

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

**CHAPTER 243**  
**HOUSE BILL 2549**

AN ACT

AMENDING SECTION 32-1401, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 14; AMENDING SECTION 32-1491, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 16; AMENDING SECTIONS 32-1501 AND 32-1581, ARIZONA REVISED STATUTES; AMENDING SECTION 32-1606, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 17; AMENDING SECTION 32-1854, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 20; AMENDING SECTION 32-1871, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 21; AMENDING SECTION 32-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 24; AMENDING SECTION 32-2532, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 25; AMENDING SECTION 32-3248.01, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 29; AMENDING SECTION 36-448.02, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 34; AMENDING SECTION 36-1161, ARIZONA REVISED STATUTES; RELATING TO CONTROLLED SUBSTANCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 32-1401, Arizona Revised Statutes, as amended by  
3 Laws 2018, first special session, chapter 1, section 14, is amended to  
4 read:

5 **32-1401. Definitions**

6 In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39      16. "Medical assistant" means an unlicensed person who meets the  
40 requirements of section 32-1456, has completed an education program  
41 approved by the board, assists in a medical practice under the supervision  
42 of a doctor of medicine, physician assistant or nurse practitioner and  
43 performs delegated procedures commensurate with the assistant's education  
44 and training but does not diagnose, interpret, design or modify

1 established treatment programs or perform any functions that would violate  
2 any statute applicable to the practice of medicine.

3       17. "Medically incompetent" means a person who the board determines  
4 is incompetent based on a variety of factors, including:

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

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

10       18. "Medical peer review" means:

11           (a) The participation by a doctor of medicine in the review and  
12 evaluation of the medical management of a patient and the use of resources  
13 for patient care.

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

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

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

21       21. "Physician" means a doctor of medicine who is licensed pursuant  
22 to this chapter.

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

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

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

42       25. "Teaching hospital's accredited graduate medical education  
43 program" means that the hospital is incorporated and has an internship,  
44 fellowship or residency training program that is accredited by the  
45 accreditation council for graduate medical education, the American medical

1 association, the association of American medical colleges, the royal  
2 college of physicians and surgeons of Canada or a similar body in the  
3 United States or Canada that is approved by the board and whose function  
4 is that of approving hospitals for internship, fellowship or residency  
5 training.

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

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

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

13 (b) Intentionally disclosing a professional secret or intentionally  
14 disclosing a privileged communication except as either act may otherwise  
15 be required by law.

16 (c) Committing false, fraudulent, deceptive or misleading  
17 advertising by a doctor of medicine or the doctor's staff, employer or  
18 representative.

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

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

24 (f) Exhibiting a pattern of using or being under the influence of  
25 alcohol or drugs or a similar substance while practicing medicine or to  
26 the extent that judgment may be impaired and the practice of medicine  
27 detrimentally affected.

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

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

32 (i) Prescribing, dispensing or administering schedule II controlled  
33 substances as defined in section 36-2513, including amphetamines and  
34 similar schedule II sympathomimetic drugs in the treatment of exogenous  
35 obesity for a period in excess of thirty days in any one year, or the  
36 nontherapeutic use of injectable amphetamines.

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

40 (k) Dispensing a schedule II controlled substance that is an  
41 opioid, EXCEPT AS PROVIDED IN SECTION 32-1491.

42 (l) Signing a blank, undated or predated prescription form.

43 (m) Committing conduct that the board determines is gross  
44 malpractice, repeated malpractice or any malpractice resulting in the  
45 death of a patient.

1       (n) Representing that a manifestly incurable disease or infirmity  
2 can be permanently cured, or that any disease, ailment or infirmity can be  
3 cured by a secret method, procedure, treatment, medicine or device, if  
4 this is not true.

5       (o) Refusing to divulge to the board on demand the means, method,  
6 procedure, modality of treatment or medicine used in the treatment of a  
7 disease, injury, ailment or infirmity.

8       (p) Having action taken against a doctor of medicine by another  
9 licensing or regulatory jurisdiction due to that doctor's mental or  
10 physical inability to engage safely in the practice of medicine or the  
11 doctor's medical incompetence or for unprofessional conduct as defined by  
12 that jurisdiction and that corresponds directly or indirectly to an act of  
13 unprofessional conduct prescribed by this paragraph. The action taken may  
14 include refusing, denying, revoking or suspending a license by that  
15 jurisdiction or a surrendering of a license to that jurisdiction,  
16 otherwise limiting, restricting or monitoring a licensee by that  
17 jurisdiction or placing a licensee on probation by that jurisdiction.

18       (q) Having sanctions imposed by an agency of the federal  
19 government, including restricting, suspending, limiting or removing a  
20 person from the practice of medicine or restricting that person's ability  
21 to obtain financial remuneration.

22       (r) Committing any conduct or practice that is or might be harmful  
23 or dangerous to the health of the patient or the public.

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

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

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

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

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

42       (x) Charging or collecting a clearly excessive fee. In determining  
43 whether a fee is clearly excessive, the board shall consider the fee or  
44 range of fees customarily charged in this state for similar services in  
45 light of modifying factors such as the time required, the complexity of

1 the service and the skill requisite to perform the service properly. This  
2 subdivision does not apply if there is a clear written contract for a  
3 fixed fee between the physician and the patient that has been entered into  
4 before the provision of the service.

5 (y) Committing conduct that is in violation of section 36-2302.

6 (z) Using experimental forms of diagnosis and treatment without  
7 adequate informed patient consent, and without conforming to generally  
8 accepted experimental criteria, including protocols, detailed records,  
9 periodic analysis of results and periodic review by a medical peer review  
10 committee as approved by the United States food and drug administration or  
11 its successor agency.

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

18 (i) Engaging in or soliciting sexual relationships, whether  
19 consensual or nonconsensual.

20 (ii) Making sexual advances, requesting sexual favors or engaging  
21 in any other verbal conduct or physical contact of a sexual nature.

22 (iii) Intentionally viewing a completely or partially disrobed  
23 patient in the course of treatment if the viewing is not related to  
24 patient diagnosis or treatment under current practice standards.

25 (bb) Procuring or attempting to procure a license to practice  
26 medicine or a license renewal by fraud, by misrepresentation or by  
27 knowingly taking advantage of the mistake of another person or an agency.

28 (cc) Representing or claiming to be a medical specialist if this is  
29 not true.

30 (dd) Maintaining a professional connection with or lending one's  
31 name to enhance or continue the activities of an illegal practitioner of  
32 medicine.

33 (ee) Failing to furnish information in a timely manner to the board  
34 or the board's investigators or representatives if legally requested by  
35 the board.

36 (ff) Failing to allow properly authorized board personnel on demand  
37 to examine and have access to documents, reports and records maintained by  
38 the physician that relate to the physician's medical practice or medically  
39 related activities.

40 (gg) Knowingly failing to disclose to a patient on a form that is  
41 prescribed by the board and that is dated and signed by the patient or  
42 guardian acknowledging that the patient or guardian has read and  
43 understands that the doctor has a direct financial interest in a separate  
44 diagnostic or treatment agency or in nonroutine goods or services that the  
45 patient is being prescribed if the prescribed treatment, goods or services

1 are available on a competitive basis. This subdivision does not apply to  
2 a referral by one doctor of medicine to another doctor of medicine within  
3 a group of doctors of medicine practicing together.

4 (hh) Using chelation therapy in the treatment of arteriosclerosis  
5 or as any other form of therapy, with the exception of treatment of heavy  
6 metal poisoning, without:

7 (i) Adequate informed patient consent.  
8 (ii) Conforming to generally accepted experimental criteria,  
9 including protocols, detailed records, periodic analysis of results and  
10 periodic review by a medical peer review committee.

