

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

# **HOUSE BILL 2489**

AN ACT

AMENDING SECTIONS 32-1401, 32-1854 AND 32-1901.01, ARIZONA REVISED STATUTES;  
AMENDING TITLE 36, CHAPTER 21.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 36-2228; RELATING TO THE ADMINISTRATION OF OPIATE ANTAGONISTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 32-1401, Arizona Revised Statutes, is amended to  
3 read:

4 **32-1401. Definitions**

5 In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

44 8. "Direct supervision" means that a physician, physician assistant  
45 licensed pursuant to chapter 25 of this title or nurse practitioner certified

1 pursuant to chapter 15 of this title is within the same room or office suite  
2 as the medical assistant in order to be available for consultation regarding  
3 those tasks the medical assistant performs pursuant to section 32-1456.

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

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

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

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

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

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

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

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

39 17. "Medical peer review" means:

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

43 (b) Activities relating to a health care institution's decision to  
44 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~~ PERCENT on  
7 the 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 claim to be able to diagnose, treat or  
17 correct any and all human diseases, injuries, ailments, infirmities,  
18 deformities, physical or mental, real or imaginary, by any means, methods,  
19 devices or instrumentalities, except as the same may be among the acts or  
20 persons not affected by this chapter. The practice of medicine includes the  
21 practice of medicine alone or the practice of surgery alone, or both.

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

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

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

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

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

- (a) Violating any federal or state laws, rules or regulations applicable to the practice of medicine.
- (b) Intentionally disclosing a professional secret or intentionally disclosing a privileged communication except as either act may otherwise be required by law.
- (c) False, fraudulent, deceptive or misleading advertising by a doctor of medicine or the doctor's staff, employer or representative.
- (d) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
- (e) Failing or refusing to maintain adequate records on a patient.
- (f) Habitual intemperance in the use of alcohol or habitual substance abuse.
- (g) Using controlled substances except if prescribed by another physician for use during a prescribed course of treatment.
- (h) Prescribing or dispensing controlled substances to members of the physician's immediate family.
- (i) Prescribing, dispensing or administering schedule II controlled substances as defined in section 36-2513 including amphetamines and similar schedule II sympathomimetic drugs in the treatment of exogenous obesity for a period in excess of thirty days in any one year, or the ~~non-therapeutic~~ **NONTHERAPEUTIC** use of injectable amphetamines.
- (j) Prescribing, dispensing or administering any controlled substance or prescription-only drug for other than accepted therapeutic purposes.
- (k) Signing a blank, undated or predicated prescription form.
- (l) Conduct that the board determines is gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient.
- (m) Representing that a manifestly incurable disease or infirmity can be permanently cured, or that any disease, ailment or infirmity can be cured by a secret method, procedure, treatment, medicine or device, if this is not true.
- (n) Refusing to divulge to the board on demand the means, method, procedure, modality of treatment or medicine used in the treatment of a disease, injury, ailment or infirmity.
- (o) Action that is taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine or the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

- (i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.
- (ii) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical contact of a sexual nature.
- (iii) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.
- (aa) Procuring or attempting to procure a license to practice medicine or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.
- (bb) Representing or claiming to be a medical specialist if this is not true.
- (cc) Maintaining a professional connection with or lending one's name to enhance or continue the activities of an illegal practitioner of medicine.
- (dd) Failing to furnish information in a timely manner to the board or the board's investigators or representatives if legally requested by the board.
- (ee) Failing to allow properly authorized board personnel on demand to examine and have access to documents, reports and records maintained by the physician that relate to the physician's medical practice or medically related activities.
- (ff) Knowingly failing to disclose to a patient on a form that is prescribed by the board and that is dated and signed by the patient or guardian acknowledging that the patient or guardian has read and understands that the doctor has a direct financial interest in a separate diagnostic or treatment agency or in nonroutine goods or services that the patient is being prescribed and if the prescribed treatment, goods or services are available on a competitive basis. This subdivision does not apply to a referral by one doctor of medicine to another doctor of medicine within a group of doctors of medicine practicing together.
- (gg) Using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy, with the exception of treatment of heavy metal poisoning, without:
  - (i) Adequate informed patient consent.
  - (ii) Conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.
  - (iii) Approval by the federal food and drug administration or its successor agency.
- (hh) Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.
- (ii) Lack of or inappropriate direction, collaboration or direct supervision of a medical assistant or a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician.

