

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

# SENATE BILL 1474

AN ACT

AMENDING SECTIONS 32-1401, 32-1854 AND 36-427, ARIZONA REVISED STATUTES;  
REPEALING SECTION 36-2302, ARIZONA REVISED STATUTES; AMENDING TITLE 36,  
CHAPTER 23, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION  
36-2302; RELATING TO THE PROTECTION OF A FETUS OR EMBRYO.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 32-1401. Definitions

5 In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41           17. "Medical peer review" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 ~~Fetal experiments conducted~~ **CONDUCT THAT IS** in violation of  
40 section 36-2302.

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (i) Adequate informed patient consent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (tt) Performing office based surgery using sedation in violation of  
5 board rules.

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

7 Sec. 2. Section 32-1854, Arizona Revised Statutes, is amended to read:  
8 ~~32-1854.~~ Definition of unprofessional conduct

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

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

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

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

25 4. Being diagnosed by a physician licensed under this chapter or  
26 chapter 13 of this title or a psychologist licensed under chapter 19.1 of  
27 this title as excessively or illegally using alcohol or a controlled  
28 substance.

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

31 6. Engaging in the practice of medicine in a manner that harms or may  
32 harm a patient or that the board determines falls below the community  
33 standard.

34 7. Impersonating another physician.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43           24. Nontherapeutic use of injectable amphetamines.

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

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

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

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

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

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

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

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

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

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

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

39          36. Prescribing or dispensing controlled substances or  
40 prescription-only medications without establishing and maintaining adequate  
41 patient records.

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

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

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

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

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

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

20           (a) Engaging in or soliciting sexual relationships, whether consensual  
21 or nonconsensual.

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

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

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

28           45. Conduct in the practice of medicine that evidences moral unfitness  
29 to practice medicine.

30           46. Engaging in disruptive or abusive behavior in a professional  
31 setting.

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

39           (a) The licensee makes the disclosure on a form prescribed by the  
40 board.

41           (b) The patient or the patient's guardian or parent acknowledges by  
42 signing the form that the licensee has disclosed the licensee's direct  
43 financial interest.

1           48. Prescribing, dispensing or furnishing a prescription medication or  
2 a prescription-only device to a person if the licensee has not conducted a  
3 physical or mental health status examination of that person or has not  
4 previously established a physician-patient relationship. The physical or  
5 mental health status examination may be conducted during a real-time  
6 telemedicine encounter with audio and video capability if the telemedicine  
7 audio and video capability meets the elements required by the centers for  
8 medicare and medicaid services, unless the examination is for the purpose of  
9 obtaining a written certification from the physician for the purposes of  
10 title 36, chapter 28.1. This paragraph does not apply to:

11           (a) Emergencies.

12           (b) A licensee who provides patient care on behalf of the patient's  
13 regular treating licensed health care professional or provides a consultation  
14 requested by the patient's regular treating licensed health care  
15 professional.

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

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

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

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

30           49. If a licensee provides medical care by computer, failing to  
31 disclose the licensee's license number and the board's address and telephone  
32 number.

33           Sec. 3. Section 36-427, Arizona Revised Statutes, is amended to read:

34           36-427. Suspension or revocation; intermediate sanctions

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

38           1. Violate this chapter or the rules of the department adopted  
39 pursuant to this chapter.

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

42           3. Have been, are or may continue to be in substantial violation of  
43 the requirements for licensure of the institution, as a result of which the

1 health or safety of one or more patients or the general public is in  
2 immediate danger.

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

4 5. VIOLATE SECTION 36-2302.

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

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

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

20 Sec. 4. Repeal

21 Section 36-2302, Arizona Revised Statutes, is repealed.

22 Sec. 5. Title 36, chapter 23, article 1, Arizona Revised Statutes, is  
23 amended by adding a new section 36-2302, to read:

24 36-2302. Human fetus or embryo; prohibitions; physician-patient  
25 privilege inapplicable; definitions

26 A. A PERSON MAY NOT USE A HUMAN FETUS OR EMBRYO OR ANY PART, ORGAN OR  
27 FLUID OF THE FETUS OR EMBRYO RESULTING FROM AN ABORTION IN ANIMAL OR HUMAN  
28 RESEARCH, EXPERIMENTATION OR STUDY OR FOR TRANSPLANTATION, EXCEPT FOR EITHER  
29 OF THE FOLLOWING:

30 1. DIAGNOSTIC OR REMEDIAL PROCEDURES FOR THE PURPOSE OF DETERMINING  
31 THE LIFE OR HEALTH OF THE HUMAN FETUS OR EMBRYO OR THE MOTHER OR FOR  
32 PRESERVING THE LIFE OR HEALTH OF THE HUMAN FETUS OR EMBRYO OR THE MOTHER.