11 (iii) Approval by the United States food and drug administration or  
12 its successor agency.

13 (ii) Prescribing, dispensing or administering anabolic-androgenic  
14 steroids to a person for other than therapeutic purposes.

15 (jj) Exhibiting a lack of or inappropriate direction, collaboration  
16 or direct supervision of a medical assistant or a licensed, certified or  
17 registered health care provider employed by, supervised by or assigned to  
18 the physician.

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

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

24 (mm) Committing conduct that the board determines is gross  
25 negligence, repeated negligence or negligence resulting in harm to or the  
26 death of a patient.

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

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

36 (pp) Failing to report in writing to the Arizona medical board or  
37 the Arizona regulatory board of physician assistants any evidence that a  
38 doctor of medicine or a physician assistant is or may be medically  
39 incompetent, guilty of unprofessional conduct or mentally or physically  
40 unable to safely practice medicine or to perform as a physician assistant.

41 (qq) As a physician who is the chief executive officer, the medical  
42 director or the medical chief of staff of a health care institution,  
43 failing to report in writing to the board that the hospital privileges of  
44 a doctor of medicine have been denied, revoked, suspended, supervised or  
45 limited because of actions by the doctor that appear to show that the

1 doctor is or may be medically incompetent, is or may be guilty of  
2 unprofessional conduct or is or may be unable to engage safely in the  
3 practice of medicine.

4 (rr) Claiming to be a current member of the board or its staff or a  
5 board medical consultant if this is not true.

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

15 (tt) Prescribing, dispensing or furnishing a prescription  
16 medication or a prescription-only device as defined in section 32-1901 to  
17 a person unless the licensee first conducts a physical or mental health  
18 status examination of that person or has previously established a  
19 doctor-patient relationship. The physical or mental health status  
20 examination may be conducted during a real-time telemedicine encounter  
21 with audio and video capability, unless the examination is for the purpose  
22 of obtaining a written certification from the physician for the purposes  
23 of title 36, chapter 28.1. This subdivision does not apply to:

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

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

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

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

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

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

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

(ix) 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 or 36-2266.

11 (uu) Performing office based surgery using sedation in violation of  
12 board rules.

13 (vv) Practicing medicine under a false or assumed name in this  
14 state.

15 Sec. 2. Section 32-1491, Arizona Revised Statutes, as amended by  
16 Laws 2018, first special session, chapter 1, section 16, is amended to  
17 read:

32-1491. Dispensing of drugs and devices: exception: civil penalty: conditions: definition

20           A. Except as provided in subsection B of this section, a doctor of  
21 medicine may dispense drugs and devices kept by the doctor if:

22           1. All drugs are dispensed in packages labeled with the following  
23 information:

24 (a) The dispensing doctor's name, address and telephone number.  
25 (b) The date the drug is dispensed.  
26 (c) The patient's name.

27 (d) The name and strength of the drug, directions for its use and  
28 any cautionary statements.

29           2. The dispensing doctor enters into the patient's medical record  
30 the name and strength of the drug dispensed, the date the drug is  
31 dispensed and the therapeutic reason.

32           3. The dispensing doctor keeps all drugs in a locked cabinet or  
33 room, controls access to the cabinet or room by a written procedure and  
34 maintains an ongoing inventory of its contents.

35           4. The doctor registers with the board to dispense drugs and  
36 devices and pays the registration fee prescribed by section 32-1436.

37           B. A doctor of medicine may not dispense a schedule II controlled  
38 substance that is an opioid, except for **AN IMPLANTABLE DEVICE OR** an opioid  
39 that is for medication-assisted treatment for substance use disorders.

40 C. Except in an emergency situation, a doctor who dispenses drugs  
41 without being registered by the board to do so is subject to a civil  
42 penalty by the board of not less than three hundred dollars and not more  
43 than one thousand dollars for each transaction and is prohibited from  
44 further dispensing for a period of time as prescribed by the board.

1       D. Before a physician dispenses a drug pursuant to this section,  
2 the physician shall give the patient a prescription and inform the patient  
3 that the prescription may be filled by the prescribing physician or by a  
4 pharmacy of the patient's choice.

5       E. A doctor shall dispense only to the doctor's own patient and  
6 only for conditions being treated by that doctor. The doctor shall  
7 provide direct supervision of a medical assistant, nurse or attendant  
8 involved in the dispensing process. For the purposes of this subsection,  
9 "direct supervision" means that a doctor is present and makes the  
10 determination as to the legitimacy or the advisability of the drugs or  
11 devices to be dispensed.

12      F. This section shall be enforced by the board, which shall  
13 establish rules regarding labeling, recordkeeping, storage and packaging  
14 of drugs that are consistent with the requirements of chapter 18 of this  
15 title. The board may conduct periodic reviews of dispensing practices to  
16 ensure compliance with this section and applicable rules.

17      G. For the purposes of this section, "dispense" means the delivery  
18 by a doctor of medicine of a prescription drug or device to a patient,  
19 except for samples packaged for individual use by licensed manufacturers  
20 or repackagers of drugs, and includes the prescribing, administering,  
21 packaging, labeling and security necessary to prepare and safeguard the  
22 drug or device for delivery.

23      Sec. 3. Section 32-1501, Arizona Revised Statutes, is amended to  
24 read:

25      32-1501. Definitions

26      In this chapter, unless the context otherwise requires:

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

30      2. "Active license" means a current valid license to practice  
31 naturopathic medicine.

32      3. "Adequate medical records" means legible medical records  
33 containing, at a minimum, sufficient information to identify the patient,  
34 support the diagnosis, describe the treatment, accurately document the  
35 results, indicate advice and cautionary warning provided to the patient  
36 and provide sufficient information for a similarly qualified practitioner  
37 to assume continuity of the patient's care at any point in the course of  
38 treatment.

39      4. "Approved clinical training program" or "clinical training  
40 program" means a program for naturopathic medical students in which the  
41 training occurred or is being conducted by or in conjunction with an  
42 approved school of naturopathic medicine.

43      5. "Approved internship program" or "internship" means that the  
44 program in which the training occurred or is being conducted has been  
45 approved for internship training for physicians or for graduates of a

1 school of naturopathic medicine by the board or was approved or accredited  
2 by an educational or professional association recognized by the board or  
3 by another state's or country's licensing agency recognized by the board.

4 6. "Approved postdoctoral training" or "postdoctoral training"  
5 means that the program in which the training occurred or is being  
6 conducted has been approved for specialty training or for graduate medical  
7 education in naturopathic medicine by the board or approved or accredited  
8 by an educational or professional association recognized by the board or  
9 by another state's or country's licensing agency recognized by the board.

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

16 8. "Approved school of naturopathic medicine" or "school of  
17 naturopathic medicine" means a school or college determined by the board  
18 to have an educational program that meets standards prescribed by the  
19 council on naturopathic medical education, or its successor agency, and  
20 that offers a course of study that, on successful completion, results in  
21 the awarding of the degree of doctor of naturopathic medicine and whose  
22 course of study is either of the following:

23 (a) Accredited or a candidate for accreditation by an accrediting  
24 agency recognized by the United States secretary of education as a  
25 specialized accrediting agency for schools of naturopathic medicine or its  
26 successor.

27 (b) Accredited or a candidate for accreditation by an accrediting  
28 agency recognized by the council for higher education accreditation or its  
29 successor.

30 9. "Board" means the naturopathic physicians medical board.

31 10. "Chelation therapy" means an experimental medical therapy to  
32 restore cellular homeostasis through the use of intravenous, metal-binding  
33 and bioinorganic agents such as ethylene diamine tetraacetic acid.  
34 Chelation therapy does not include experimental therapy used to treat  
35 heavy metal poisoning.