4 (kk) Failing to dispense drugs and devices in compliance with article  
5 6 of this chapter.

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

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

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

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

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

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

38 (ss) Prescribing, dispensing or furnishing a prescription medication  
39 or a prescription-only device as defined in section 32-1901 to a person  
40 unless the licensee first conducts a physical or mental health status  
41 examination of that person or has previously established a doctor-patient  
42 relationship. The physical or mental health status examination may be  
43 conducted during a real-time telemedicine encounter with audio and video  
44 capability if the telemedicine audio and video capability meets the elements  
45 required by the centers for medicare and medicaid services, unless the

1 examination is for the purpose of obtaining a written certification from the  
2 physician for the purposes of title 36, chapter 28.1. This subdivision does  
3 not apply to:

4 (i) A physician who provides temporary patient supervision on behalf  
5 of the patient's regular treating licensed health care professional or  
6 provides a consultation requested by the patient's regular treating licensed  
7 health care professional.

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

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

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

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

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

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

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

32 (ix) PRESCRIPTIONS FOR NALOXONE HYDROCHLORIDE OR ANY OTHER OPIATE  
33 ANTAGONIST APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION THAT  
34 ARE WRITTEN OR DISPENSED FOR USE PURSUANT TO SECTION 36-2228.

35 (tt) Performing office based surgery using sedation in violation of  
36 board rules.

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

38 Sec. 2. Section 32-1854, Arizona Revised Statutes, is amended to read:

39 **32-1854. Definition of unprofessional conduct**

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

42 1. Wilfully betraying a professional secret or wilfully violating a  
43 privileged communication except as either of these may otherwise be required  
44 by law. This paragraph does not prevent members of the board from exchanging  
45 information with the licensing and disciplinary boards of other states,

1 territories or districts of the United States or with foreign countries or  
2 with osteopathic medical organizations located in this state or in any state,  
3 district or territory of this country or in any foreign country.

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

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

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

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

16 6. Engaging in the practice of medicine in a manner that harms or may  
17 harm a patient or that the board determines falls below the community  
18 standard.

19 7. Impersonating another physician.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32       24. Nontherapeutic use of injectable amphetamines.

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

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

38       27. Using experimental forms of therapy without adequate informed  
39 patient consent or without conforming to generally accepted criteria and  
40 complying with federal and state statutes and regulations governing  
41 experimental therapies.

42       28. Failing to make patient medical records in the physician's  
43 possession promptly available to a physician assistant, a nurse practitioner,  
44 a person licensed pursuant to this chapter or a podiatrist, chiropractor,  
45 naturopathic physician, physician or homeopathic physician licensed under

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

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

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

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

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

14 33. Referring a patient to a diagnostic or treatment facility or  
15 prescribing goods and services without disclosing that the physician has a  
16 direct pecuniary interest in the facility, goods or services to which the  
17 patient has been referred or prescribed. This paragraph does not apply to a  
18 referral by one physician to another physician within a group of physicians  
19 practicing together.

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

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

25 36. Prescribing or dispensing controlled substances or  
26 prescription-only medications without establishing and maintaining adequate  
27 patient records.

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

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

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

35 40. With the exception of heavy metal poisoning, using chelation  
36 therapy in the treatment of arteriosclerosis or as any other form of therapy  
37 without 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.

