

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SENATE BILL 1078

AN ACT

AMENDING SECTIONS 32-1401, 32-1501, 32-1854 AND 32-2501, ARIZONA REVISED STATUTES; RELATING TO PROFESSIONS AND OCCUPATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 32-1401. Definitions

5 In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 17. "Medical peer review" means:

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

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

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

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

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

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

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

13 21. "Physician" means a doctor of medicine licensed pursuant to this
14 chapter.

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

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

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

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

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

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

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

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

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

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

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

15 (f) Habitual intemperance in the use of alcohol or habitual substance
16 abuse.

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

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

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

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

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

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

31 (m) Representing that a manifestly incurable disease or infirmity can
32 be permanently cured, or that any disease, ailment or infirmity can be cured
33 by a secret method, procedure, treatment, medicine or device, if ~~such~~ THIS is
34 not ~~the fact~~ TRUE.

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

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

1 limiting, restricting or monitoring a licensee by that jurisdiction or
2 placing a licensee on probation by that jurisdiction.

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

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

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

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

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

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

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

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

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

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

42 (z) Engaging in sexual conduct with a current patient or with a former
43 patient within six months after the last medical consultation unless the
44 patient was the licensee's spouse at the time of the contact or, immediately
45 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 ~~holding oneself out as being~~ CLAIMING TO BE a
14 medical specialist ~~when such~~ IF THIS is not ~~the fact~~ 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.

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

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

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

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

7 (kk) Failing to dispense drugs and devices in compliance with article
8 6 of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (tt) Performing office based surgery using sedation in violation of
18 board rules.

19 (uu) Practicing medicine under a false or assumed name in this state.
20 Sec. 2. Section 32-1501, Arizona Revised Statutes, is amended to read:

21 32-1501. Definitions

22 In this chapter, unless the context otherwise requires:

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

26 2. "Active license" means a current valid license to practice
27 naturopathic medicine.

28 3. "Adequate medical records" means medical records containing
29 sufficient information to identify the patient, the diagnosis and the
30 treatment prescribed.

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

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

41 6. "Approved postdoctoral training" or "postdoctoral training" means
42 that the program in which the training occurred or is being conducted has
43 been approved for specialty training or for graduate medical education in
44 naturopathic medicine by the board or approved or accredited by an

1 educational or professional association recognized by the board or by another
2 state's or country's licensing agency recognized by the board.

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

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

16 (a) Accredited or a candidate for accreditation by an accrediting
17 agency recognized by the United States secretary of education as a
18 specialized accrediting agency for schools of naturopathic medicine or its
19 successor.

20 (b) Accredited or a candidate for accreditation by an accrediting
21 agency recognized by the council for higher education accreditation or its
22 successor.

23 9. "Board" means the naturopathic physicians board of medical
24 examiners.

25 10. "Chelation therapy" means an experimental medical therapy to
26 restore cellular homeostasis through the use of intravenous, metal-binding
27 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation
28 therapy does not include experimental therapy used to treat heavy metal
29 poisoning.

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

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

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

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

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

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

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

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

4 (i) Vitamins, chelation therapy and drugs used in emergency
5 resuscitation and stabilization.

6 (ii) Minerals.

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

11 (c) Cancer chemotherapeutics classified as legend drugs.

12 (d) Antipsychotics.

13 16. "General supervision" means that the physician is available for
14 consultation regarding procedures that the physician has authorized and for
15 which the physician remains responsible.

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

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

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

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

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

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

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

3 24. "Naturopathic medicine" means medicine as taught in approved
4 schools of naturopathic medicine and in clinical, internship, preceptorship
5 and postdoctoral training programs approved by the board and practiced by a
6 recipient of a degree of doctor of naturopathic medicine licensed pursuant to
7 this chapter.

8 25. "Nurse" means a person licensed pursuant to chapter 15 of this
9 title.

10 26. "Physician" means a doctor of naturopathic medicine licensed
11 pursuant to this chapter.