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

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

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

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

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

4       14. "Doctor of naturopathic medicine" or "doctor" means a natural  
5 person **WHO IS** licensed to practice naturopathic medicine under this  
6 chapter.

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

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

10           (i) Vitamins, chelation therapy and drugs used in emergency  
11 resuscitation and stabilization.

12           (ii) Minerals.

13           (iii) Nutrients. For the purposes of this item, "nutrient" means a  
14 substance that provides nourishment for growth or metabolism and that is  
15 manufactured and supplied for intravenous use by a manufacturer registered  
16 with the United States food and drug administration or compounded by a  
17 pharmacy licensed by the **ARIZONA** state board of pharmacy.

18           (b) Controlled substances listed as schedule I or II controlled  
19 substances as defined in the federal controlled substances act of 1970  
20 (21 United States Code section 802), except morphine, any drug that is  
21 reclassified from schedule III to schedule II after January 1, 2014 and  
22 any homeopathic preparations that are also controlled substances.

23           (c) Cancer chemotherapeutics classified as legend drugs.

24           (d) Antipsychotics.

25       16. "General supervision" means that the physician is available for  
26 consultation regarding procedures that the physician has authorized and  
27 for which the physician remains responsible.

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

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

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

44       20. "Limit" means taking a nondisciplinary action that alters the  
45 physician's practice or professional activities if the board determines

1 that there is evidence that the physician is or may be mentally or  
2 physically unable to safely engage in the practice of medicine.

3       21. "Medical assistant" or "naturopathic medical assistant" means a  
4 person who is certified by the board as a medical assistant, who assists a  
5 doctor of naturopathic medicine and who may perform delegated procedures  
6 that are commensurate with the assistant's education and training under  
7 the direct supervision of a doctor of naturopathic medicine and that do  
8 not include diagnosing, designing or modifying established treatment  
9 programs or those procedures prohibited by the board or by this chapter.

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

14      23. "Natural substance" means a homeopathic, botanical, nutritional  
15 or other supplement that does not require a prescription pursuant to  
16 federal law before it is prescribed, dispensed or otherwise furnished to a  
17 patient and that is prescribed by a physician **WHO IS** licensed pursuant to  
18 this chapter to enhance health, prevent disease or treat a medical  
19 condition diagnosed by the physician.

20      24. "Naturopathic medical student" means a person who is enrolled in  
21 a course of study at an approved school of naturopathic medicine.

22      25. "Naturopathic medicine" means medicine as taught in approved  
23 schools of naturopathic medicine and in clinical, internship,  
24 preceptorship and postdoctoral training programs approved by the board and  
25 practiced by a recipient of a degree of doctor of naturopathic medicine  
26 licensed pursuant to this chapter.

27      26. "Nurse" means a person **WHO IS** licensed pursuant to chapter 15 of  
28 this title.

29      27. "Physician" means a doctor of naturopathic medicine **WHO IS**  
30 licensed pursuant to this chapter.

31      28. "Practice of naturopathic medicine" means a medical system of  
32 diagnosing and treating diseases, injuries, ailments, infirmities and  
33 other conditions of the human mind and body, including by natural means,  
34 drugless methods, drugs, nonsurgical methods, devices, physical,  
35 electrical, hygienic and sanitary measures and all forms of physical  
36 agents and modalities.

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

41      30. "Specialist" means a physician who has successfully completed  
42 approved postdoctoral training, who is certified by a specialty board of  
43 examiners recognized by the board and who is certified by the board to  
44 practice the specialty pursuant to this chapter.

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

3       (a) Intentionally disclosing a professional secret or intentionally  
4 disclosing a privileged communication except as either of these may  
5 otherwise be required by law.

6       (b) **ENGAGING IN** any dishonorable conduct reflecting unfavorably on  
7 the profession.

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

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

14       (e) **ENGAGING IN** the illegal use of any narcotic or hypnotic drugs,  
15 or illegal substances.

16       (f) **ENGAGING IN** conduct that the board determines is gross  
17 malpractice, repeated malpractice or any malpractice resulting in the  
18 death of a patient.

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

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

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

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

29       (k) Representing that a manifestly incurable disease, injury,  
30 ailment or infirmity can be permanently cured, or falsely or fraudulently  
31 representing that a curable disease, injury, ailment or infirmity can be  
32 cured within a stated time.

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

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

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

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

44       (p) **ENGAGING IN** immorality or misconduct that tends to discredit  
45 the naturopathic profession.

1       (q) ~~Refusal, revocation or suspension of~~ HAVING a license REFUSED,  
2       REVOLED OR SUSPENDED by any other state, district or territory of the  
3       United States or any other country, unless it can be shown that this  
4       action was not due to reasons that relate to the ability to safely and  
5       skillfully practice as a doctor of naturopathic medicine or to any act of  
6       unprofessional conduct in this paragraph.

7       (r) **ENGAGING IN** any conduct or practice that is contrary to  
8       recognized standards of ethics of the naturopathic profession, any conduct  
9       or practice that does or might constitute a danger to the health, welfare  
10      or safety of the patient or the public, or any conduct, practice or  
11      condition that does or might impair the ability to safely and skillfully  
12      practice as a doctor of naturopathic medicine.

13      (s) ~~Failure~~ FAILING to observe any federal, state, county or  
14      municipal law relating to public health as a physician in this state.

15      (t) Violating or attempting to violate, directly or indirectly, or  
16      assisting in or abetting the violation of, or conspiring to violate this  
17      chapter or board rules.

18      (u) **COMMITTING** false, fraudulent, deceptive or misleading  
19      advertising or advertising the quality of a medical or health care service  
20      by a physician or by the physician's staff, employer or representative.

21      (v) Failing or refusing to maintain adequate medical records on a  
22      patient or failing or refusing to make medical records in the physician's  
23      possession promptly available to another physician or health care provider  
24      who is licensed pursuant to chapter 7, 8, 13, 15, 17 or 29 of this title  
25      on request and receipt of proper authorization to do so from the patient,  
26      a minor patient's parent, the patient's legal guardian or the patient's  
27      authorized representative or failing to comply with title 12, chapter 13,  
28      article 7.1.

29      (w) Referring a patient to a diagnostic or treatment facility or  
30      prescribing goods and services without disclosing in writing to the  
31      patient that the physician has a pecuniary interest in the facility, goods  
32      or services to which the patient is referred or prescribed. This  
33      subdivision does not apply to a referral by one physician or practitioner  
34      to another physician or practitioner within a group of physicians or  
35      practitioners practicing together.

36      (x) **ENGAGING IN** sexual intimacies with a patient in the course of  
37      direct treatment.

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

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

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

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

4       (cc) Failing to appropriately supervise a naturopathic medical  
5 student, a nurse, a medical assistant, a health care provider or a  
6 technician **WHO IS** employed by or assigned to the physician during the  
7 performance of delegated professional duties and responsibilities.

8       (dd) Using experimental forms of diagnosis or treatment without  
9 adequate informed consent of the patient or the patient's legal guardian  
10 and without conforming to experimental criteria, including protocols,  
11 detailed records, periodic analysis of results and periodic review by a  
12 medical peer review committee as approved by the **federal UNITED STATES**  
13 food and drug administration or its successor agency.

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

20       (ff) Failing to report in writing to the board evidence that a  
21 person **WHO IS** licensed, certified or registered pursuant to this chapter  
22 is or may be medically incompetent, guilty of unprofessional conduct or  
23 mentally or physically unable to safely practice or assist in the practice  
24 of naturopathic medicine.