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

43 42. Engaging in sexual conduct with a current patient or with a former  
44 patient within six months after the last medical consultation unless the  
45 patient was the licensee's spouse at the time of the contact or, immediately

1 preceding the physician-patient relationship, was in a dating or engagement  
2 relationship with the licensee. For the purposes of this paragraph, "sexual  
3 conduct" includes:

4 (a) Engaging in or soliciting sexual relationships, whether consensual  
5 or nonconsensual.

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

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

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

11 45. Conduct in the practice of medicine that evidences moral unfitness  
12 to practice medicine.

13 46. Engaging in disruptive or abusive behavior in a professional  
14 setting.

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

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

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

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

36 (a) Emergencies.

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

41 (c) 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.

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

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

(f) PRESCRIPTIONS FOR NALOXONE HYDROCHLORIDE OR ANY OTHER OPIATE ANTAGONIST APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION THAT ARE WRITTEN OR DISPENSED FOR USE PURSUANT TO SECTION 36-2228.

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

Sec. 3. Section 32-1901.01, Arizona Revised Statutes, is amended to read:

32-1901.01. Definition of unethical and unprofessional conduct; permittees; licensees

A. In this chapter, unless the context otherwise requires, for the purposes of disciplining a permittee, "unethical conduct" means the following, whether occurring in this state or elsewhere:

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

2. Committing an act that is substantially related to the qualifications, functions or duties of a permittee and that demonstrates either a lack of good moral character or an actual or potential unfitness to hold a permit in light of the public's safety.

3. Working under the influence of alcohol or other drugs.

4. Addiction to the use of alcohol or other drugs to such a degree as to render the permittee unfit to perform the permittee's employment duties.

5. Violating a federal or state law or administrative rule relating to the manufacture, sale or distribution of drugs, devices, poisons, hazardous substances or precursor chemicals.

6. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals.

7. Violating state or federal reporting or ~~record~~-keeping RECORDKEEPING requirements on transactions relating to precursor chemicals.

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

9. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or

1 is or may be mentally or physically unable safely to engage in the  
2 permissible activities of a pharmacy technician or pharmacy technician  
3 trainee.

4       10. Failing to report in writing to the board any evidence that appears  
5 to show that a permittee or permittee's employee is or may be guilty of  
6 unethical conduct, is or may be mentally or physically unable safely to  
7 engage in employment duties related to manufacturing, selling, distributing  
8 or dispensing of drugs, devices, poisons, hazardous substances, controlled  
9 substances or precursor chemicals or is or may be in violation of this  
10 chapter or a rule adopted under this chapter.

11      11. Intending to sell, transfer or distribute, or to offer for sale,  
12 transfer or distribution, or selling, transferring, distributing or  
13 dispensing or offering for sale, transfer or distribution an imitation  
14 controlled substance, imitation over-the-counter drug or imitation  
15 prescription-only drug as defined in section 13-3451.

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

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

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

25      15. Wilfully making a false report or record required by this chapter,  
26 required by federal or state laws pertaining to drugs, devices, poisons,  
27 hazardous substances or precursor chemicals or required for the payment for  
28 drugs, devices, poisons or hazardous substances or precursor chemicals or for  
29 services pertaining to such drugs or substances.

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

32      17. Providing false or misleading information or omitting material  
33 information in any communication to the board or the board's employees or  
34 agents.

35      18. Violating or attempting to violate, directly or indirectly, or  
36 assisting in or abetting the violation of, or conspiring to violate, this  
37 chapter.

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

41      20. Failing to comply with a board subpoena or failing to comply in a  
42 timely manner with a board subpoena without providing any explanation to the  
43 board for not complying with the subpoena.

44      21. Failing to provide the board, its employees or agents or an  
45 authorized federal or state official conducting a site investigation,

1      inspection or audit with access to any place for which a permit has been  
2      issued or for which an application for a permit has been submitted.

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

5      23. Failing to promptly produce on the request of the official  
6      conducting a site investigation, inspection or audit any book, record or  
7      document.

8      24. Overruling or attempting to overrule a pharmacist in matters of  
9      pharmacy ethics or interpreting laws pertaining to the practice of pharmacy  
10     or the distribution of drugs or devices.

