

REFERENCE TITLE: **abortion; permitted practices**

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2371

Introduced by
Representatives Gonzales, Steele, Senator Gallardo: Representatives
Cardenas, Gabaldón

AN ACT

**AMENDING SECTIONS 32-1606, 32-2532 AND 36-2153, ARIZONA REVISED STATUTES;
REPEALING SECTION 36-3604, ARIZONA REVISED STATUTES; RELATING TO ABORTION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-1606, Arizona Revised Statutes, is amended to
3 read:
4 32-1606. Powers and duties of board
5 A. The board may:
6 1. Adopt and revise rules necessary to carry into effect the
7 provisions of this chapter.
8 2. Publish advisory opinions regarding registered and practical
9 nursing practice and nursing education.
10 3. Issue limited licenses or certificates if it determines that an
11 applicant or licensee cannot function safely in a specific setting or within
12 the full scope of practice.
13 4. Refer criminal violations of this chapter to the appropriate law
14 enforcement agency.
15 5. Establish a confidential program for the monitoring of licensees
16 who are chemically dependent and who enroll in rehabilitation programs that
17 meet the criteria established by the board. The board may take further
18 action if the licensee refuses to enter into a stipulated agreement or fails
19 to comply with its terms. In order to protect the public health and safety,
20 the confidentiality requirements of this paragraph do not apply if the
21 licensee does not comply with the stipulated agreement.
22 6. On the applicant's or regulated party's request, establish a
23 payment schedule with the applicant or regulated party.
24 7. Provide education regarding board functions.
25 8. Collect or assist in the collection of workforce data.
26 9. Adopt rules for conducting pilot programs consistent with public
27 safety for innovative applications in nursing practice, education and
28 regulation.
29 10. Grant retirement status on request to retired nurses who are or
30 were licensed under this chapter, who have no open complaint or investigation
31 pending against them and who are not subject to discipline.
32 11. Accept and spend federal monies and private grants, gifts,
33 contributions and devises to assist in carrying out the purposes of this
34 chapter. These monies do not revert to the state general fund at the end of
35 the fiscal year.
36 B. The board shall:
37 1. Approve regulated training and educational programs that meet the
38 requirements of this chapter and rules adopted by the board.
39 2. By rule, establish approval and reapproval processes for nursing
40 and nursing assistant training programs that meet the requirements of this
41 chapter and board rules.
42 3. Prepare and maintain a list of approved nursing programs for the
43 preparation of registered and practical nurses whose graduates are eligible
44 for licensing under this chapter as registered nurses or as practical nurses
45 if they satisfy the other requirements of this chapter and board rules.

- 1 4. Examine qualified registered and practical nurse applicants.
- 2 5. License and renew the licenses of qualified registered and
- 3 practical nurse applicants who are not qualified to be licensed by the
- 4 executive director.
- 5 6. Adopt a seal, which the executive director shall keep.
- 6 7. Keep a record of all proceedings.
- 7 8. For proper cause, deny or rescind approval of a regulated training
- 8 or educational program for failure to comply with this chapter or the rules
- 9 of the board.
- 10 9. Adopt rules for the approval of credential evaluation services that
- 11 evaluate the qualifications of applicants who graduated from an international
- 12 nursing program.
- 13 10. Determine and administer appropriate disciplinary action against
- 14 all regulated parties who are found guilty of violating this chapter or rules
- 15 adopted by the board.
- 16 11. Perform functions necessary to carry out the requirements of the
- 17 nursing assistant training and competency evaluation program as set forth in
- 18 the omnibus budget reconciliation act of 1987 (P.L. 100-203; 101 Stat. 1330),
- 19 as amended by the medicare catastrophic coverage act of 1988 (P.L. 100-360;
- 20 102 Stat. 683). These functions shall include:
- 21 (a) Testing and certification of nursing assistants.
- 22 (b) Maintaining a list of board approved training programs.
- 23 (c) Recertifying nursing assistants.
- 24 (d) Maintaining a registry of all certified nursing assistants.
- 25 (e) Assessing fees.
- 26 12. Adopt rules establishing those acts that may be performed by a
- 27 registered nurse practitioner in collaboration with a licensed
- 28 physician, ~~except that the board does not have authority to decide scope of~~
- 29 ~~practice relating to abortion as defined in section 36-2151.~~
- 30 13. Adopt rules establishing educational requirements for the
- 31 certification of school nurses.
- 32 14. Publish copies of board rules and distribute these copies on
- 33 request.
- 34 15. Require each applicant for initial licensure or certification to
- 35 submit a full set of fingerprints to the board for the purpose of obtaining a
- 36 state and federal criminal records check pursuant to section 41-1750 and
- 37 Public Law 92-544. The department of public safety may exchange this
- 38 fingerprint data with the federal bureau of investigation.
- 39 16. Require each applicant for initial nursing assistant certification
- 40 to submit a full set of fingerprints to the board for the purpose of
- 41 obtaining a state and federal criminal records check pursuant to section
- 42 41-1750 and Public Law 92-544. The department of public safety may exchange
- 43 this fingerprint data with the federal bureau of investigation.
- 44 17. Revoke a license of a person, revoke the multistate licensure
- 45 privilege of a person pursuant to section 32-1669 or not issue a license or