25       (gg) Conducting or engaging in an internship, preceptorship or  
26 clinical training program in naturopathic medicine without being approved  
27 and registered by the board for that internship, preceptorship or clinical  
28 training program.

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

30       (ii) **ENGAGING IN** conduct that the board determines is gross  
31 negligence, repeated negligence or negligence resulting in harm or death  
32 to a patient.

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

36       (kk) The failure of a physician who is the chief medical officer,  
37 the executive officer or the chief of staff of an internship, a  
38 preceptorship or a clinical training program to report in writing to the  
39 board that the privileges of a doctor of naturopathic medicine, a  
40 naturopathic medical student or a medical assistant have been denied,  
41 limited, revoked or suspended because that doctor's, student's or  
42 assistant's actions appear to indicate that the person is or may be  
43 medically incompetent, is or may be guilty of unprofessional conduct or is  
44 or may be unable to safely engage or assist in the practice of  
45 naturopathic medicine.

1                   (11) **HAVING** action taken against a doctor of naturopathic medicine  
2 by a licensing or regulatory board in another jurisdiction due to that  
3 doctor's mental or physical inability to engage safely in the practice of  
4 naturopathic medicine or the doctor's medical incompetence or for  
5 unprofessional conduct as defined by that licensing or regulatory board  
6 and that corresponds directly or indirectly to an act of unprofessional  
7 conduct prescribed by this paragraph. The action taken may include  
8 refusing, denying, revoking or suspending a license, otherwise limiting,  
9 restricting or monitoring a licensee or placing a licensee on probation by  
10 that licensing or regulatory board.

11 (mm) HAVING sanctions imposed by an agency of the federal  
12 government, including restricting, suspending, limiting or removing a  
13 person from the practice of naturopathic medicine or restricting that  
14 person's ability to obtain financial remuneration.

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

17 (oo) Refusing to submit to a body fluid examination pursuant to a  
18 board investigation of alleged substance abuse by a doctor of naturopathic  
19 medicine.

20 (pp) Charging a fee for services not rendered or dividing a  
21 professional fee for patient referrals among health care providers or  
22 health care institutions or between these providers and institutions or a  
23 contractual arrangement that has this effect.

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

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

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

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

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

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

(ww) 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 examination of that person or has previously established a doctor-patient relationship. The physical examination may be conducted during a real-time telemedicine encounter with audio and video capability 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:

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

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

13                   (iii) Prescriptions written to prepare a patient for a medical  
14 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, a public health emergency, an infectious disease outbreak or an act of bioterrorism. For the purposes of this item, "bioterrorism" has the same meaning prescribed in section 36-781.

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

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

(xx) If medical treatment is considered experimental or investigational, failing to include in a patient's record a consent to treatment document that is signed by the patient or the patient's parent or legal guardian and that indicates that the patient or the patient's parent or legal guardian has been informed of the risk of any treatment to be provided and the expected cost of that treatment.

35 (yy) When issuing a written certification as defined in section  
36 36-2801, failing or refusing to include in the adequate medical records of  
37 a patient a copy of all of the following:

38 (i) The medical records relied on by the physician to support the  
39 diagnosis or confirmed diagnosis of the patient's debilitating medical  
40 condition.

41 (ii) The written certification.

42 (iii) The patient's profile on the Arizona board of pharmacy  
43 controlled substances prescription monitoring program database.

44 (zz) DISPENSING A SCHEDULE II CONTROLLED SUBSTANCE THAT IS AN  
45 OPIOID.

1        Sec. 4. Section 32-1581, Arizona Revised Statutes, is amended to  
2 read:

3        32-1581. Dispensing of natural substances, drugs and devices;  
4                    conditions; civil penalty; dispensing minerals;  
5                    rules; definitions

6        A. A doctor of naturopathic medicine may dispense a natural  
7 substance, A drug, EXCEPT A SCHEDULE II CONTROLLED SUBSTANCE THAT IS AN  
8 OPIOID, or A device to a patient for a condition THAT IS being diagnosed  
9 or treated by the doctor if:

10      1. The doctor is certified to dispense by the board and the  
11 certificate has not been suspended or revoked by the board.

12      2. The natural substance, drug or device is dispensed and properly  
13 labeled with the following dispenser information:

14      (a) The dispensing doctor's name, address and telephone number and  
15 a prescription number or other method of identifying the prescription.

16      (b) The date the natural substance, drug or device is dispensed.

17      (c) The patient's name.

18      (d) The name and strength of the natural substance, drug or device,  
19 directions for proper and appropriate use and any cautionary statements  
20 for the natural substance, drug or device. If a generic drug is  
21 dispensed, the manufacturer's name must be included.

22      3. The dispensing doctor enters into the patient's medical record  
23 the name and strength of the natural substance, drug or device dispensed,  
24 the date the natural substance, drug or device is dispensed and the  
25 therapeutic reason.

26      4. The dispensing doctor keeps all prescription-only drugs,  
27 controlled substances and prescription-only devices in a secured cabinet  
28 or room, controls access to the cabinet or room by a written procedure and  
29 maintains an ongoing inventory of its contents.

30      B. Except in an emergency, a doctor of naturopathic medicine who  
31 dispenses a natural substance, drug or device without being certified to  
32 dispense by the board is subject to a civil penalty by the board of not  
33 less than three hundred dollars and not more than one thousand dollars for  
34 each transaction and may be prohibited from further dispensing for a  
35 period of time as determined by the board.

36      C. Before dispensing a natural substance, drug or device pursuant  
37 to this section, the treating doctor shall give the patient or the  
38 patient's legal guardian a written prescription and must inform the  
39 patient or the patient's legal guardian that the prescription may be  
40 filled by the prescribing doctor or the pharmacy of the patient's choice.  
41 If the patient chooses to have the medication dispensed by the doctor, the  
42 doctor must retrieve the written prescription and place it in a  
43 prescription file kept by the doctor.

44      D. A doctor of naturopathic medicine shall provide direct  
45 supervision of a nurse or attendant involved in the dispensing process.

1 For the purposes of this subsection, "direct supervision" means that a  
2 doctor of naturopathic medicine is present and makes the determination as  
3 to the necessary use or the advisability of the natural substance, drug or  
4 device to be dispensed.

5 E. The board shall enforce this section. The board shall adopt  
6 rules regarding the dispensing of a natural substance, drug or device,  
7 including the labeling, ~~record keeping~~ RECORDKEEPING, storage and  
8 packaging of natural substances, that are consistent with the requirements  
9 of chapter 18 of this title. The board may conduct periodic inspections  
10 of dispensing practices to ~~assure~~ ENSURE compliance with this section and  
11 applicable rules.

12 F. This section does not prevent a licensed practical or  
13 professional nurse employed by a doctor of naturopathic medicine from  
14 assisting in the delivery of natural substances, drugs and devices in  
15 accordance with this chapter.

16 G. Before prescribing or dispensing a mineral to a patient, the  
17 treating physician shall perform necessary clinical examinations and  
18 laboratory tests to prevent toxicity due to the excessive intake of  
19 magnesium, calcium and other minerals. The board shall adopt rules  
20 necessary for the safe administration of minerals. These rules shall  
21 require prior certification of a physician who prescribes or dispenses  
22 minerals to a patient.

23 H. For the purposes of this section:

24 1. "Device" means an appliance, apparatus or instrument THAT IS  
25 administered or dispensed to a patient by a doctor of naturopathic  
26 medicine.

27 2. "Dispense" means the delivery by a doctor of naturopathic  
28 medicine of a natural substance, drug or device to a patient and only for  
29 a condition being diagnosed or treated by that doctor, except for free  
30 samples packaged for individual use by licensed manufacturers or  
31 repackagers, and includes the prescribing, administering, packaging,  
32 labeling and security necessary to prepare and safeguard the natural  
33 substance, drug or device for delivery to the treating doctor's own  
34 patient.