11     25. Distributing premiums or rebates of any kind in connection with the  
12     sale of prescription medication, other than to the prescription medication  
13     recipient.

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

16     27. Fraudulently claiming to have performed a service.

17     28. Fraudulently charging a fee for a service.

18     29. Advertising drugs or devices, or services pertaining to drugs or  
19     devices, in a manner that is untrue or misleading in any particular, and that  
20     is known, or that by the exercise of reasonable care should be known, to be  
21     untrue or misleading.

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

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

28        2. Violating any federal or state law, rule or regulation relating to  
29     the manufacture or distribution of drugs and devices or the practice of  
30     pharmacy.

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

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

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

41        6. Claiming professional superiority in compounding or dispensing  
42     prescription orders.

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

1       8. Committing a felony, whether or not involving moral turpitude, or a  
2       misdemeanor involving moral turpitude or any drug-related offense. In either  
3       case, conviction by a court of competent jurisdiction or a plea of no contest  
4       is conclusive evidence of the commission.

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

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

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

12      12. Knowingly dispensing a drug on a prescription order that was issued  
13       in the course of the conduct of business of dispensing drugs pursuant to  
14       diagnosis by mail or the internet, unless the order was any of the following:

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

19       (b) Made in an emergency medical situation as defined in section  
20       41-1831.

21       (c) Written to prepare a patient for a medical examination.

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

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

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

37       (g) For epinephrine auto-injectors that are written or dispensed for a  
38       school district or charter school and that are to be stocked for emergency  
39       use pursuant to section 15-157.

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

43       (i) Written pursuant to a physical or mental health status examination  
44       that was conducted during a real-time telemedicine encounter with audio and

1 video capability that meets the elements required by the centers for medicare  
2 and medicaid services.

3 (j) FOR NALOXONE HYDROCHLORIDE OR ANY OTHER OPIATE ANTAGONIST APPROVED  
4 BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION AND WRITTEN OR DISPENSED  
5 FOR USE PURSUANT TO SECTION 36-2228.

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

10 14. Failing to report in writing to the board any evidence that a  
11 pharmacy technician or pharmacy technician trainee is or may be  
12 professionally incompetent, is or may be guilty of unprofessional conduct or  
13 is or may be mentally or physically unable to safely engage in the  
14 permissible activities of a pharmacy technician or pharmacy technician  
15 trainee.

16 15. Failing to report in writing to the board any evidence that a  
17 permittee or a permittee's employee is or may be guilty of unethical conduct  
18 or is or may be in violation of this chapter or a rule adopted under this  
19 chapter.

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

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

24 18. Providing false or misleading information or omitting material  
25 information in any communication to the board or the board's employees or  
26 agents.

27 19. Violating or attempting to violate, directly or indirectly, or  
28 assisting in or abetting in the violation of, or conspiring to violate, this  
29 chapter.

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

33 21. Failing to comply with a board subpoena or failing to comply in a  
34 timely manner with a board subpoena without providing any explanation to the  
35 board for not complying with the subpoena.

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

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

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

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

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

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

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

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

13       C. In this chapter, unless the context otherwise requires, for the  
14 purposes of disciplining a pharmacy technician or pharmacy technician  
15 trainee, "unprofessional conduct" means the following, whether occurring in  
16 this state or elsewhere:

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

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

21       3. Obtaining or attempting to obtain a pharmacy technician or pharmacy  
22 technician trainee license or a pharmacy technician license renewal by fraud,  
23 by misrepresentation or by knowingly taking advantage of the mistake of  
24 another person or an agency.

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

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

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

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

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

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

44       10. Failing to report in writing to the board any evidence that a  
45 pharmacy technician or pharmacy technician trainee is or may be

1 professionally incompetent, is or may be guilty of unprofessional conduct or  
2 is or may be mentally or physically unable to safely engage in the  
3 permissible activities of a pharmacy technician or pharmacy technician  
4 trainee.

