22 (b) The patient or the patient's guardian or parent acknowledges by
23 signing the form that the licensee has disclosed the licensee's direct
24 financial interest.

25 48. Prescribing, dispensing or furnishing a prescription medication or
26 a prescription-only device to a person if the licensee has not conducted a
27 physical or mental health status examination of that person or has not
28 previously established a physician-patient relationship. The physical or
29 mental health status examination may be conducted during a real-time
30 telemedicine encounter with audio and video capability if the telemedicine
31 audio and video capability meets the elements required by the centers for
32 medicare and medicaid services, unless the examination is for the purpose of
33 obtaining a written certification from the physician for the purposes of
34 title 36, chapter 28.1. This paragraph does not apply to:

35 (a) Emergencies.

36 (b) A licensee who provides patient care on behalf of the patient's
37 regular treating licensed health care professional or provides a consultation
38 requested by the patient's regular treating licensed health care
39 professional.

1 (c) Prescriptions written or antimicrobials dispensed to a contact as
2 defined in section 36-661 who is believed to have had significant exposure
3 risk as defined in section 36-661 with another person who has been diagnosed
4 with a communicable disease as defined in section 36-661 by the prescribing
5 or dispensing physician.

6 (d) Prescriptions for epinephrine auto-injectors written or dispensed
7 for a school district or charter school to be stocked for emergency use
8 pursuant to section 15-157.

9 (e) Prescriptions written by a licensee through a telemedicine program
10 that is covered by the policies and procedures adopted by the administrator
11 of a hospital or outpatient treatment center.

12 (f) Prescriptions for naloxone hydrochloride or any other ~~opiate~~
13 **OPIOID** antagonist approved by the United States food and drug administration
14 that are written or dispensed for use pursuant to section 36-2228.

15 49. If a licensee provides medical care by computer, failing to
16 disclose the licensee's license number and the board's address and telephone
17 number.

18 Sec. 3. Section 36-427, Arizona Revised Statutes, is amended to read:
19 **36-427. Suspension or revocation; intermediate sanctions**

20 A. The director, pursuant to title 41, chapter 6, article 10, may
21 suspend or revoke, in whole or in part, the license of any health care
22 institution if its owners, officers, agents or employees:

23 1. Violate this chapter or the rules of the department adopted
24 pursuant to this chapter.

25 2. Knowingly aid, permit or abet the commission of any crime involving
26 medical and ~~health-related~~ **HEALTH-RELATED** services.

27 3. Have been, are or may continue to be in substantial violation of
28 the requirements for licensure of the institution, as a result of which the
29 health or safety of one or more patients or the general public is in
30 immediate danger.

31 4. Fail to comply with section 36-2901.08.

32 5. **VIOLATE SECTION 36-2302.**

33 B. If the licensee, the chief administrative officer or any other
34 person in charge of the institution refuses to permit the department or its
35 employees or agents the right to inspect ~~its~~ **THE INSTITUTION'S** premises as
36 provided in section 36-424, such action shall be deemed reasonable cause to
37 believe that a substantial violation under subsection A, paragraph 3 of this
38 section exists.

1 C. If the director reasonably believes that a violation of subsection
2 A, paragraph 3 of this section has occurred and that life or safety of
3 patients will be immediately affected, the director, on written notice to the
4 licensee, may order the immediate restriction of admissions or readmissions,
5 selected transfer of patients out of the facility, reduction of capacity and
6 termination of specific services, procedures, practices or facilities.

7 D. The director may rescind, in whole or in part, sanctions imposed
8 pursuant to this section ~~upon~~ ON correction of the violation or violations
9 for which the sanctions were imposed."

10 Renumber to conform

11 Page 1, line 6, after the second semicolon insert "physician-patient privilege
12 inapplicable:"

13 Between lines 28 and 29, insert:

14 "F. THE PHYSICIAN-PATIENT PRIVILEGE AS PROVIDED IN SECTION 13-4062,
15 PARAGRAPH 4 DOES NOT PREVENT THE PRODUCTION OF DOCUMENTS OR RECORDS RELEVANT
16 TO AN INVESTIGATION ARISING UNDER THIS SECTION. ALL DOCUMENTS OR RECORDS
17 PRODUCED IN AN ACTION BROUGHT PURSUANT TO THIS SECTION SHALL BE INSPECTED BY
18 THE COURT IN CAMERA, AND, BEFORE THE DOCUMENTS OR RECORDS ARE RELEASED TO THE
19 REQUESTING PARTY, THE COURT SHALL REMOVE THE NAMES AND OTHER IDENTIFYING
20 INFORMATION, IF ANY, OF THE PATIENTS AND SUBSTITUTE PSEUDONYMS."

21 Reletter to conform

22 Amend title to conform

NANCY BARTO

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02/23/2016
5:32 PM
C: MJH