

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 85
HOUSE BILL 2265

AN ACT

AMENDING SECTIONS 15-157, 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 36-2226.01; RELATING TO EPINEPHRINE AUTO-INJECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-157, Arizona Revised Statutes, is amended to
3 read:
4 15-157. Emergency administration of epinephrine auto-injectors
5 by trained personnel; immunity
6 Pursuant to a standing order issued by the chief medical officer of the
7 department of health services, the chief medical officer of a county health
8 department, a doctor of medicine licensed pursuant to title 32, chapter 13 or
9 a doctor of osteopathy licensed pursuant to title 32, chapter 17, an employee
10 of a school district or charter school who is trained in the administration
11 of ~~auto-injectable~~ epinephrine **AUTO-INJECTORS** may administer or assist in the
12 administration of ~~auto-injectable~~ epinephrine **AUTO-INJECTORS** to a pupil or an
13 adult whom the employee believes in good faith to be exhibiting symptoms of
14 anaphylactic shock while at school or at school-sponsored activities. If
15 sufficient monies are appropriated by the legislature each year to provide
16 for the purchase of two juvenile doses and two adult doses of ~~auto-injectable~~
17 epinephrine **AUTO-INJECTORS** at each public school in this state, ~~beginning in~~
18 ~~the 2014-2015 school year,~~ each school district and charter school shall
19 stock two juvenile doses and two adult doses of ~~auto-injectable~~ epinephrine
20 **AUTO-INJECTORS** at each school pursuant to a standing order issued by the
21 chief medical officer of the department of health services, the chief medical
22 officer of a county health department, a doctor of medicine licensed pursuant
23 to title 32, chapter 13 or a doctor of osteopathy licensed pursuant to title
24 32, chapter 17. Each fiscal year the department of education shall include
25 in its budget request for assistance to schools a separate line item for a
26 continuous, nonlapsing appropriation to fund the requirements of this
27 section. If sufficient monies are not appropriated by the legislature during
28 any fiscal year to provide for the purchase of two juvenile doses and two
29 adult doses of ~~auto-injectable~~ epinephrine **AUTO-INJECTORS** at each public
30 school in this state, a school district or charter school may stock two
31 juvenile doses and two adult doses of ~~auto-injectable~~ epinephrine
32 **AUTO-INJECTORS** at each school pursuant to a standing order issued by the
33 chief medical officer of the department of health services, the chief medical
34 officer of a county health department, a doctor of medicine licensed pursuant
35 to title 32, chapter 13 or a doctor of osteopathy licensed pursuant to title
36 32, chapter 17. The chief medical officer of the department of health
37 services, the chief medical officer of a county health department, a doctor
38 of medicine licensed pursuant to title 32, chapter 13 or a doctor of
39 osteopathy licensed pursuant to title 32, chapter 17, a school district, a
40 charter school and employees of a school district or charter school are
41 immune from civil liability with respect to all decisions made and actions
42 taken that are based on good faith implementation of the requirements of this
43 section, except in cases of ~~wanton or wilful neglect~~ **GROSS NEGLIGENCE, WILFUL**
44 **MISCONDUCT OR INTENTIONAL WRONGDOING.**

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

2 32-1401. Definitions

3 In this chapter, unless the context otherwise requires:

4 1. "Active license" means a valid and existing license to practice
5 medicine.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 17. "Medical peer review" means:

