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

SENATE BILL 1474

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

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

32-1401. Definitions
In this chapter, unless the context otherwise requires:
1. "Active license" means a valid and existing license to practice medicine.
2. "Adequate records" means legible medical records, produced by hand or electronically, containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment.
3. "Advisory letter" means a nondisciplinary letter to notify a licensee that either:
   (a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.
   (b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.
   (c) While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.
4. "Approved hospital internship, residency or clinical fellowship program" means a program at a hospital that at the time the training occurred was legally incorporated and that had a program that was approved for internship, fellowship or residency training by the accreditation council for graduate medical education, the association of American medical colleges, the royal college of physicians and surgeons of Canada or any similar body in the United States or Canada approved by the board whose function is that of approving hospitals for internship, fellowship or residency training.
5. "Approved school of medicine" means any school or college offering a course of study that, on successful completion, results in the degree of doctor of medicine and whose course of study has been approved or accredited by an educational or professional association, recognized by the board, including the association of American medical colleges, the association of Canadian medical colleges or the American medical association.
6. "Board" means the Arizona medical board.
7. "Completed application" means that the applicant has supplied all required fees, information and correspondence requested by the board on forms and in a manner acceptable to the board.
8. "Direct supervision" means that a physician, physician assistant licensed pursuant to chapter 25 of this title or nurse practitioner certified pursuant to chapter 15 of this title is within the same room or office suite as the medical assistant in order to be available for consultation regarding those tasks the medical assistant performs pursuant to section 32-1456.

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

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

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

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

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

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

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

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

17. "Medical peer review" means:

   (a) The participation by a doctor of medicine in the review and evaluation of the medical management of a patient and the use of resources for patient care.
(b) Activities relating to a health care institution's decision to grant or continue privileges to practice at that institution.

18. "Medically incompetent" means a person who the board determines is incompetent based on a variety of factors, including:
   (a) A lack of sufficient medical knowledge or skills, or both, to a degree likely to endanger the health of patients.
   (b) When considered with other indications of medical incompetence, failing to obtain a scaled score of at least seventy-five percent on the written special purpose licensing examination.

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

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

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

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

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

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

25. "Teaching hospital's accredited graduate medical education program" means that the hospital is incorporated and has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American medical association, the association of American medical colleges, the royal college of physicians and surgeons of Canada or a similar body in the United States or Canada THAT IS approved by the board AND whose function is that of approving hospitals for internship, fellowship or residency training.
26. "Teaching license" means a valid license to practice medicine as a full-time faculty member of an approved school of medicine or a teaching hospital's accredited graduate medical education program.

27. "Unprofessional conduct" includes the following, whether occurring 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 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 predated 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
WHETHER a fee is clearly excessive, the board shall consider the fee or range
of fees customarily charged in the THIS 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 THE service.

(x) Fetal experiments conducted CONDUCT THAT IS 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 UNITED STATES 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] UNITED STATES 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.

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

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

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

(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.

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

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

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

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

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

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

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

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

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

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

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

(vii) 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.

(viii) 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.
Prescriptions for naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration that are written or dispensed for use pursuant to section 36-2228.

Performing office based surgery using sedation in violation of board rules.

Practicing medicine under a false or assumed name in this state.

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

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

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

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

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

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

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

7. Impersonating another physician.

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

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

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

11. Representing that a manifestly incurable disease, injury, ailment or infirmity can be permanently cured or that a curable disease, injury, ailment or infirmity can be cured within a stated time, if this is not true.
12. Failing to reasonably disclose and inform the patient or the patient's representative of the method, device or instrumentality the licensee uses to treat the patient's disease, injury, ailment or infirmity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37. Failing to dispense drugs and devices in compliance with article 4 of this chapter.
38. Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

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

40. With the exception of heavy metal poisoning, using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy 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.

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

42. 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 paragraph, "sexual conduct" includes:
   (a) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.
   (b) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical conduct of a sexual nature.