35 Sec. 5. Section 32-1606, Arizona Revised Statutes, as amended by  
36 Laws 2018, first special session, chapter 1, section 17, is amended to  
37 read:

38 32-1606. Powers and duties of board

39 A. The board may:

40 1. Adopt and revise rules necessary to carry into effect this  
41 chapter.

42 2. Publish advisory opinions regarding registered and practical  
43 nursing practice and nursing education.

1       3. Issue limited licenses or certificates if it determines that an  
2 applicant or licensee cannot function safely in a specific setting or  
3 within the full scope of practice.

4       4. Refer criminal violations of this chapter to the appropriate law  
5 enforcement agency.

6       5. Establish a confidential program for the monitoring of licensees  
7 who are chemically dependent and who enroll in rehabilitation programs  
8 that meet the criteria established by the board. The board may take  
9 further action if the licensee refuses to enter into a stipulated  
10 agreement or fails to comply with its terms. In order to protect the  
11 public health and safety, the confidentiality requirements of this  
12 paragraph do not apply if the licensee does not comply with the stipulated  
13 agreement.

14      6. On the applicant's or regulated party's request, establish a  
15 payment schedule with the applicant or regulated party.

16      7. Provide education regarding board functions.

17      8. Collect or assist in the collection of workforce data.

18      9. Adopt rules for conducting pilot programs consistent with public  
19 safety for innovative applications in nursing practice, education and  
20 regulation.

21      10. Grant retirement status on request to retired nurses who are or  
22 were licensed under this chapter, who have no open complaint or  
23 investigation pending against them and who are not subject to discipline.

24      11. Accept and spend federal monies and private grants, gifts,  
25 contributions and devises to assist in carrying out the purposes of this  
26 chapter. These monies do not revert to the state general fund at the end  
27 of the fiscal year.

28      B. The board shall:

29      1. Approve regulated training and educational programs that meet  
30 the requirements of this chapter and rules adopted by the board.

31      2. By rule, establish approval and reapproval processes for nursing  
32 and nursing assistant training programs that meet the requirements of this  
33 chapter and board rules.

34      3. Prepare and maintain a list of approved nursing programs for the  
35 preparation of registered and practical nurses whose graduates are  
36 eligible for licensing under this chapter as registered nurses or as  
37 practical nurses if they satisfy the other requirements of this chapter  
38 and board rules.

39      4. Examine qualified registered and practical nurse applicants.

40      5. License and renew the licenses of qualified registered and  
41 practical nurse applicants and licensed nursing assistants who are not  
42 qualified to be licensed by the executive director.

43      6. Adopt a seal, which the executive director shall keep.

44      7. Keep a record of all proceedings.

1       8. For proper cause, deny or rescind approval of a regulated  
2 training or educational program for failure to comply with this chapter or  
3 the rules of the board.

4       9. Adopt rules for the approval of credential evaluation services  
5 that evaluate the qualifications of applicants who graduated from an  
6 international nursing program.

7       10. Determine and administer appropriate disciplinary action  
8 against all regulated parties who are found guilty of violating this  
9 chapter or rules adopted by the board.

10      11. Perform functions necessary to carry out the requirements of  
11 nursing assistant and nurse aide training and competency evaluation  
12 program as set forth in the omnibus budget reconciliation act of 1987  
13 (P.L. 100-203; 101 Stat. 1330), as amended by the medicare catastrophic  
14 coverage act of 1988 (P.L. 100-360; 102 Stat. 683). These functions shall  
15 include:

16       (a) Testing and registration of certified nursing assistants.  
17       (b) Testing and licensing of licensed nursing assistants.  
18       (c) Maintaining a list of board-approved training programs.  
19       (d) Maintaining a registry of nursing assistants for all certified  
20 nursing assistants and licensed nursing assistants.  
21       (e) Assessing fees.

22      12. Adopt rules establishing those acts that may be performed by a  
23 registered nurse practitioner or certified nurse midwife, except that the  
24 board does not have authority to decide scope of practice relating to  
25 abortion as defined in section 36-2151.

26      13. Adopt rules that prohibit registered nurse practitioners or  
27 certified nurse midwives from dispensing a schedule II controlled  
28 substance that is an opioid, except for **AN IMPLANTABLE DEVICE OR** an opioid  
29 that is for medication-assisted treatment for substance use disorders.

30      14. Adopt rules establishing educational requirements for the  
31 certification of school nurses.

32      15. Publish copies of board rules and distribute these copies on  
33 request.

34      16. Require each applicant for initial licensure or certification  
35 to submit a full set of fingerprints to the board for the purpose of  
36 obtaining a state and federal criminal records check pursuant to section  
37 41-1750 and Public Law 92-544. The department of public safety may  
38 exchange this fingerprint data with the federal bureau of investigation.

39      17. Except for a licensee who has been convicted of a felony that  
40 has been designated a misdemeanor pursuant to section 13-604, revoke a  
41 license of a person, revoke the multistate licensure privilege of a person  
42 pursuant to section 32-1669 or not issue a license or renewal to an  
43 applicant who has one or more felony convictions and who has not received  
44 an absolute discharge from the sentences for all felony convictions three

1 or more years before the date of filing an application pursuant to this  
2 chapter.

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

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

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

12 21. Adopt rules to establish competency standards for obtaining and  
13 maintaining a license.

14 22. Adopt rules for the qualification and certification of clinical  
15 nurse specialists.

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

18 24. Maintain a list of approved medication assistant training  
19 programs.

20 25. Test and certify medication assistants.

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

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

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

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

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

35 Sec. 6. Section 32-1854, Arizona Revised Statutes, as amended by  
36 Laws 2018, first special session, chapter 1, section 20, is amended to  
37 read:

38 **32-1854. Definition of unprofessional conduct**

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

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

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

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

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

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

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

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

20 7. Impersonating another physician.

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

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

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

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

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

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

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

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

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

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

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

13       19. Committing any conduct or practice contrary to recognized  
14 standards of ethics of the osteopathic medical profession.

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

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

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

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

27       22. Using controlled substances or prescription-only drugs unless  
28 they are provided by a medical practitioner, as defined in section  
29 32-1901, as part of a lawful course of treatment.

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

33       24. Committing nontherapeutic use of injectable amphetamines.

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

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

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

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

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

6       29. Failing to allow properly authorized board personnel to have,  
7 on presentation of a subpoena, access to any documents, reports or records  
8 that are maintained by the physician and that relate to the physician's  
9 medical practice or medically related activities pursuant to section  
10 32-1855.01.

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

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

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

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

23       34. Exhibiting a lack of or inappropriate direction, collaboration  
24 or supervision of a licensed, certified or registered health care provider  
25 or office personnel employed by or assigned to the physician in the  
26 medical care of patients.

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

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

32       37. Dispensing a schedule II controlled substance that is an  
33 opioid, **EXCEPT AS PROVIDED IN SECTION 32-1871.**

34       38. Failing to dispense drugs and devices in compliance with  
35 article 4 of this chapter.

36       39. Committing any conduct or practice that endangers a patient's  
37 or the public's health or may reasonably be expected to do so.

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

41       41. With the exception of heavy metal poisoning, using chelation  
42 therapy in the treatment of arteriosclerosis or as any other form of  
43 therapy without adequate informed patient consent and without conforming  
44 to generally accepted experimental criteria, including protocols, detailed

1 records, periodic analysis of results and periodic review by a medical  
2 peer review committee.

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

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

11 (a) Engaging in or soliciting sexual relationships, whether  
12 consensual or nonconsensual.