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

45 (b) Activities relating to a health care institution's decision to
46 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 percent on the
7 written special purpose licensing examination.
- 8 19. "Medicine" means allopathic medicine as practiced by the recipient
9 of a degree of doctor of medicine.
- 10 20. "Office based surgery" means a medical procedure conducted in a
11 physician's office or other outpatient setting that is not part of a licensed
12 hospital or licensed ambulatory surgical center.
- 13 21. "Physician" means a doctor of medicine WHO IS licensed pursuant to
14 this 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, ~~OR~~
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 THAT
27 IS 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 WHO IS under
32 investigation by a state licensing board.
- 33 25. "Teaching hospital's accredited graduate medical education
34 program" means that the hospital is incorporated and has an internship,
35 fellowship or residency training program that is accredited by the
36 accreditation council for graduate medical education, the American medical
37 association, the association of American medical colleges, the royal college
38 of physicians and surgeons of Canada or a similar body in the United States
39 or Canada THAT IS approved by the board AND whose function is that of
40 approving hospitals for internship, 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (mm) The representation by a doctor of medicine or the doctor's staff,
9 employer or representative that the doctor is boarded or board certified if
10 this is not true or the standing is not current or without supplying the full
11 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.

21 (pp) The failure of a physician who is the chief executive officer,
22 the medical director or the medical chief of staff of a health care
23 institution to report in writing to the board that the hospital privileges of
24 a doctor of medicine have been denied, revoked, suspended, supervised or
25 limited because of actions by the doctor that appear to show that the doctor
26 is or may be medically incompetent, is or may be guilty of unprofessional
27 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, ~~OR~~ OR 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
46 examination is for the purpose of obtaining a written certification from the

1 physician for the purposes of title 36, chapter 28.1. This subdivision does
2 not apply to:

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

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

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

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

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

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

25 (vii) Prescriptions for epinephrine auto-injectors written or
26 dispensed for a school district or charter school to be stocked for emergency
27 use pursuant to section 15-157 **OR FOR AN AUTHORIZED ENTITY TO BE STOCKED**
28 **PURSUANT TO SECTION 36-2226.01.**

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 **OPIOID** antagonist approved by the United States food and drug administration
34 that 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. 3. 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. Knowingly 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,
46 territories or districts of the United States or with foreign countries or

- 1 with osteopathic medical organizations located in this state or in any state,
2 district or territory of this country or in any foreign country.
- 3 2. Committing a felony or a misdemeanor involving moral turpitude. In
4 either case conviction by any court of competent jurisdiction is conclusive
5 evidence of the commission of the offense.
- 6 3. Practicing medicine while under the influence of alcohol, a
7 dangerous drug as defined in section 13-3401, narcotic or hypnotic drugs or
8 any substance that impairs or may impair the licensee's ability to safely and
9 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
37 professional fee for patient referrals. This paragraph does not apply to
38 payments from a medical researcher to a physician in connection with
39 identifying and monitoring patients for clinical trial regulated by the
40 United States food 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
2 if the physician has not satisfied the applicable requirements of this
3 chapter or board rules.
- 4 18. The denial of or disciplinary action against a license by any
5 other 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
15 a patient as follows:
- 16 (a) If the patient is an adult, for at least six years after the last
17 date the licensee provided the patient with medical or health care services.
- 18 (b) If the patient is a child, either for at least three years after
19 the child's eighteenth birthday or for at least six years after the last date
20 the licensee provided that patient with medical or health care services,
21 whichever date occurs later.
- 22 22. Using controlled substances or prescription-only drugs unless they
23 are provided by a medical practitioner, as defined in section 32-1901, as
24 part of a lawful course of treatment.
- 25 23. Prescribing controlled substances to members of one's immediate
26 family unless there is no other physician available within fifty miles to
27 treat a member of the family and an emergency exists.
- 28 24. Nontherapeutic use of injectable amphetamines.
- 29 25. Violating a formal order, probation or a stipulation issued by the
30 board under this chapter.
- 31 26. Charging or collecting an inappropriate fee. This paragraph does
32 not apply to a fee that is fixed in a written contract between the physician
33 and the patient and entered into before treatment begins.
- 34 27. Using experimental forms of therapy without adequate informed
35 patient consent or without conforming to generally accepted criteria and
36 complying with federal and state statutes and regulations governing
37 experimental therapies.
- 38 28. Failing to make patient medical records in the physician's
39 possession promptly available to a physician assistant, a nurse practitioner,
40 a person licensed pursuant to this chapter or a podiatrist, chiropractor,
41 naturopathic physician, physician or homeopathic physician licensed under
42 chapter 7, 8, 13, 14 or 29 of this title on receipt of proper authorization
43 to do so from the patient, a minor patient's parent, the patient's legal
44 guardian or the patient's authorized representative or failing to comply with
45 title 12, chapter 13, article 7.1.