1 renewal to an applicant who has one or more felony convictions and who has
2 not received an absolute discharge from the sentences for all felony
3 convictions five or more years before the date of filing an application
4 pursuant to this chapter.

5 18. Establish standards for approving and reapproving nurse
6 practitioner and clinical nurse specialist programs and provide for surveys
7 of nurse practitioner and clinical nurse specialist programs as it deems
8 necessary.

9 19. Provide the licensing authorities of health care institutions,
10 facilities and homes any information the board receives regarding practices
11 that place a patient's health at risk.

12 20. Limit the multistate licensure privilege of any person who holds or
13 applies for a license in this state pursuant to section 32-1668.

14 21. Adopt rules to establish competency standards for obtaining and
15 maintaining a license.

16 22. Adopt rules for the qualification and certification of clinical
17 nurse specialists.

18 23. Adopt rules for approval and reapproval of refresher courses for
19 nurses who are not currently practicing.

20 24. Maintain a list of approved medication assistant training programs.

21 25. Test and certify medication assistants.

22 26. Maintain a registry and disciplinary record of medication
23 assistants who are certified pursuant to this chapter.

24 C. The board may conduct an investigation on receipt of information
25 that indicates that a person or regulated party may have violated this
26 chapter or a rule adopted pursuant to this chapter. Following the
27 investigation, the board may take disciplinary action pursuant to this
28 chapter.

29 D. The board may limit, revoke or suspend the privilege of a nurse to
30 practice in this state granted pursuant to section 32-1668.

31 E. Failure to comply with any final order of the board, including an
32 order of censure or probation, is cause for suspension or revocation of a
33 license or a certificate.

34 F. The president or a member of the board designated by the president
35 may administer oaths in transacting the business of the board.

36 Sec. 2. Section 32-2532, Arizona Revised Statutes, is amended to read:

37 32-2532. Prescribing, administering and dispensing drugs;
38 limits and requirements; notice

39 A. Except as provided in subsection F of this section, a physician
40 assistant shall not prescribe, dispense or administer:

41 1. A schedule II or schedule III controlled substance as defined in
42 the federal controlled substances act of 1970 (P.L. 91-513; 84 Stat. 1242; 21
43 United States Code section 802) without delegation by the supervising
44 physician, board approval and drug enforcement administration registration.

- 1 2. A schedule IV or schedule V controlled substance as defined in the
2 federal controlled substances act of 1970 without drug enforcement
3 administration registration and delegation by the supervising physician.
- 4 3. Prescription-only medication without delegation by the supervising
5 physician.
- 6 ~~4. Prescription medication intended to perform or induce an abortion.~~
- 7 B. All prescription orders issued by a physician assistant shall
8 contain the name, address and telephone number of the supervising
9 physician. A physician assistant shall issue prescription orders for
10 controlled substances under the physician assistant's own drug enforcement
11 administration registration number.
- 12 C. Unless certified for thirty-day prescription privileges pursuant to
13 section 32-2504, subsection A, a physician assistant shall not prescribe a
14 schedule II or schedule III controlled substance for a period exceeding
15 seventy-two hours. For each schedule IV or schedule V controlled substance,
16 a physician assistant may not prescribe the controlled substance more than
17 five times in a six month period for each patient.
- 18 D. A prescription for a schedule II or III controlled substance is not
19 refillable without the written consent of the supervising physician.
- 20 E. Prescription-only drugs shall not be dispensed, prescribed or
21 refillable for a period exceeding one year.
- 22 F. Except in an emergency, a physician assistant may dispense schedule
23 II or schedule III controlled substances for a period of use of not to exceed
24 seventy-two hours with board approval or any other controlled substance for a
25 period of use of not to exceed thirty-four days and may administer controlled
26 substances without board approval if it is medically indicated in an
27 emergency dealing with potential loss of life or limb or major acute
28 traumatic pain.
- 29 G. Except for samples provided by manufacturers, all drugs dispensed
30 by a physician assistant shall be:
- 31 1. Prepackaged in a unit-of-use package by the supervising physician
32 or a pharmacist acting on a written order of the supervising physician.
- 33 2. Labeled to show the name of the supervising physician and physician
34 assistant.
- 35 H. A physician assistant shall not obtain a drug from any source other
36 than the supervising physician or a pharmacist acting on a written order of
37 the supervising physician. A physician assistant may receive manufacturers'
38 samples if allowed to do so by the supervising physician.
- 39 I. If a physician assistant is approved by the board to prescribe,
40 administer or dispense schedule II and schedule III controlled substances,
41 the physician assistant shall maintain an up-to-date and complete log of all
42 schedule II and schedule III controlled substances he administers or
43 dispenses.

