

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

HOUSE BILL 2250

AN ACT

AMENDING SECTION 32-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 24; AMENDING SECTION 32-2504, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2532, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 25; RELATING TO THE ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-2501, Arizona Revised Statutes, as amended by
3 Laws 2018, first special session, chapter 1, section 24, is amended to
4 read:

5 **32-2501. Definitions**

6 In this chapter, unless the context otherwise requires:

7 1. "Active license" means a regular license issued pursuant to this
8 chapter.

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

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

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

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

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

27 4. "Approved program" means a physician assistant educational
28 program accredited by the accreditation review commission on education for
29 physician assistants, or one of its predecessor agencies, the committee on
30 allied health education and accreditation or the commission on the
31 accreditation of allied health educational programs.

32 5. "Board" means the Arizona regulatory board of physician
33 assistants.

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

37 7. "Immediate family" means the spouse, natural or adopted
38 children, father, mother, brothers and sisters of the physician assistant
39 and the natural or adopted children, father, mother, brothers and sisters
40 of the physician assistant's spouse.

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

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

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

9 11. "Minor surgery" means those invasive procedures that may be
10 delegated to a physician assistant by a supervising physician, that are
11 consistent with the training and experience of the physician assistant,
12 that are normally taught in courses of training approved by the board and
13 that have been approved by the board as falling within a scope of practice
14 of a physician assistant. Minor surgery does not include a surgical
15 abortion.

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

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

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

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

26 16. "Supervising physician" means a physician who holds a current
27 unrestricted license, who supervises a physician assistant and who assumes
28 legal responsibility for health care tasks performed by the physician
29 assistant.

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

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

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

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

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

44 (d) ~~Exhibiting habitual intemperance in the use of alcohol or
45 habitual substance abuse.~~

(d) EXHIBITING A PATTERN OF USING OR BEING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS OR A SIMILAR SUBSTANCE WHILE PERFORMING HEALTH CARE TASKS OR TO THE EXTENT THAT JUDGMENT MAY BE IMPAIRED AND THE ABILITY TO PERFORM HEALTH CARE TASKS DETERIMENTALLY AFFECTED.

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

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

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

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

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

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

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

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

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

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

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

33 (q) Using controlled substances that have not been prescribed by

34 physician, physician assistant, dentist or nurse practitioner for use
35 during a prescribed course of treatment.

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

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

41 (t) Dispensing a schedule II controlled substance that is an
42 opioid.

43 (u) Knowingly making any written or oral false or fraudulent
44 statement in connection with the performance of health care tasks or when

1 applying for privileges or renewing an application for privileges at a
2 health care institution.

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

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

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

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

18 (z) Using the term "doctor" or the abbreviation "Dr." on a name tag
19 or in a way that leads the public to believe that the physician assistant
20 is licensed to practice as an allopathic or an osteopathic physician in
21 this state.

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

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

27 (cc) Knowingly making a false or misleading statement on a form
28 required by the board or in written correspondence or attachments
29 furnished to the board.

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

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

35 (ff) Except as otherwise required by law, intentionally betraying a
36 professional secret or intentionally violating a privileged
37 communication.

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

43 (hh) Committing false, fraudulent, deceptive or misleading
44 advertising by a physician assistant or the physician assistant's staff or
45 representative.

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

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

20 (11) Prescribing, dispensing or furnishing a prescription
21 medication or a prescription-only device as defined in section 32-1901 to
22 a person unless the licensee first conducts a physical examination of that
23 person or has previously established a professional relationship with the
24 person. This subdivision does not apply to:

25 (i) A physician assistant who provides temporary patient care on
26 behalf of the patient's regular treating licensed health care
27 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 antimicrobials dispensed to a contact
32 as defined in section 36-661 who is believed to have had significant
33 exposure risk as defined in section 36-661 with another person who has
34 been diagnosed with a communicable disease as defined in section 36-661 by
35 the prescribing or dispensing physician assistant.

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

42 (i) Engaging in or soliciting sexual relationships, whether
43 consensual or nonconsensual.

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

9 Sec. 2. Section 32-2504, Arizona Revised Statutes, is amended to
0 read:

32-2504. Powers and duties; delegation of authority; rules; subcommittees; immunity

A. The board shall:

4 1. As its primary duty, protect the public from unlawful,
5 incompetent, unqualified, impaired or unprofessional physician assistants.

6 2. License and regulate physician assistants pursuant to this
7 chapter.

8 3. Order and evaluate physical, psychological, psychiatric and
9 competency testing of licensees and applicants the board determines is
0 necessary to enforce this chapter.

4. Review the credentials and the abilities of applicants for licensure whose professional records or physical or mental capabilities may not meet the requirements of this chapter.

4 5. Initiate investigations and determine on its own motion ~~if~~
5 **WHETHER** a licensee has engaged in unprofessional conduct or is or may be
6 incompetent or mentally or physically unable to safely perform health care
7 tasks.