- 1 29. Failing to allow properly authorized board personnel to have, on
2 presentation of a subpoena, access to any documents, reports or records that
3 are maintained by the physician and that relate to the physician's medical
4 practice or medically related activities pursuant to section 32-1855.01.
- 5 30. Signing a blank, undated or predated prescription form.
- 6 31. Obtaining a fee by fraud, deceit or misrepresentation.
- 7 32. Failing to report to the board an osteopathic physician and
8 surgeon who is or may be guilty of unprofessional conduct or is or may be
9 mentally or physically unable safely to engage in the practice of medicine.
- 10 33. Referring a patient to a diagnostic or treatment facility or
11 prescribing goods and services without disclosing that the physician has a
12 direct pecuniary interest in the facility, goods or services to which the
13 patient has been referred or prescribed. This paragraph does not apply to a
14 referral by one physician to another physician within a group of physicians
15 practicing together.
- 16 34. Lack of or inappropriate direction, collaboration or supervision
17 of a licensed, certified or registered health care provider or office
18 personnel employed by or assigned to the physician in the medical care of
19 patients.
- 20 35. Violating a federal law, a state law or a rule applicable to the
21 practice of medicine.
- 22 36. Prescribing or dispensing controlled substances or
23 prescription-only medications without establishing and maintaining adequate
24 patient records.
- 25 37. Failing to dispense drugs and devices in compliance with article 4
26 of this chapter.
- 27 38. Any conduct or practice that endangers a patient's or the public's
28 health or may reasonably be expected to do so.
- 29 39. Any conduct or practice that impairs the licensee's ability to
30 safely and skillfully practice medicine or that may reasonably be expected to
31 do so.
- 32 40. With the exception of heavy metal poisoning, using chelation
33 therapy in the treatment of arteriosclerosis or as any other form of therapy
34 without adequate informed patient consent and without conforming to generally
35 accepted experimental criteria, including protocols, detailed records,
36 periodic analysis of results and periodic review by a medical peer review
37 committee.
- 38 41. Prescribing, dispensing or administering anabolic-androgenic
39 steroids to a person for other than therapeutic purposes.
- 40 42. Engaging in sexual conduct with a current patient or with a former
41 patient within six months after the last medical consultation unless the
42 patient was the licensee's spouse at the time of the contact or, immediately
43 preceding the physician-patient relationship, was in a dating or engagement
44 relationship with the licensee. For the purposes of this paragraph, "sexual
45 conduct" includes:

- 1 (a) Engaging in or soliciting sexual relationships, whether consensual
2 or nonconsensual.
- 3 (b) Making sexual advances, requesting sexual favors or engaging in
4 any other verbal conduct or physical conduct of a sexual nature.
- 5 43. Fetal experiments conducted in violation of section 36-2302.
- 6 44. Conduct that the board determines constitutes gross negligence,
7 repeated negligence or negligence that results in harm or death of a patient.
- 8 45. Conduct in the practice of medicine that evidences moral unfitness
9 to practice medicine.
- 10 46. Engaging in disruptive or abusive behavior in a professional
11 setting.
- 12 47. Failing to disclose to a patient that the licensee has a direct
13 financial interest in a prescribed treatment, good or service if the
14 treatment, good or service is available on a competitive basis. This
15 paragraph does not apply to a referral by one licensee to another licensee
16 within a group of licensees who practice together. A licensee meets the
17 disclosure requirements of this paragraph if ~~at least~~ BOTH of the following are
18 true:
- 19 (a) The licensee makes the disclosure on a form prescribed by the
20 board.
- 21 (b) The patient or the patient's guardian or parent acknowledges by
22 signing the form that the licensee has disclosed the licensee's direct
23 financial interest.
- 24 48. Prescribing, dispensing or furnishing a prescription medication or
25 a prescription-only device to a person if the licensee has not conducted a
26 physical or mental health status examination of that person or has not
27 previously established a physician-patient relationship. The physical or
28 mental health status examination may be conducted during a real-time
29 telemedicine encounter with audio and video capability if the telemedicine
30 audio and video capability meets the elements required by the centers for
31 medicare and medicaid services, unless the examination is for the purpose of
32 obtaining a written certification from the physician for the purposes of
33 title 36, chapter 28.1. This paragraph does not apply to:
- 34 (a) Emergencies.
- 35 (b) A licensee who provides patient care on behalf of the patient's
36 regular treating licensed health care professional or provides a consultation
37 requested by the patient's regular treating licensed health care
38 professional.
- 39 (c) Prescriptions written or antimicrobials dispensed to a contact as
40 defined in section 36-661 who is believed to have had significant exposure
41 risk as defined in section 36-661 with another person who has been diagnosed
42 with a communicable disease as defined in section 36-661 by the prescribing
43 or dispensing physician.
- 44 (d) Prescriptions for epinephrine auto-injectors written or dispensed
45 for a school district or charter school to be stocked for emergency use

1 pursuant to section 15-157 OR FOR AN AUTHORIZED ENTITY TO BE STOCKED PURSUANT
2 TO SECTION 36-2226.01.

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

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

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

12 Sec. 4. Section 32-1901.01, Arizona Revised Statutes, is amended to
13 read:

14 32-1901.01. Definition of unethical and unprofessional conduct;
15 permittees; licensees

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

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

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

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

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

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

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

36 7. Violating state or federal reporting or recordkeeping requirements
37 on transactions relating to precursor chemicals.

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

42 9. Failing to report in writing to the board any evidence that a
43 pharmacy technician or pharmacy technician trainee is or may be
44 professionally incompetent, is or may be guilty of unprofessional conduct or
45 is or may be mentally or physically unable safely to engage in the

1 permissible activities of a pharmacy technician or pharmacy technician
2 trainee.

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

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

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

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

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

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

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

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

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

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

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

43 21. Failing to provide the board, ~~OR~~ OR its employees or agents or an
44 authorized federal or state official conducting a site investigation,
45 inspection or audit with access to any place for which a permit has been
46 issued or for which an application for a permit has been submitted.

- 1 22. Failing to notify the board of a change of ownership, management
2 or pharmacist in charge.
- 3 23. Failing to promptly produce on the request of the official
4 conducting a site investigation, inspection or audit any book, record or
5 document.
- 6 24. Overruling or attempting to overrule a pharmacist in matters of
7 pharmacy ethics or interpreting laws pertaining to the practice of pharmacy
8 or the distribution of drugs or devices.
- 9 25. Distributing premiums or rebates of any kind in connection with
10 the sale of prescription medication, other than to the prescription
11 medication recipient.
- 12 26. Failing to maintain effective controls against the diversion of
13 precursor chemicals to unauthorized persons or entities.
- 14 27. Fraudulently claiming to have performed a service.
- 15 28. Fraudulently charging a fee for a service.
- 16 29. Advertising drugs or devices, or services pertaining to drugs or
17 devices, in a manner that is untrue or misleading in any particular, and that
18 is known, or that by the exercise of reasonable care should be known, to be
19 untrue or misleading.
- 20 B. In this chapter, unless the context otherwise requires, for the
21 purposes of disciplining a pharmacist, pharmacy intern or graduate intern,
22 "unprofessional conduct" means the following, whether occurring in this state
23 or elsewhere:
- 24 1. Addiction to the use of alcohol or other drugs to such a degree as
25 to render the licensee unfit to practice the profession of pharmacy.
- 26 2. Violating any federal or state law, rule or regulation relating to
27 the manufacture or distribution of drugs and devices or the practice of
28 pharmacy.
- 29 3. Dispensing a different drug or brand of drug in place of the drug
30 or brand of drug ordered or prescribed without the express permission in each
31 case of the orderer, or in the case of a prescription order, the medical
32 practitioner. The conduct prohibited by this paragraph does not apply to
33 substitutions authorized pursuant to section 32-1963.01.
- 34 4. Obtaining or attempting to obtain a license to practice pharmacy or
35 a license renewal by fraud, by misrepresentation or by knowingly taking
36 advantage of the mistake of another person or an agency.
- 37 5. Denial or discipline of a licensee's license to practice pharmacy
38 in another jurisdiction and the license was not reinstated.
- 39 6. Claiming professional superiority in compounding or dispensing
40 prescription orders.
- 41 7. Failing to comply with the mandatory continuing professional
42 pharmacy education requirements of sections 32-1936 and 32-1937 and rules
43 adopted by the board.
- 44 8. Committing a felony, whether or not involving moral turpitude, or a
45 misdemeanor involving moral turpitude or any drug-related offense. In either