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

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

21 29. "Specialist" means a physician who has successfully completed
22 approved postdoctoral training, who is certified by a specialty board of
23 examiners recognized by the board and who is certified by the board to
24 practice the specialty pursuant to this chapter.

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

27 (a) Intentionally disclosing a professional secret or intentionally
28 disclosing a privileged communication except as either of these may otherwise
29 be required by law.

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

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

35 (d) Habitual intemperance in the use of alcohol or any substance
36 abuse.

37 (e) The illegal use of any narcotic or hypnotic drugs, or illegal
38 substances.

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

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

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

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

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

7 (k) Representing that a manifestly incurable disease, injury, ailment
8 or infirmity can be permanently cured, or falsely or fraudulently
9 representing that a curable disease, injury, ailment or infirmity can be
10 cured within a stated time.

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

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

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

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

22 (p) Immorality or misconduct that tends to discredit the naturopathic
23 profession.

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

29 (r) Any conduct or practice that is contrary to recognized standards
30 of ethics of the naturopathic profession, any conduct or practice that does
31 or might constitute a danger to the health, welfare or safety of the patient
32 or the public, or any conduct, practice or condition that does or might
33 impair the ability to safely and skillfully practice as a doctor of
34 naturopathic medicine.

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

37 (t) Violating or attempting to violate, directly or indirectly, or
38 assisting in or abetting the violation of, or conspiring to violate any of
39 the provisions of this chapter or board rules.

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

43 (v) Failing or refusing to maintain adequate medical records on a
44 patient or failing or refusing to make medical records in the physician's
45 possession promptly available to another physician or health care provider

1 who is licensed pursuant to chapter 7, 8, 13, 15, 17 or 29 of this title on
2 request and receipt of proper authorization to do so from the patient, a
3 minor patient's parent, the patient's legal guardian or the patient's
4 authorized representative or failing to comply with title 12, chapter 13,
5 article 7.1.

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

13 (x) Sexual intimacies with a patient in the course of direct
14 treatment.

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

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

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

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

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

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

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

42 (ff) Failing to report in writing to the board evidence that a person
43 licensed, certified or registered pursuant to this chapter is or may be
44 medically incompetent, guilty of unprofessional conduct or mentally or

1 physically unable to safely practice or assist in the practice of
2 naturopathic medicine.

3 (gg) Conducting or engaging in an internship, preceptorship or
4 clinical training program in naturopathic medicine without being approved and
5 registered by the board for that internship, preceptorship or clinical
6 training program.

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

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

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

13 (kk) The failure of a physician who is the chief medical officer, the
14 executive officer or the chief of staff of an internship, a preceptorship or
15 a clinical training program to report in writing to the board that the
16 privileges of a doctor of naturopathic medicine, a naturopathic medical
17 student or a medical assistant have been denied, limited, revoked or
18 suspended because that doctor's, student's or assistant's actions appear to
19 indicate that the person is or may be medically incompetent, is or may be
20 guilty of unprofessional conduct or is or may be unable to safely engage or
21 assist in the practice of naturopathic medicine.

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

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

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

38 (oo) Refusing to submit to a body fluid examination pursuant to a
39 board investigation of alleged substance abuse by a doctor of naturopathic
40 medicine.

41 (pp) Charging a fee for services not rendered or dividing a
42 professional fee for patient referrals among health care providers or health
43 care institutions or between these providers and institutions or a
44 contractual arrangement that has this effect.

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

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

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

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

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

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

23 (ww) Prescribing, dispensing or furnishing a prescription medication
24 or a prescription-only device as defined in section 32-1901 to a person
25 unless the licensee first conducts a physical examination of that person or
26 has previously established a doctor-patient relationship. This subdivision
27 does not apply to:

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

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

31 (iii) Prescriptions written to prepare a patient for a medical
32 examination.