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

15 44. Committing conduct that is in violation of section 36-2302.

16 45. Committing conduct that the board determines constitutes gross  
17 negligence, repeated negligence or negligence that results in harm or  
18 death of a patient.

19 46. Committing conduct in the practice of medicine that evidences  
20 moral unfitness to practice medicine.

21 47. Engaging in disruptive or abusive behavior in a professional  
22 setting.

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

30 (a) The licensee makes the disclosure on a form prescribed by the  
31 board.

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

35 49. Prescribing, dispensing or furnishing a prescription medication  
36 or a prescription-only device to a person if the licensee has not  
37 conducted a physical or mental health status examination of that person or  
38 has not previously established a physician-patient relationship. The  
39 physical or mental health status examination may be conducted during a  
40 real-time telemedicine encounter with audio and video capability, unless  
41 the examination is for the purpose of obtaining a written certification  
42 from the physician for the purposes of title 36, chapter 28.1. This  
43 paragraph does not apply to:

44 (a) Emergencies.

1       (b) A licensee who provides patient care on behalf of the patient's  
2 regular treating licensed health care professional or provides a  
3 consultation requested by the patient's regular treating licensed health  
4 care professional.

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

10      (d) Prescriptions for epinephrine auto-injectors written or  
11 dispensed for a school district or charter school to be stocked for  
12 emergency use pursuant to section 15-157 or for an authorized entity to be  
13 stocked pursuant to section 36-2226.01.

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

17      (f) Prescriptions for naloxone hydrochloride or any other opioid  
18 antagonist approved by the United States food and drug administration that  
19 are written or dispensed for use pursuant to section 36-2228 or 36-2266.

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

23      Sec. 7. Section 32-1871, Arizona Revised Statutes, as amended by  
24 Laws 2018, first special session, chapter 1, section 21, is amended to  
25 read:

26           32-1871. Dispensing of drugs and devices: conditions:  
27           exception; civil penalty

28      A. Except as provided in subsection B of this section, an  
29 osteopathic physician may dispense drugs and devices kept by the physician  
30 if:

31       1. All drugs are dispensed in packages labeled with the following  
32 information:

- 33       (a) The dispensing physician's name, address and telephone number.
- 34       (b) The date the drug is dispensed.
- 35       (c) The patient's name.

36       (d) The name and strength of the drug, directions for its use and  
37 any cautionary statements.

38       2. The dispensing physician enters into the patient's medical  
39 record the name and strength of the drug dispensed, the date the drug is  
40 dispensed and the therapeutic reason.

41       3. The dispensing physician keeps all drugs in a locked cabinet or  
42 room, controls access to the cabinet or room by a written procedure and  
43 maintains an ongoing inventory of its contents.

44       4. The dispensing physician annually registers with the board to  
45 dispense drugs and devices.

1       5. The dispensing physician pays the registration fee prescribed by  
2 the board pursuant to section 32-1826. This paragraph does not apply if  
3 the physician is dispensing in a nonprofit practice and neither the  
4 patient nor a third party pays or reimburses the physician or the  
5 nonprofit practice for the drugs or devices dispensed.

6       6. The dispensing physician labels dispensed drugs and devices and  
7 stores them according to rules adopted by the board.

8           B. An osteopathic physician may not dispense a schedule II  
9 controlled substance that is an opioid, except for **AN IMPLANTABLE DEVICE**  
10 **OR** an opioid that is for medication-assisted treatment for substance use  
11 disorders.

12           C. Except in an emergency situation, a physician who dispenses  
13 drugs without being registered by the board to do so is subject to a civil  
14 penalty by the board of not less than three hundred dollars and not more  
15 than one thousand dollars for each transaction and is prohibited from  
16 further dispensing for a period of time as prescribed by the board.

17           D. Before dispensing a drug pursuant to this section, the patient  
18 shall be given a written prescription on which appears the following  
19 statement in bold type: "This prescription may be filled by the  
20 prescribing physician or by a pharmacy of your choice."

21           E. A physician shall dispense only to the physician's patient and  
22 only for conditions being treated by that physician.

23           F. The board shall enforce this section and shall establish rules  
24 regarding labeling, recordkeeping, storage and packaging of drugs that are  
25 consistent with the requirements of chapter 18 of this title. The board  
26 may conduct periodic inspections of dispensing practices to ensure  
27 compliance with this section and applicable rules.

28           G. If a physician fails to renew a registration to dispense or  
29 ceases to dispense for any reason, within thirty days that physician must  
30 notify the board in writing of the remaining inventory of drugs and  
31 devices and the manner in which they were disposed.

32       Sec. 8. Section 32-2501, Arizona Revised Statutes, as amended by  
33 Laws 2018, first special session, chapter 1, section 24, is amended to  
34 read:

35           **32-2501. Definitions**

36       In this chapter, unless the context otherwise requires:

37           1. "Active license" means a regular license issued pursuant to this  
38 chapter.

39           2. "Adequate records" means legible medical records containing, at  
40 a minimum, sufficient information to identify the patient, support the  
41 diagnosis, justify the treatment, accurately document the results,  
42 indicate advice and cautionary warnings provided to the patient and  
43 provide sufficient information for another practitioner to assume  
44 continuity of the patient's care at any point in the course of treatment.

1       3. "Advisory letter" means a nondisciplinary letter to notify a  
2 physician assistant that either:

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

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

8       (c) While the licensee has demonstrated substantial compliance  
9 through rehabilitation or remediation that has mitigated the need for  
10 disciplinary action, the board believes that repetition of the activities  
11 that led to the investigation may result in further board action against  
12 the licensee.

13      4. "Approved program" means a physician assistant educational  
14 program accredited by the accreditation review commission on education for  
15 physician assistants, or one of its predecessor agencies, the committee on  
16 allied health education and accreditation or the commission on the  
17 accreditation of allied health educational programs.

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

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

23      7. "Immediate family" means the spouse, natural or adopted  
24 children, father, mother, brothers and sisters of the physician assistant  
25 and the natural or adopted children, father, mother, brothers and sisters  
26 of the physician assistant's spouse.

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

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

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

39      11. "Minor surgery" means those invasive procedures that may be  
40 delegated to a physician assistant by a supervising physician, that are  
41 consistent with the training and experience of the physician assistant,  
42 that are normally taught in courses of training approved by the board and  
43 that have been approved by the board as falling within a scope of practice  
44 of a physician assistant. Minor surgery does not include a surgical  
45 abortion.

12. "Physician" means a physician who is licensed pursuant to  
2 chapter 13 or 17 of this title.

13. "Physician assistant" means a person who is licensed pursuant  
4 to this chapter and who practices medicine with physician supervision.

14. "Regular license" means a valid and existing license that is  
6 issued pursuant to section 32-2521 to perform health care tasks.

15. "Restrict" means a disciplinary action that is taken by the  
8 board and that alters a physician assistant's practice or medical  
9 activities if there is evidence that the physician assistant is or may be  
10 medically incompetent or guilty of unprofessional conduct.

11. "Supervising physician" means a physician who holds a current  
12 unrestricted license, who supervises a physician assistant and who assumes  
13 legal responsibility for health care tasks performed by the physician  
14 assistant.

15. "Supervision" means a physician's opportunity or ability to  
16 provide or exercise direction and control over the services of a physician  
17 assistant. Supervision does not require a physician's constant physical  
18 presence if the supervising physician is or can be easily in contact with  
19 the physician assistant by telecommunication.

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

22. (a) Violating any federal or state law or rule that applies to the  
23 performance of health care tasks as a physician assistant. Conviction in  
24 any court of competent jurisdiction is conclusive evidence of a violation.