1 case, conviction by a court of competent jurisdiction or a plea of no contest
2 is conclusive evidence of the commission.

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

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

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

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

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

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

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

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

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

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

36 (g) For epinephrine auto-injectors that are written or dispensed for a
37 school district or charter school and that are to be stocked for emergency
38 use pursuant to section 15-157 **OR FOR AN AUTHORIZED ENTITY TO BE STOCKED**
39 **PURSUANT TO SECTION 36-2226.01.**

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
45 video capability that meets the elements required by the centers for medicare
46 and medicaid services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 10. Failing to report in writing to the board any evidence that a
42 pharmacy technician or pharmacy technician trainee is or may be
43 professionally incompetent, is or may be guilty of unprofessional conduct or
44 is or may be mentally or physically unable to safely engage in the
45 permissible activities of a pharmacy technician or pharmacy technician
46 trainee.

1 11. Failing to report in writing to the board any evidence that a
2 permittee or a permittee's employee is or may be guilty of unethical conduct
3 or is or may be in violation of this chapter or a rule adopted under this
4 chapter.

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

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

9 14. Providing false or misleading information or omitting material
10 information in any communication to the board or the board's employees or
11 agents.

12 15. Violating or attempting to violate, directly or indirectly, or
13 assisting in or abetting in the violation of, or conspiring to violate, this
14 chapter.

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

18 17. Failing to comply with a board subpoena or failing to comply in a
19 timely manner with a board subpoena without providing any explanation to the
20 board for not complying with the subpoena.

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

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

25 Sec. 5. Title 36, chapter 21.1, article 1, Arizona Revised Statutes,
26 is amended by adding section 36-2226.01, to read:

27 36-2226.01. Emergency administration of epinephrine; authorized
28 entities; prescriptions; training; immunity;
29 definitions

30 A. A PRACTITIONER MAY PRESCRIBE EPINEPHRINE AUTO-INJECTORS IN THE NAME
31 OF AN AUTHORIZED ENTITY FOR USE IN ACCORDANCE WITH THIS SECTION, AND
32 PHARMACISTS AND PRACTITIONERS MAY DISPENSE EPINEPHRINE AUTO-INJECTORS
33 PURSUANT TO A PRESCRIPTION ISSUED IN THE NAME OF AN AUTHORIZED ENTITY. A
34 PRESCRIPTION ISSUED PURSUANT TO THIS SECTION IS VALID FOR TWO YEARS.