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

39 (v) PRESCRIPTIONS WRITTEN OR ANTIMICROBIALS DISPENSED TO A CONTACT AS
40 DEFINED IN SECTION 36-661 WHO IS BELIEVED TO HAVE HAD SIGNIFICANT EXPOSURE
41 RISK AS DEFINED IN SECTION 36-661 WITH ANOTHER PERSON WHO HAS BEEN DIAGNOSED
42 WITH A COMMUNICABLE DISEASE AS DEFINED IN SECTION 36-661 BY THE PRESCRIBING
43 OR DISPENSING PHYSICIAN.

1 Sec. 3. Section 32-1854, Arizona Revised Statutes, is amended to read:

2 32-1854. Definition of unprofessional conduct

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

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

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

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

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

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

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

27 7. Impersonating another physician.

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

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

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

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

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

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

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

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

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

10 17. Representing or ~~holding oneself out as being~~ CLAIMING TO BE an
11 osteopathic medical specialist if the physician has not satisfied the
12 applicable requirements of this chapter or board rules.

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

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

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

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

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

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

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

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

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

41 24. Nontherapeutic use of injectable amphetamines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (a) Engaging in or soliciting sexual relationships, whether consensual
16 or nonconsensual.

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

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

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

22 45. Conduct in the practice of medicine that evidences moral unfitness
23 to practice medicine.

24 46. Engaging in disruptive or abusive behavior in a professional
25 setting.

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

32 (a) The licensee makes the disclosure on a form prescribed by the
33 board.

34 (b) The patient or the patient's guardian or parent acknowledges by
35 signing the form that the licensee has disclosed the licensee's direct
36 financial interest.

37 48. Prescribing, dispensing or furnishing a prescription medication or
38 a prescription-only device to a person if the licensee has not conducted a
39 physical examination of that person or has not previously established a
40 physician-patient relationship. This paragraph does not apply to emergencies
41 OR TO PRESCRIPTIONS WRITTEN OR ANTIMICROBIALS DISPENSED TO A CONTACT AS
42 DEFINED IN SECTION 36-661 WHO IS BELIEVED TO HAVE HAD SIGNIFICANT EXPOSURE
43 RISK AS DEFINED IN SECTION 36-661 WITH ANOTHER PERSON WHO HAS BEEN DIAGNOSED
44 WITH A COMMUNICABLE DISEASE AS DEFINED IN SECTION 36-661 BY THE PRESCRIBING
45 OR DISPENSING PHYSICIAN.

1 49. If a licensee provides medical care by computer, failing to
2 disclose the licensee's license number and the board's address and telephone
3 number.

4 Sec. 4. Section 32-2501, Arizona Revised Statutes, is amended to read:
5 32-2501. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Active license" means a regular or temporary license issued
8 pursuant to this chapter.

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

15 3. "Advisory letter" means a nondisciplinary letter to notify a
16 physician assistant 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 program" means a physician assistant educational program
27 that has been fully or provisionally accredited by the committee on allied
28 health education and accreditation or by the commission on the accreditation
29 for allied health education programs, or successor agencies, on the
30 recommendation of the accreditation review committee on education for
31 physician assistants.

32 5. "Board" means the Arizona regulatory board of physician assistants.

33 6. "Completed application" means an application for which the
34 applicant has supplied all required fees, information and correspondence
35 requested by the board on forms and in a manner acceptable to the board.

36 7. "Immediate family" means the spouse, natural or adopted children,
37 father, mother, brothers and sisters of the physician assistant and the
38 natural or adopted children, father, mother, brothers and sisters of the
39 physician assistant's spouse.

40 8. "Letter of reprimand" means a disciplinary letter that is issued by
41 the board and that informs the physician assistant that the physician
42 assistant's conduct violates state or federal law and may require the board
43 to monitor the physician assistant.

1 9. "Limit" means a nondisciplinary action that is taken by the board
2 and that alters a physician assistant's practice or medical activities if
3 there is evidence that the physician assistant is or may be mentally or
4 physically unable to safely engage in health care tasks.

5 10. "Medically incompetent" means that a physician assistant lacks
6 sufficient medical knowledge or skills, or both, in performing delegated
7 health care tasks to a degree likely to endanger the health or safety of
8 patients.