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

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

29. (d) Exhibiting habitual intemperance in the use of alcohol or  
30 habitual substance abuse.

31. (e) Signing a blank, undated or predicated prescription form.

32. (f) Committing gross malpractice, repeated malpractice or any  
33 malpractice resulting in the death of a patient.

34. (g) Representing that a manifestly incurable disease or infirmity  
35 can be permanently cured or that a disease, ailment or infirmity can be  
36 cured by a secret method, procedure, treatment, medicine or device, if  
37 this is not true.

38. (h) Refusing to divulge to the board on demand the means, method,  
39 procedure, modality of treatment or medicine used in the treatment of a  
40 disease, injury, ailment or infirmity.

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

44. (j) Committing any conduct or practice that is or might be harmful  
45 or dangerous to the health of a patient or the public.

(k) Violating a formal order, probation or stipulation issued by the board.

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

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

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

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

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

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

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

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

(t) Dispensing a schedule II controlled substance that is an opioid, EXCEPT AS PROVIDED IN SECTION 32-2532.

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

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

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

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

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

(z) Using the term "doctor" or the abbreviation "Dr." on a name tag or in a way that leads the public to believe that the physician assistant

1 is licensed to practice as an allopathic or an osteopathic physician in  
2 this state.

3 (aa) Failing to furnish legally requested information to the board  
4 or its investigator in a timely manner.

5 (bb) Failing to allow properly authorized board personnel to  
6 examine on demand documents, reports and records of any kind relating to  
7 the physician assistant's performance of health care tasks.

8 (cc) Knowingly making a false or misleading statement on a form  
9 required by the board or in written correspondence or attachments  
10 furnished to the board.

11 (dd) Failing to submit to a body fluid examination and other  
12 examinations known to detect the presence of alcohol or other drugs  
13 pursuant to an agreement with the board or an order of the board.

14 (ee) Violating a formal order, probation agreement or stipulation  
15 issued or entered into by the board or its executive director.

16 (ff) Except as otherwise required by law, intentionally betraying a  
17 professional secret or intentionally violating a privileged  
18 communication.

19 (gg) Allowing the use of the licensee's name in any way to enhance  
20 or permit the continuance of the activities of, or maintaining a  
21 professional connection with, an illegal practitioner of medicine or the  
22 performance of health care tasks by a person who is not licensed pursuant  
23 to this chapter.

24 (hh) Committing false, fraudulent, deceptive or misleading  
25 advertising by a physician assistant or the physician assistant's staff or  
26 representative.

27 (ii) Knowingly failing to disclose to a patient on a form that is  
28 prescribed by the board and that is dated and signed by the patient or  
29 guardian acknowledging that the patient or guardian has read and  
30 understands that the licensee has a direct financial interest in a  
31 separate diagnostic or treatment agency or in nonroutine goods or services  
32 that the patient is being prescribed and if the prescribed treatment,  
33 goods or services are available on a competitive basis. This subdivision  
34 does not apply to a referral by one physician assistant to another  
35 physician assistant or to a doctor of medicine or a doctor of osteopathic  
36 medicine within a group working together.

37 (jj) With the exception of heavy metal poisoning, using chelation  
38 therapy in the treatment of arteriosclerosis or as any other form of  
39 therapy without adequate informed patient consent or without conforming to  
40 generally accepted experimental criteria including protocols, detailed  
41 records, periodic analysis of results and periodic review by a medical  
42 peer review committee, or without approval by the United States food and  
43 drug administration or its successor agency.

44 (kk) Prescribing, dispensing or administering anabolic or  
45 androgenic steroids for other than therapeutic purposes.

(11) 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 examination of that person or has previously established a professional relationship with the person. This subdivision does not apply to:

(i) A physician assistant who provides temporary patient care on behalf of 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 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 assistant.

(mm) 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 professional 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 other verbal conduct or physical contact of a sexual nature with a patient.

(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.

(nn) Performing health care tasks under a false or assumed name in this state.

Sec. 9. Section 32-2532, Arizona Revised Statutes, as amended by Laws 2018, first special session, chapter 1, section 25, is amended to read:

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

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

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

1       2. A schedule IV or schedule V controlled substance as defined in  
2 the federal controlled substances act of 1970 without United States drug  
3 enforcement administration registration and delegation by the supervising  
4 physician.

5       3. Prescription-only medication without delegation by the  
6 supervising physician.

7       4. Prescription medication intended to perform or induce an  
8 abortion.

9       B. All prescription orders issued by a physician assistant shall  
10 contain the name, address and telephone number of the supervising  
11 physician. A physician assistant shall issue prescription orders for  
12 controlled substances under the physician assistant's own United States  
13 drug enforcement administration registration number.

14       C. Unless certified for thirty-day prescription privileges pursuant  
15 to section 32-2504, subsection A, a physician assistant shall not  
16 prescribe a schedule II or schedule III controlled substance for a period  
17 exceeding seventy-two hours. For each schedule IV or schedule V  
18 controlled substance, a physician assistant may not prescribe the  
19 controlled substance more than five times in a six-month period for each  
20 patient.

21       D. A prescription for a schedule II or III controlled substance is  
22 not refillable without the written consent of the supervising physician.

23       E. Prescription-only drugs shall not be dispensed, prescribed or  
24 refillable for a period exceeding one year.

25       F. Except in an emergency, a physician assistant may dispense  
26 schedule II or schedule III controlled substances for a period of use of  
27 not to exceed seventy-two hours with board approval or any other  
28 controlled substance for a period of use of not to exceed thirty-four days  
29 and may administer controlled substances without board approval if it is  
30 medically indicated in an emergency dealing with potential loss of life or  
31 limb or major acute traumatic pain. Notwithstanding the authority granted  
32 in this subsection, a physician assistant may not dispense a schedule II  
33 controlled substance that is an opioid, except for **AN IMPLANTABLE DEVICE**  
34 **OR** an opioid that is for medication-assisted treatment for substance use  
35 disorders.

36       G. Except for samples provided by manufacturers, all drugs  
37 dispensed by a physician assistant shall be:

38       1. Prepackaged in a unit-of-use package by the supervising  
39 physician or a pharmacist acting on a written order of the supervising  
40 physician.

41       2. Labeled to show the name of the supervising physician and  
42 physician assistant.

43       H. A physician assistant shall not obtain a drug from any source  
44 other than the supervising physician or a pharmacist acting on a written

1 order of the supervising physician. A physician assistant may receive  
2 manufacturers' samples if allowed to do so by the supervising physician.

3 I. If a physician assistant is approved by the board to prescribe,  
4 administer or dispense schedule II and schedule III controlled substances,  
5 the physician assistant shall maintain an up-to-date and complete log of  
6 all schedule II and schedule III controlled substances the physician  
7 assistant administers or dispenses. The board may not grant a physician  
8 assistant the authority to dispense schedule II controlled substances that  
9 are opioids, except for **IMPLANTABLE DEVICES OR** opioids that are for  
10 medication-assisted treatment for substance use disorders.

11 J. The board shall advise the Arizona state board of pharmacy and  
12 the United States drug enforcement administration of all physician  
13 assistants who are authorized to prescribe or dispense drugs and any  
14 modification of their authority.

15 K. The Arizona state board of pharmacy shall notify all pharmacies  
16 at least quarterly of physician assistants who are authorized to prescribe  
17 or dispense drugs.