1 J. The board shall advise the state board of pharmacy and the United
2 States drug enforcement administration of all physician assistants who are
3 authorized to prescribe or dispense drugs and any modification of their
4 authority.

5 K. The state board of pharmacy shall notify all pharmacies at least
6 quarterly of physician assistants who are authorized to prescribe or dispense
7 drugs.

8 Sec. 3. Section 36-2153, Arizona Revised Statutes, is amended to read:

9 36-2153. Informed consent; requirements; information; website;
10 signs; violation; civil relief; statute of
11 limitations

12 A. An abortion shall not be performed or induced without the voluntary
13 and informed consent of the woman on whom the abortion is to be performed or
14 induced. Except in the case of a medical emergency and in addition to the
15 other requirements of this chapter, consent to an abortion is voluntary and
16 informed only if all of the following are true:

17 1. At least twenty-four hours before the abortion, ~~the physician who~~
18 ~~is to perform the abortion or the referring physician has informed~~ the
19 woman, ~~orally and in person,~~ HAS BEEN INFORMED of:

20 (a) The name of the physician who will perform the abortion.

21 (b) The nature of the proposed procedure or treatment.

22 (c) The immediate and long-term medical risks associated with the
23 procedure that a reasonable patient would consider material to the decision
24 of whether or not to undergo the abortion.

25 (d) Alternatives to the procedure or treatment that a reasonable
26 patient would consider material to the decision of whether or not to undergo
27 the abortion.

28 (e) The probable gestational age of the unborn child at the time the
29 abortion is to be performed.

30 (f) The probable anatomical and physiological characteristics of the
31 unborn child at the time the abortion is to be performed.

32 (g) The medical risks associated with carrying the child to term.

33 2. At least twenty-four hours before the abortion, the physician who
34 is to perform the abortion, the referring physician or a qualified physician,
35 physician assistant, nurse, psychologist or licensed behavioral health
36 professional to whom the responsibility has been delegated by either
37 physician has informed the woman, orally and in person, that:

38 (a) Medical assistance benefits may be available for prenatal care,
39 childbirth and neonatal care.

40 (b) The father of the unborn child is liable to assist in the support
41 of the child, even if he has offered to pay for the abortion. In the case of
42 rape or incest, this information may be omitted.

43 (c) Public and private agencies and services are available to assist
44 the woman during her pregnancy and after the birth of her child if she

1 chooses not to have an abortion, whether she chooses to keep the child or
2 place the child for adoption.

3 (d) It is unlawful for any person to coerce a woman to undergo an
4 abortion.

5 (e) The woman is free to withhold or withdraw her consent to the
6 abortion at any time without affecting her right to future care or treatment
7 and without the loss of any state or federally funded benefits to which she
8 might otherwise be entitled.

9 (f) The department of health services maintains a website that
10 describes the unborn child and lists the agencies that offer alternatives to
11 abortion.

12 (g) The woman has a right to review the website and that a printed
13 copy of the materials on the website will be provided to her free of charge
14 if she chooses to review these materials.

15 3. The information in paragraphs 1 and 2 of this subsection is
16 provided to the woman individually and in a private room to protect her
17 privacy and to ensure that the information focuses on her individual
18 circumstances and that she has adequate opportunity to ask questions.

19 4. The woman certifies in writing before the abortion that the
20 information required to be provided pursuant to paragraphs 1 and 2 of this
21 subsection has been provided.

22 B. If a medical emergency compels the performance of an abortion, the
23 physician shall inform the woman, before the abortion if possible, of the
24 medical indications supporting the physician's judgment that an abortion is
25 necessary to avert the woman's death or to avert substantial and irreversible
26 impairment of a major bodily function.

27 C. The department of health services shall establish a website ~~within~~
28 ~~ninety days after the effective date of this amendment to this section~~ and
29 shall annually update the website. The website must include a link to a
30 printable version of all materials listed on the website. The materials must
31 be written in an easily understood manner and printed in a typeface that is
32 large enough to be clearly legible. The website must include all of the
33 following materials:

34 1. Information that is organized geographically by location and that
35 is designed to inform the woman about public and private agencies and
36 services that are available to assist a woman through pregnancy, at
37 childbirth and while her child is dependent, including adoption agencies.
38 The materials shall include a comprehensive list of the agencies, a
39 description of the services they offer and the manner in which these agencies
40 may be contacted, including the agencies' telephone numbers and website
41 addresses.