9 11. "Minor surgery" means those invasive procedures that may be
10 delegated to a physician assistant by a supervising physician, that are
11 consistent with the training and experience of the physician assistant, that
12 are normally taught in courses of training approved by the board and that
13 have been approved by the board as falling within a scope of practice of a
14 physician assistant. Minor surgery does not include a surgical abortion.

15 12. "Notification of supervision" means a written notice that is
16 provided to the board by a supervising physician and that notifies the board
17 that the physician intends to supervise a physician assistant. The physician
18 shall provide this notice on a form prescribed by the board before the
19 physician assistant begins work.

20 13. "Physician" means a physician licensed pursuant to chapter 13 or 17
21 of this title.

22 14. "Physician assistant" means a person who is licensed pursuant to
23 this chapter and who performs health care tasks pursuant to a dependent
24 relationship with a physician.

25 15. "Primary place for meeting patients" includes the supervising
26 physician's office, health care institutions in which the supervising
27 physician's patients are located or homes of patients.

28 16. "Regular license" means a valid and existing license issued
29 pursuant to section 32-2521 to perform health care tasks. Regular license
30 does not include a temporary license.

31 17. "Restrict" means a disciplinary action that is taken by the board
32 and that alters a physician assistant's practice or medical activities if
33 there is evidence that the physician assistant is or may be medically
34 incompetent or guilty of unprofessional conduct.

35 18. "Supervising physician" means a physician who holds a current
36 unrestricted license, provides a notification of supervision, assumes legal
37 responsibility for health care tasks performed by the physician assistant and
38 is approved by the board.

39 19. "Supervising physician's agent" means a physician who holds a
40 current unrestricted license, is a cosignatory on the notification of
41 supervision, agrees to act as the supervising physician in the supervising
42 physician's absence and is approved by the board.

43 20. "Supervision" means a physician's opportunity or ability to provide
44 or exercise control over the services of a physician assistant. Supervision
45 does not require a physician's constant physical presence if the supervising

1 physician or the supervising physician's agent is or can be easily in contact
2 with the physician assistant by radio, telephone or telecommunication.

3 21. "Unprofessional conduct" includes the following acts by a physician
4 assistant that occur in this state or elsewhere:

5 (a) Violation of any federal or state law or rule that applies to the
6 performance of health care tasks as a physician assistant. Conviction in any
7 court of competent jurisdiction is conclusive evidence of a violation.

8 (b) Claiming to be a physician or knowingly permitting another person
9 to represent that person as a physician.

10 (c) Performing health care tasks that have not been delegated by the
11 supervising physician.

12 (d) Habitual intemperance in the use of alcohol or habitual substance
13 abuse.

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

15 (f) Gross malpractice, repeated malpractice or any malpractice
16 resulting in the death of a patient.

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

21 (h) 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 (i) Prescribing or dispensing controlled substances or
25 prescription-only drugs for which the physician assistant is not approved or
26 in excess of the amount authorized pursuant to this chapter.

27 (j) Any conduct or practice that is or might be harmful or dangerous
28 to the health of a patient or the public.

29 (k) Violation of a formal order, probation or stipulation issued by
30 the board.

31 (l) Failing to clearly disclose the person's identity as a physician
32 assistant in the course of the physician assistant's employment.

33 (m) Failing to use and affix the initials "P.A." or "P.A.-C." after
34 the physician assistant's name or signature on charts, prescriptions or
35 professional correspondence.

36 (n) Procuring or attempting to procure a physician assistant license
37 by fraud, misrepresentation or knowingly taking advantage of the mistake of
38 another.

39 (o) Having professional connection with or lending the physician
40 assistant's name to an illegal practitioner of any of the healing arts.

41 (p) Failing or refusing to maintain adequate records on a patient.

42 (q) Using controlled substances that have not been prescribed by a
43 physician, physician assistant, dentist or nurse practitioner for use during
44 a prescribed course of treatment.