33 2. A PATHOLOGICAL STUDY.

34 B. A PERSON MAY NOT EXPERIMENT ON A HUMAN FETUS OR EMBRYO WHO IS  
35 INTENDED TO BE ABORTED.

36 C. A PERSON MAY NOT PERFORM OR OFFER TO PERFORM AN ABORTION FOR WHICH  
37 PART OR ALL OF THE JUSTIFICATION OR REASON IS THAT THE HUMAN FETUS OR EMBRYO  
38 OR ANY PART, ORGAN OR FLUID OF THE HUMAN FETUS OR EMBRYO MAY BE USED FOR  
39 ANIMAL OR HUMAN RESEARCH, EXPERIMENTATION OR STUDY OR FOR TRANSPLANTATION.

40 D. A PERSON MAY NOT KNOWINGLY SELL, TRANSFER, DISTRIBUTE, GIVE AWAY,  
41 ACCEPT, USE OR ATTEMPT TO USE ANY HUMAN FETUS OR EMBRYO OR ANY PART, ORGAN OR  
42 FLUID OF THE HUMAN FETUS OR EMBRYO RESULTING FROM AN ABORTION IN VIOLATION OF  
43 THIS SECTION.

1 E. A PERSON MAY NOT AID OR ABET THE SALE, TRANSFER, DISTRIBUTION,  
2 OTHER UNLAWFUL DISPOSITION, ACCEPTANCE, USE OR ATTEMPTED USE OF A HUMAN FETUS  
3 OR EMBRYO OR ANY PART, ORGAN OR FLUID OF THE HUMAN FETUS OR EMBRYO RESULTING  
4 FROM AN ABORTION IN VIOLATION OF THIS SECTION.

5 F. THE PHYSICIAN-PATIENT PRIVILEGE AS PROVIDED IN SECTION 13-4062,  
6 PARAGRAPH 4 DOES NOT PREVENT THE PRODUCTION OF DOCUMENTS OR RECORDS RELEVANT  
7 TO AN INVESTIGATION ARISING UNDER THIS SECTION. ALL DOCUMENTS OR RECORDS  
8 PRODUCED IN AN ACTION BROUGHT PURSUANT TO THIS SECTION SHALL BE INSPECTED BY  
9 THE COURT IN CAMERA, AND, BEFORE THE DOCUMENTS OR RECORDS ARE RELEASED TO THE  
10 REQUESTING PARTY, THE COURT SHALL REMOVE THE NAMES AND OTHER IDENTIFYING  
11 INFORMATION, IF ANY, OF THE PATIENTS AND SUBSTITUTE PSEUDONYMS.

12 G. FOR THE PURPOSES OF THIS SECTION:

13 1. "ABORTION" HAS THE SAME MEANING AS PRESCRIBED IN SECTION 36-2151.

14 2. "EXPERIMENTATION" MEANS THE USE OF A HUMAN FETUS OR EMBRYO OR ANY  
15 PART, ORGAN OR FLUID OF THE HUMAN FETUS OR EMBRYO RESULTING FROM AN ABORTION  
16 IN ANY TRIAL, TEST, PROCEDURE OR OBSERVATION CARRIED OUT WITH THE GOAL OF  
17 VERIFYING, REFUTING OR ESTABLISHING THE VALIDITY OF A HYPOTHESIS.  
18 EXPERIMENTATION DOES NOT INCLUDE A PATHOLOGICAL STUDY OR A DIAGNOSTIC OR  
19 REMEDIAL TEST, PROCEDURE OR OBSERVATION THAT HAS THE PURPOSE OF DETERMINING  
20 THE LIFE OR HEALTH OF THE HUMAN FETUS OR EMBRYO OR PRESERVING THE LIFE OR  
21 HEALTH OF THE HUMAN FETUS OR EMBRYO OR THE MOTHER.

22 3. "PATHOLOGICAL STUDY" MEANS THE EXAMINATION OF BODY TISSUE FOR  
23 DIAGNOSTIC OR FORENSIC PURPOSES.

24 Sec. 6. Construction

25 This act does not establish or recognize a right to an abortion and  
26 does not make lawful an abortion that is currently prohibited by law.

27 Sec. 7. Severability

28 If a provision of this act or its application to any person or  
29 circumstance is held invalid, the invalidity does not affect other provisions  
30 or applications of the act that can be given effect without the invalid  
31 provision or application, and to this end the provisions of this act are  
32 severable.