18 Sec. 10. Section 32-3248.01, Arizona Revised Statutes, as added by  
19 Laws 2018, first special session, chapter 1, section 29, is amended to  
20 read:

21 **32-3248.01. Schedule II controlled substances: dosage limit;**  
22 **exceptions; morphine; opioid antagonist**

23 A. A health professional who is authorized under this title to  
24 prescribe controlled substances may not issue a new prescription **order TO**  
25 **BE FILLED OR DISPENSED FOR A PATIENT OUTSIDE OF A HEALTH CARE INSTITUTION**  
26 for a schedule II controlled substance that is an opioid that exceeds  
27 ninety morphine milligram equivalents per day.

28 B. The limit prescribed by subsection A of this section does not  
29 apply to:

30 1. A continuation of a prior prescription **order** that was issued  
31 within the previous sixty days.

32 2. An opioid with a maximum approved total daily dose in the  
33 labeling as approved by the United States food and drug administration.

34 3. **A PRESCRIPTION THAT IS ISSUED FOLLOWING A SURGICAL PROCEDURE AND**  
35 **THAT IS LIMITED TO NOT MORE THAN A FOURTEEN-DAY SUPPLY.**

36 **3. 4. A patient who:**

37 (a) Has an active oncology diagnosis.

38 (b) Has a traumatic injury, not including a surgical procedure.

39 (c) Is receiving hospice care.

40 (d) Is receiving end-of-life care.

41 (e) Is receiving palliative care.

42 (f) Is receiving skilled nursing facility care.

43 (g) Is receiving treatment for burns.

44 (h) Is receiving medication-assisted treatment for a substance use  
45 disorder.

(i) Is hospitalized.

2       C. If a health professional believes that a patient requires more  
3       than ninety morphine milligram equivalents per day and the patient is not  
4       exempt from the limit pursuant to subsection B of this section, the health  
5       professional shall first consult with a physician who is licensed pursuant  
6       to chapter 13 or 17 of this title and who is board-certified in pain, OR  
7       AN OPIOID ASSISTANCE AND REFERRAL CALL SERVICE, IF AVAILABLE, THAT IS  
8       DESIGNATED BY THE DEPARTMENT OF HEALTH SERVICES. The consultation may be  
9       done by telephone or through telemedicine. IF THE OPIOID CALL SERVICE  
10      AGREES WITH THE HIGHER DOSE, THE HEALTH PROFESSIONAL MAY ISSUE A  
11      PRESCRIPTION FOR MORE THAN NINETY MORPHINE MILLIGRAM EQUIVALENTS PER DAY.  
12      IF THE CONSULTING PHYSICIAN AGREES WITH THE HIGHER DOSE, THE HEALTH  
13      PROFESSIONAL MAY ISSUE A PRESCRIPTION FOR MORE THAN NINETY MORPHINE  
14      MILLIGRAM EQUIVALENTS PER DAY. If the consulting physician is not  
15      available to consult within forty-eight hours after the request, the  
16      health professional may prescribe the amount that the health professional  
17      believes the patient requires and subsequently have the consultation. If  
18      the health professional is a physician who is licensed pursuant to chapter  
19      13 or 17 of this title and is board-certified in pain, the health  
20      professional may issue a prescription **order** for more than ninety morphine  
21      milligram equivalents per day without a consultation under this  
22      subsection.

23       D. If a patient is prescribed more than ninety morphine milligram  
24 equivalents per day pursuant to subsection B or C of this section, the  
25 prescribing health professional shall also prescribe for the patient  
26 naloxone hydrochloride or any other opioid antagonist that is approved by  
27 the United States food and drug administration for the treatment of  
28 opioid-related overdoses.

~~E. For the purposes of this section, "prescription order" has the same meaning prescribed in section 32-1901.~~

Sec. 11. Section 36-448.02, Arizona Revised Statutes, as added by Laws 2018, first special session, chapter 1, section 34, is amended to read:

## 36-448.02. Pain management clinics; licensure requirements; rules

36           A. Beginning January 1, 2019, a pain management clinic shall meet  
37 the same licensure requirements as prescribed in article 2 of this chapter  
38 for health care institutions. At the time of licensure, a pain management  
39 clinic shall submit to the director all documentation required by this  
40 article.

41                   B. The department shall adopt rules that prescribe the following  
42 for pain management clinics:

1. Informed consent requirements.
2. The responsibilities of the medical director.
3. Record maintenance.

1       4. Reporting requirements.

2       5. Physical examination requirements.

3           C. WITHIN SIXTY DAYS AFTER A HEALTH CARE INSTITUTION OR A PRIVATE  
4 OFFICE OR CLINIC OF A HEALTH CARE PROVIDER THAT IS LICENSED PURSUANT TO  
5 TITLE 32 MEETS THE DEFINITION OF PAIN MANAGEMENT CLINIC, THE HEALTH CARE  
6 INSTITUTION OR PRIVATE OFFICE OR CLINIC SHALL APPLY FOR LICENSURE PURSUANT  
7 TO THIS SECTION.

8           ~~C.~~ D. Each pain management clinic shall:

9           1. On or before each anniversary of the issue date of the pain  
10 management clinic's license, submit to the director all documentation  
11 required by this article.

12           2. Comply with all department rules that govern pain management  
13 clinics.

14           3. Have a medical director who is a physician licensed pursuant to  
15 title 32, chapter 13 or 17 and who is under an unrestricted and  
16 unencumbered license ~~OR A REGISTERED NURSE PRACTITIONER WHO IS LICENSED~~  
~~PURSUANT TO TITLE 32, CHAPTER 15, WHO HAS ADVANCED PAIN CERTIFICATION FROM~~  
~~A NATIONALLY RECOGNIZED ACCREDITATION OR CERTIFICATION ENTITY AND WHO IS~~  
~~UNDER AN UNRESTRICTED AND UNENCUMBERED LICENSE.~~

20           Sec. 12. Section 36-1161, Arizona Revised Statutes, is amended to  
21 read:

22           36-1161. Poison and drug information centers and Arizona  
23                   poison control system established; staff;  
24                   functions

25           A. The department of health services shall establish the Arizona  
26 poison control system consisting of the following two poison control  
27 centers:

28           1. The Arizona poison and drug information center. This center  
29 shall be located at and affiliated with the university of Arizona college  
30 of pharmacy, shall serve the needs of citizens in all counties outside of  
31 Maricopa county and shall be affiliated with the toxicology training  
32 programs of the Arizona health sciences center.

33           2. A poison and drug information center that shall serve the needs  
34 of citizens of Maricopa county and that shall be located in Maricopa  
35 county. This center shall be separate from the center specified in  
36 paragraph 1 of this subsection, shall be privately operated and shall be  
37 affiliated with an accredited medical toxicology fellowship postgraduate  
38 training program for physicians.

39           B. The Arizona poison control system shall provide comprehensive  
40 poison and drug information and management of poisoned persons.

41           C. Each poison control center shall employ a full-time staff,  
42 including a clinical or medical toxicologist and poison and drug  
43 information specialists and treatment consultants.

44           D. Each poison control center shall assume responsibility for the  
45 following functions in its respective region:

- 1       1. Poison prevention.
- 2       2. Data collection.
- 3       3. Education.
- 4       4. Management of poisoned persons.
- 5       5. Drug information services.

6       E. THE ARIZONA POISON CONTROL SYSTEM MAY PROVIDE OPIOID ASSISTANCE  
7 AND REFERRAL RESOURCES THROUGH A TOLL-FREE TELEPHONE SERVICE FOR ALL  
8 COMMUNITIES IN THIS STATE.

9       Sec. 13. Retroactivity

10     Sections 32-1401, 32-1491, 32-1606, 32-1854, 32-1871, 32-2501,  
11 32-2532 and 32-3248.01, Arizona Revised Statutes, as amended by this act,  
12 apply retroactively to from and after April 25, 2018.

APPROVED BY THE GOVERNOR APRIL 17, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2018.