6. Establish fees and penalties pursuant to section 32-2526.

7. Develop and recommend standards governing the profession.

8. Engage in the full exchange of information with the licensing and disciplinary boards and professional associations of other states and jurisdictions of the United States and foreign countries and a statewide association for physician assistants.

4 9. Direct the preparation and circulation of educational material
5 the board determines is helpful and proper for its licensees.

6 10. Discipline and rehabilitate physician assistants pursuant to
7 this chapter.

8 11. BEGINNING OCTOBER 1, 2018, certify physician assistants for
9 ~~thirty-day~~ NINETY-DAY prescription privileges for schedule II or schedule
0 III controlled substances THAT ARE NOT OPIOIDS OR BENZODIAZEPINE if the
1 physician assistant EITHER:

2 (a) Within the preceding three years of application, completed
3 forty-five hours in pharmacology or clinical management of drug therapy or
4 at the time of application is certified by a national commission on the
5 certification of physician assistants or its successor.

(b) Met any other requirement established by board rule.

B. THE BOARD MAY DELEGATE TO THE EXECUTIVE DIRECTOR THE BOARD'S AUTHORITY PURSUANT TO THIS SECTION OR SECTION 32-2551. THE BOARD SHALL ADOPT A SUBSTANTIVE POLICY STATEMENT PURSUANT TO SECTION 41-1091 FOR EACH SPECIFIC LICENSING AND REGULATORY AUTHORITY THE BOARD DELEGATES TO THE EXECUTIVE DIRECTOR.

B. C. The board may make and adopt rules necessary or proper for the administration of this chapter.

C. D. The chairperson may establish subcommittees consisting of board members and define their duties as the chairperson deems necessary to carry out the functions of the board.

E. Board employees, including the executive director, temporary personnel and professional medical investigators, are immune from civil liability for good faith actions they take to enforce this chapter.

F. In performing its duties pursuant to subsection A of this section, the board may receive and review staff reports on complaints, malpractice cases and all investigations.

F. The chairperson and vice-chairperson VICE CHAIRPERSON of the Arizona regulatory board of physician assistants are members of the committee on executive director selection and retention established by section 32-1403, subsection G, which is responsible for the appointment of the executive director pursuant to section 32-1405.

Sec. 3. 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.

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

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

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

B. All prescription orders issued by a physician assistant shall contain the name, address and telephone number of the supervising physician ASSISTANT. A physician assistant shall issue prescription

1 orders for controlled substances under the physician assistant's own
2 United States drug enforcement administration registration number.

3 C. Unless certified for ~~thirty-day~~ **NINETY-DAY** prescription
4 privileges pursuant to section 32-2504, subsection A, a physician
5 assistant shall not prescribe a schedule II or schedule III controlled
6 substance for a period exceeding seventy-two hours. For each schedule IV
7 or schedule V controlled substance, a physician assistant may not
8 prescribe the controlled substance more than five times in a six-month
9 period for each patient.

10 D. A prescription for a schedule II or III controlled substance
11 **THAT IS AN OPIOID OR BENZODIAZEPINE** is not refillable without the written
12 consent of the supervising physician.

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

15 F. Except in an emergency, a physician assistant may dispense
16 schedule II or schedule III controlled substances for a period of use of
17 not to exceed seventy-two hours with board approval or any other
18 controlled substance for a period of use of not to exceed ~~thirty-four~~
19 **NINETY** days and may administer controlled substances without board
20 approval if it is medically indicated in an emergency dealing with
21 potential loss of life or limb or major acute traumatic pain.
22 Notwithstanding the authority granted in this subsection, a physician
23 assistant may not dispense a schedule II controlled substance that is an
24 opioid, except for an opioid that is for medication-assisted treatment for
25 substance use disorders.

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

28 1. Prepackaged in a unit-of-use package by ~~the supervising~~
29 ~~physician or a pharmacist acting on a written order of the supervising~~
30 ~~physician~~.

31 2. Labeled to show the name of the ~~supervising physician~~ and
32 physician assistant.

33 H. A physician assistant shall not obtain a drug from any source
34 other than the supervising physician or a pharmacist ~~acting on a written~~
35 ~~order of the supervising physician~~. A physician assistant may receive
36 manufacturers' samples if ~~allowed~~ **DELEGATED** to do so by the supervising
37 physician.

38 I. If a physician assistant is approved by the board to prescribe,
39 administer or dispense schedule II and schedule III controlled substances,
40 the physician assistant shall maintain an up-to-date and complete log of
41 all schedule II and schedule III controlled substances the physician
42 assistant administers or dispenses. The board may not grant a physician
43 assistant the authority to dispense schedule II controlled substances that
44 are opioids, except for opioids that are for medication-assisted treatment
45 for substance use disorders.

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

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