35 B. AN AUTHORIZED ENTITY MAY ACQUIRE AND STOCK A SUPPLY OF EPINEPHRINE
36 AUTO-INJECTORS PURSUANT TO A PRESCRIPTION ISSUED IN ACCORDANCE WITH THIS
37 SECTION. THE EPINEPHRINE AUTO-INJECTORS SHALL BE STORED IN A LOCATION THAT
38 IS READILY ACCESSIBLE IN AN EMERGENCY AND IN ACCORDANCE WITH THE EPINEPHRINE
39 AUTO-INJECTOR'S INSTRUCTIONS FOR USE AND ANY ADDITIONAL REQUIREMENTS THAT MAY
40 BE ESTABLISHED BY THE DEPARTMENT. AN AUTHORIZED ENTITY SHALL DESIGNATE
41 EMPLOYEES OR AGENTS WHO HAVE COMPLETED THE TRAINING REQUIRED BY SUBSECTION D
42 OF THIS SECTION TO BE RESPONSIBLE FOR THE STORAGE, MAINTENANCE, CONTROL AND
43 GENERAL OVERSIGHT OF THE EPINEPHRINE AUTO-INJECTORS ACQUIRED BY THE
44 AUTHORIZED ENTITY.

1 C. AN EMPLOYEE OR AGENT OF AN AUTHORIZED ENTITY OR ANOTHER INDIVIDUAL
2 WHO HAS COMPLETED THE TRAINING REQUIRED BY SUBSECTION D OF THIS SECTION MAY
3 DO EITHER OF THE FOLLOWING:

4 1. PROVIDE AN EPINEPHRINE AUTO-INJECTOR TO ANY INDIVIDUAL WHO THE
5 EMPLOYEE, AGENT OR OTHER INDIVIDUAL BELIEVES IN GOOD FAITH IS EXPERIENCING
6 ANAPHYLAXIS, OR TO THE PARENT, GUARDIAN OR CAREGIVER OF THE INDIVIDUAL, FOR
7 IMMEDIATE ADMINISTRATION, REGARDLESS OF WHETHER THE INDIVIDUAL HAS A
8 PRESCRIPTION FOR AN EPINEPHRINE AUTO-INJECTOR OR HAS PREVIOUSLY BEEN
9 DIAGNOSED WITH AN ALLERGY.

10 2. ADMINISTER AN EPINEPHRINE AUTO-INJECTOR TO ANY INDIVIDUAL WHO THE
11 EMPLOYEE, AGENT OR OTHER INDIVIDUAL BELIEVES IN GOOD FAITH IS EXPERIENCING
12 ANAPHYLAXIS, REGARDLESS OF WHETHER THE INDIVIDUAL HAS A PRESCRIPTION FOR AN
13 EPINEPHRINE AUTO-INJECTOR OR HAS PREVIOUSLY BEEN DIAGNOSED WITH AN ALLERGY.

14 D. AN EMPLOYEE, AGENT OR OTHER INDIVIDUAL DESCRIBED IN SUBSECTION B OR
15 C OF THIS SECTION SHALL COMPLETE INITIAL ANAPHYLAXIS TRAINING AND, AT LEAST
16 EVERY TWO YEARS THEREAFTER, SHALL COMPLETE SUBSEQUENT ANAPHYLAXIS TRAINING.
17 THE TRAINING SHALL BE CONDUCTED BY A NATIONALLY RECOGNIZED ORGANIZATION THAT
18 IS EXPERIENCED IN TRAINING LAYPERSONS IN EMERGENCY HEALTH TREATMENT OR AN
19 ENTITY OR INDIVIDUAL APPROVED BY THE DEPARTMENT. THE DEPARTMENT MAY APPROVE
20 SPECIFIC ENTITIES OR INDIVIDUALS OR MAY APPROVE CLASSES OF ENTITIES OR
21 INDIVIDUALS TO CONDUCT THIS TRAINING. TRAINING MAY BE CONDUCTED ONLINE OR IN
22 PERSON AND, AT A MINIMUM, SHALL COVER:

23 1. HOW TO RECOGNIZE SIGNS AND SYMPTOMS OF SEVERE ALLERGIC REACTIONS,
24 INCLUDING ANAPHYLAXIS.

25 2. STANDARDS AND PROCEDURES FOR THE STORAGE AND ADMINISTRATION OF AN
26 EPINEPHRINE AUTO-INJECTOR.