42 2. Information on the availability of medical assistance benefits for
43 prenatal care, childbirth and neonatal care.

44 3. A statement that it is unlawful for any person to coerce a woman to
45 undergo an abortion.

1 4. A statement that any physician who performs an abortion on a woman
2 without obtaining the woman's voluntary and informed consent or without
3 affording her a private medical consultation may be liable to the woman for
4 damages in a civil action.

5 5. A statement that the father of a child is liable to assist in the
6 support of that child, even if the father has offered to pay for an abortion,
7 and that the law allows adoptive parents to pay costs of prenatal care,
8 childbirth and neonatal care.

9 6. Information that is designed to inform the woman of the probable
10 anatomical and physiological characteristics of the unborn child at two-week
11 gestational increments from fertilization to full term, including pictures or
12 drawings representing the development of unborn children at two-week
13 gestational increments and any relevant information on the possibility of the
14 unborn child's survival. The pictures or drawings must contain the
15 dimensions of the unborn child and must be realistic and appropriate for each
16 stage of pregnancy. The information provided pursuant to this paragraph must
17 be objective, nonjudgmental and designed to convey only accurate scientific
18 information about the unborn child at the various gestational ages.

19 7. Objective information that describes the methods of abortion
20 procedures commonly employed, the medical risks commonly associated with each
21 procedure, the possible detrimental psychological effects of abortion and the
22 medical risks commonly associated with carrying a child to term.

23 D. An individual who is not a physician shall not perform a surgical
24 abortion.

25 E. A person shall not write or communicate a prescription for a drug
26 or drugs to induce an abortion or require or obtain payment for a service
27 provided to a patient who has inquired about an abortion or scheduled an
28 abortion until the expiration of the twenty-four hour reflection period
29 required by subsection A of this section.

30 F. A person shall not intimidate or coerce in any way any person to
31 obtain an abortion. A parent, a guardian or any other person shall not
32 coerce a minor to obtain an abortion. If a minor is denied financial support
33 by the minor's parents, guardians or custodian due to the minor's refusal to
34 have an abortion performed, the minor is deemed emancipated for the purposes
35 of eligibility for public assistance benefits, except that the emancipated
36 minor may not use these benefits to obtain an abortion.

37 G. An abortion clinic as defined in section 36-449.01 shall
38 conspicuously post signs that are visible to all who enter the abortion
39 clinic, that are clearly readable and that state it is unlawful for any
40 person to force a woman to have an abortion and a woman who is being forced
41 to have an abortion has the right to contact any local or state law
42 enforcement or social service agency to receive protection from any actual or
43 threatened physical, emotional or psychological abuse. The signs shall be
44 posted in the waiting room, consultation rooms and procedure rooms.

1 H. A person shall not require a woman to obtain an abortion as a
2 provision in a contract or as a condition of employment.

3 I. A physician who knowingly violates this section commits an act of
4 unprofessional conduct and is subject to license suspension or revocation
5 pursuant to title 32, chapter 13 or 17.

6 J. In addition to other remedies available under the common or
7 statutory law of this state, any of the following may file a civil action to
8 obtain appropriate relief for a violation of this section:

9 1. A woman on whom an abortion has been performed without her informed
10 consent as required by this section.

11 2. The father of the unborn child if married to the mother at the time
12 she received the abortion, unless the pregnancy resulted from the plaintiff's
13 criminal conduct.

14 3. The maternal grandparents of the unborn child if the mother was not
15 at least eighteen years of age at the time of the abortion, unless the
16 pregnancy resulted from the plaintiff's criminal conduct.

17 K. A civil action filed pursuant to subsection J of this section shall
18 be brought in the superior court in the county in which the woman on whom the
19 abortion was performed resides and may be based on a claim that failure to
20 obtain informed consent was a result of simple negligence, gross negligence,
21 wantonness, wilfulness, intention or any other legal standard of
22 care. Relief pursuant to subsection J of this section includes the
23 following:

24 1. Money damages for all psychological, emotional and physical
25 injuries resulting from the violation of this section.

26 2. Statutory damages in an amount equal to five thousand dollars or
27 three times the cost of the abortion, whichever is greater.

28 3. Reasonable attorney fees and costs.

29 L. A civil action brought pursuant to this section must be initiated
30 within six years after the violation occurred.

31 Sec. 4. Repeal

32 Section 36-3604, Arizona Revised Statutes, is repealed.