1 (r) Prescribing or dispensing controlled substances to members of the
2 physician assistant's immediate family.

3 (s) Prescribing, dispensing or administering any controlled substance
4 or prescription-only drug for other than accepted therapeutic purposes.

5 (t) Knowingly making any written or oral false or fraudulent statement
6 in connection with the performance of health care tasks or when applying for
7 privileges or renewing an application for privileges at a health care
8 institution.

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

13 (v) Having a certification or license refused, revoked, suspended,
14 limited or restricted by any other licensing jurisdiction for the inability
15 to safely and skillfully perform health care tasks or for unprofessional
16 conduct as defined by that jurisdiction that directly or indirectly
17 corresponds to any act of unprofessional conduct as prescribed by this
18 paragraph.

19 (w) Having sanctions including restriction, suspension or removal from
20 practice imposed by an agency of the federal government.

21 (x) Violating or attempting to violate, directly or indirectly, or
22 assisting in or abetting the violation of or conspiring to violate a
23 provision of this chapter.

24 (y) Using the term "doctor" or the abbreviation "Dr." on a name tag or
25 in a way that leads the public to believe that the physician assistant is
26 licensed to practice as an allopathic or an osteopathic physician in this
27 state.

28 (z) Failing to furnish legally requested information to the board or
29 its investigator in a timely manner.

30 (aa) Failing to allow properly authorized board personnel to examine
31 on demand documents, reports and records of any kind relating to the
32 physician assistant's performance of health care tasks.

33 (bb) Knowingly making a false or misleading statement on a form
34 required by the board or in written correspondence or attachments furnished
35 to the board.

36 (cc) Failing to submit to a body fluid examination and other
37 examinations known to detect the presence of alcohol or other drugs pursuant
38 to an agreement with the board or an order of the board.

39 (dd) Violating a formal order, probation agreement or stipulation
40 issued or entered into by the board or its executive director.

41 (ee) Except as otherwise required by law, intentionally betraying a
42 professional secret or intentionally violating a privileged communication.

1 (ff) Allowing the use of the licensee's name in any way to enhance or
2 permit the continuance of the activities of, or maintaining a professional
3 connection with, an illegal practitioner of medicine or the performance of
4 health care tasks by a person who is not licensed pursuant to this chapter.

5 (gg) False, fraudulent, deceptive or misleading advertising by a
6 physician assistant or the physician assistant's staff or representative.

7 (hh) Knowingly failing to disclose to a patient on a form that is
8 prescribed by the board and that is dated and signed by the patient or
9 guardian acknowledging that the patient or guardian has read and understands
10 that the licensee has a direct financial interest in a separate diagnostic or
11 treatment agency or in nonroutine goods or services that the patient is being
12 prescribed and if the prescribed treatment, goods or services are available
13 on a competitive basis. This subdivision does not apply to a referral by one
14 physician assistant to another physician assistant or to a doctor of medicine
15 or a doctor of osteopathy within a group working together.

16 (ii) Using chelation therapy in the treatment of arteriosclerosis or
17 as any other form of therapy.

18 (jj) Prescribing, dispensing or administering anabolic or androgenic
19 steroids for other than therapeutic purposes.

20 (kk) Prescribing, dispensing or furnishing a prescription medication
21 or a prescription-only device as defined in section 32-1901 to a person
22 unless the licensee first conducts a physical examination of that person or
23 has previously established a professional relationship with the person. This
24 subdivision does not apply to:

25 (i) A physician assistant who provides temporary patient care on
26 behalf of the patient's regular treating licensed health care professional.

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

28 (iii) Prescriptions written to prepare a patient for a medical
29 examination.

30 (iv) 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 ASSISTANT.

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

41 (i) Engaging in or soliciting sexual relationships, whether consensual
42 or nonconsensual.

- 1 (ii) Making sexual advances, requesting sexual favors or engaging in
- 2 other verbal conduct or physical contact of a sexual nature with a patient.
- 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 (mm) Performing health care tasks under a false or assumed name in
- 7 this state.