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

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

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

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

47. Failing to disclose to a patient that the licensee has a direct financial interest in a prescribed treatment, good or service if the treatment, good or service is available on a competitive basis. This paragraph does not apply to a referral by one licensee to another licensee within a group of licensees who practice together. A licensee meets the disclosure requirements of this paragraph if all BOTH of the following are true:
   (a) The licensee makes the disclosure on a form prescribed by the board.
   (b) The patient or the patient's guardian or parent acknowledges by signing the form that the licensee has disclosed the licensee's direct financial interest.
48. Prescribing, dispensing or furnishing a prescription medication or a prescription-only device to a person if the licensee has not conducted a physical or mental health status examination of that person or has not previously established a physician-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability if the telemedicine audio and video capability meets the elements required by the centers for medicare and medicaid services, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This paragraph does not apply to:

(a) Emergencies.
(b) A licensee who provides patient care on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.
(c) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing 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 36-427, Arizona Revised Statutes, is amended to read:

36-427. Suspension or revocation; intermediate sanctions
A. The director, pursuant to title 41, chapter 6, article 10, may suspend or revoke, in whole or in part, the license of any health care institution if its owners, officers, agents or employees:
1. Violate this chapter or the rules of the department adopted pursuant to this chapter.
2. Knowingly aid, permit or abet the commission of any crime involving medical and health-related services.
3. Have been, are or may continue to be in substantial violation of the requirements for licensure of the institution, as a result of which the
health or safety of one or more patients or the general public is in immediate danger.

4. Fail to comply with section 36-2901.08.
5. VIOLATE SECTION 36-2302.

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

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

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

Sec. 4. Repeal

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

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

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

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

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

2. A PATHOLOGICAL STUDY.

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

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

D. A PERSON MAY NOT KNOWINGLY SELL, TRANSFER, DISTRIBUTE, GIVE AWAY, ACCEPT, USE OR ATTEMPT TO USE ANY HUMAN FETUS OR EMBRYO OR ANY PART, ORGAN OR FLUID OF THE HUMAN FETUS OR EMBRYO RESULTING FROM AN ABORTION IN VIOLATION OF THIS SECTION.
E. A PERSON MAY NOT AID OR ABET THE SALE, TRANSFER, DISTRIBUTION, OTHER UNLAWFUL DISPOSITION, ACCEPTANCE, USE OR ATTEMPTED USE OF A HUMAN FETUS OR EMBRYO OR ANY PART, ORGAN OR FLUID OF THE HUMAN FETUS OR EMBRYO RESULTING FROM AN ABORTION IN VIOLATION OF THIS SECTION.

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

G. FOR THE PURPOSES OF THIS SECTION:
1. "ABORTION" HAS THE SAME MEANING AS PRESCRIBED IN SECTION 36-2151.
2. "EXPERIMENTATION" MEANS THE USE OF A HUMAN FETUS OR EMBRYO OR ANY PART, ORGAN OR FLUID OF THE HUMAN FETUS OR EMBRYO RESULTING FROM AN ABORTION IN ANY TRIAL, TEST, PROCEDURE OR OBSERVATION CARRIED OUT WITH THE GOAL OF VERIFYING, REFUTING OR ESTABLISHING THE VALIDITY OF A HYPOTHESIS. EXPERIMENTATION DOES NOT INCLUDE A PATHOLOGICAL STUDY OR A DIAGNOSTIC OR REMEDIAL TEST, PROCEDURE OR OBSERVATION THAT HAS THE PURPOSE OF DETERMINING THE LIFE OR HEALTH OF THE HUMAN FETUS OR EMBRYO OR PRESERVING THE LIFE OR HEALTH OF THE HUMAN FETUS OR EMBRYO OR THE MOTHER.
3. "PATHOLOGICAL STUDY" MEANS THE EXAMINATION OF BODY TISSUE FOR DIAGNOSTIC OR FORENSIC PURPOSES.

Sec. 6. Construction
This act does not establish or recognize a right to an abortion and does not make lawful an abortion that is currently prohibited by law.

Sec. 7. Severability
If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.