27 3. EMERGENCY FOLLOW-UP PROCEDURES.

28 E. THE ENTITY THAT CONDUCTS THE TRAINING REQUIRED BY SUBSECTION D OF
29 THIS SECTION SHALL ISSUE A CERTIFICATE, ON A FORM DEVELOPED OR APPROVED BY
30 THE DEPARTMENT, TO EACH PERSON WHO SUCCESSFULLY COMPLETES THE ANAPHYLAXIS
31 TRAINING.

32 F. THE ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR PURSUANT TO THIS
33 SECTION IS NOT THE PRACTICE OF MEDICINE OR ANY OTHER PROFESSION THAT
34 OTHERWISE REQUIRES LICENSURE.

35 G. A PRACTITIONER PRESCRIBING EPINEPHRINE AUTO-INJECTORS IN THE NAME
36 OF AN AUTHORIZED ENTITY, AN AUTHORIZED ENTITY, AN EMPLOYEE OR AGENT OF AN
37 AUTHORIZED ENTITY AND A PERSON OR ENTITY THAT PROVIDES TRAINING PURSUANT TO
38 SUBSECTION D OF THIS SECTION ARE IMMUNE FROM CIVIL LIABILITY WITH RESPECT TO
39 ALL DECISIONS MADE AND ACTIONS OR OMISSIONS TAKEN THAT ARE BASED ON GOOD
40 FAITH IMPLEMENTATION OF THE REQUIREMENTS OF THIS SECTION, EXCEPT IN CASES OF
41 GROSS NEGLIGENCE, WILFUL MISCONDUCT OR INTENTIONAL WRONGDOING.

42 H. THE IMMUNITY FROM CIVIL LIABILITY PROVIDED IN SUBSECTION G OF THIS
43 SECTION DOES NOT AFFECT A MANUFACTURER'S PRODUCT LIABILITY REGARDING THE
44 DESIGN, MANUFACTURING OR INSTRUCTIONS FOR USE OF AN EPINEPHRINE
45 AUTO-INJECTOR.

- 1 I. AN AUTHORIZED ENTITY THAT POSSESSES AND MAKES AVAILABLE EPINEPHRINE
2 AUTO-INJECTORS SHALL SUBMIT TO THE DEPARTMENT, ON A FORM DEVELOPED BY THE
3 DEPARTMENT, A REPORT OF EACH INCIDENT THAT OCCURS ON THE AUTHORIZED ENTITY'S
4 PREMISES AND THAT INVOLVES THE ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR
5 PURSUANT TO SUBSECTION C OF THIS SECTION.
- 6 J. FOR THE PURPOSES OF THIS SECTION:
- 7 1. "ADMINISTER" MEANS THE DIRECT APPLICATION OF AN EPINEPHRINE
8 AUTO-INJECTOR TO THE BODY OF AN INDIVIDUAL.
- 9 2. "AUTHORIZED ENTITY" MEANS ANY ENTITY OR ORGANIZATION IN CONNECTION
10 WITH OR AT WHICH ALLERGENS CAPABLE OF CAUSING ANAPHYLAXIS MAY BE PRESENT,
11 INCLUDING RECREATION CAMPS, COLLEGES AND UNIVERSITIES, DAY CARE FACILITIES,
12 YOUTH SPORTS LEAGUES, AMUSEMENT PARKS, RESTAURANTS, PLACES OF EMPLOYMENT AND
13 SPORTS ARENAS.
- 14 3. "EPINEPHRINE AUTO-INJECTOR" MEANS A SINGLE-USE DEVICE USED FOR THE
15 AUTOMATIC INJECTION OF A PREMEASURED DOSE OF EPINEPHRINE INTO THE HUMAN BODY.
- 16 4. "PRACTITIONER" HAS THE MEANING PRESCRIBED IN SECTION 32-1901.

APPROVED BY THE GOVERNOR MARCH 30, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2016.