5 11. Failing to report in writing to the board any evidence that a  
6 permittee or a permittee's employee is or may be guilty of unethical conduct  
7 or is or may be in violation of this chapter or a rule adopted under this  
8 chapter.

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

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

13 14. Providing false or misleading information or omitting material  
14 information in any communication to the board or the board's employees or  
15 agents.

16 15. Violating or attempting to violate, directly or indirectly, or  
17 assisting in or abetting in the violation of, or conspiring to violate, this  
18 chapter.

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

22 17. Failing to comply with a board subpoena or failing to comply in a  
23 timely manner with a board subpoena without providing any explanation to the  
24 board for not complying with the subpoena.

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

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

29 Sec. 4. Title 36, chapter 21.1, article 1, Arizona Revised Statutes,  
30 is amended by adding section 36-2228, to read:

31 36-2228. Administration of opiate antagonists: training;  
32 immunity: designation by director

33 A. PURSUANT TO A STANDING ORDER ISSUED BY A PHYSICIAN LICENSED  
34 PURSUANT TO TITLE 32, CHAPTER 13 OR 17 OR A NURSE PRACTITIONER LICENSED  
35 PURSUANT TO TITLE 32, CHAPTER 15 AND AUTHORIZED BY LAW TO PRESCRIBE DRUGS, AN  
36 EMERGENCY MEDICAL CARE TECHNICIAN OR A PEACE OFFICER WHO IS TRAINED IN THE  
37 ADMINISTRATION OF NALOXONE HYDROCHLORIDE OR ANY OTHER OPIATE ANTAGONIST THAT  
38 IS APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION AND DESIGNATED  
39 BY THE DIRECTOR MAY ADMINISTER NALOXONE HYDROCHLORIDE OR ANOTHER OPIATE  
40 ANTAGONIST TO A PERSON WHO THE EMERGENCY MEDICAL CARE TECHNICIAN OR PEACE  
41 OFFICER BELIEVES IS SUFFERING FROM AN OPIATE-RELATED DRUG OVERDOSE.

42 B. THE DEPARTMENT SHALL DEVELOP A TRAINING MODULE FOR EMERGENCY  
43 MEDICAL CARE TECHNICIANS AND PEACE OFFICERS THAT PROVIDES TRAINING REGARDING  
44 THE IDENTIFICATION OF A PERSON SUFFERING FROM AN OPIATE-RELATED DRUG OVERDOSE  
45 AND THE USE OF NALOXONE HYDROCHLORIDE OR OTHER OPIATE ANTAGONISTS.

1       C. PHYSICIANS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17  
2 AND WHO ISSUE A STANDING ORDER, NURSE PRACTITIONERS WHO ARE LICENSED PURSUANT  
3 TO TITLE 32, CHAPTER 15 AND AUTHORIZED BY LAW TO PRESCRIBE DRUGS AND WHO  
4 ISSUE A STANDING ORDER AND EMERGENCY MEDICAL CARE TECHNICIANS AND PEACE  
5 OFFICERS WHO ADMINISTER NALOXONE HYDROCHLORIDE OR ANY OTHER OPIATE ANTAGONIST  
6 PURSUANT TO THIS SECTION ARE IMMUNE FROM PROFESSIONAL LIABILITY AND CRIMINAL  
7 PROSECUTION FOR ANY DECISION MADE, ACTION TAKEN OR INJURY THAT RESULTS FROM  
8 THAT ACT IF THOSE PERSONS ACT WITH REASONABLE CARE AND IN GOOD FAITH, EXCEPT  
9 IN CASES OF WANTON OR WILFUL NEGLECT.

10     D. THE DIRECTOR SHALL DESIGNATE OPIATE ANTAGONISTS THAT MAY BE USED  
11 PURSUANT TO THIS SECTION BASED ON AN EVALUATION OF THE OPIATE ANTAGONIST'S  
12 SAFETY AND EFFICACY.