

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

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.

1 (vii) Prescriptions for epinephrine auto-injectors written or
2 dispensed for a school district or charter school to be stocked for
3 emergency use pursuant to section 15-157 or for an authorized entity to be
4 stocked pursuant to section 36-2226.01.

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.

8 (ix) Prescriptions for naloxone hydrochloride or any other opioid
9 antagonist approved by the United States food and drug administration that
10 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:

18 32-1491. Dispensing of drugs and devices; exception; civil
19 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 REVOKED 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 (ll) 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.

1 (ww) Prescribing, dispensing or furnishing a prescription
2 medication or a prescription-only device as defined in section 32-1901 to
3 a person unless the licensee first conducts a physical examination of that
4 person or has previously established a doctor-patient relationship. The
5 physical examination may be conducted during a real-time telemedicine
6 encounter with audio and video capability unless the examination is for
7 the purpose of obtaining a written certification from the physician for
8 the purposes of title 36, chapter 28.1. This subdivision does not apply
9 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.

15 (iv) Prescriptions written or prescription medications issued for
16 use by a county or tribal public health department for immunization
17 programs or emergency treatment or in response to an infectious disease
18 investigation, a public health emergency, an infectious disease outbreak
19 or an act of bioterrorism. For the purposes of this item, "bioterrorism"
20 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.

29 (xx) If medical treatment is considered experimental or
30 investigational, failing to include in a patient's record a consent to
31 treatment document that is signed by the patient or the patient's parent
32 or legal guardian and that indicates that the patient or the patient's
33 parent or legal guardian has been informed of the risk of any treatment to
34 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.

- 1 12. "Physician" means a physician who is licensed pursuant to
2 chapter 13 or 17 of this title.
- 3 13. "Physician assistant" means a person who is licensed pursuant
4 to this chapter and who practices medicine with physician supervision.
- 5 14. "Regular license" means a valid and existing license that is
6 issued pursuant to section 32-2521 to perform health care tasks.
- 7 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 16. "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 17. "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 18. "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 predated 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.

- 1 (k) Violating a formal order, probation or stipulation issued by
2 the board.
- 3 (l) Failing to clearly disclose the person's identity as a
4 physician assistant in the course of the physician assistant's employment.
- 5 (m) Failing to use and affix the initials "P.A." or "P.A.-C." after
6 the physician assistant's name or signature on charts, prescriptions or
7 professional correspondence.
- 8 (n) Procuring or attempting to procure a physician assistant
9 license by fraud, misrepresentation or knowingly taking advantage of the
10 mistake of another.
- 11 (o) Having professional connection with or lending the physician
12 assistant's name to an illegal practitioner of any of the healing arts.
- 13 (p) Failing or refusing to maintain adequate records on a patient.
- 14 (q) Using controlled substances that have not been prescribed by a
15 physician, physician assistant, dentist or nurse practitioner for use
16 during a prescribed course of treatment.
- 17 (r) Prescribing or dispensing controlled substances to members of
18 the physician assistant's immediate family.
- 19 (s) Prescribing, dispensing or administering any controlled
20 substance or prescription-only drug for other than accepted therapeutic
21 purposes.
- 22 (t) Dispensing a schedule II controlled substance that is an
23 opioid, **EXCEPT AS PROVIDED IN SECTION 32-2532.**
- 24 (u) Knowingly making any written or oral false or fraudulent
25 statement in connection with the performance of health care tasks or when
26 applying for privileges or renewing an application for privileges at a
27 health care institution.
- 28 (v) Committing a felony, whether or not involving moral turpitude,
29 or a misdemeanor involving moral turpitude. In either case, conviction by
30 a court of competent jurisdiction or a plea of no contest is conclusive
31 evidence of the commission.
- 32 (w) Having a certification or license refused, revoked, suspended,
33 limited or restricted by any other licensing jurisdiction for the
34 inability to safely and skillfully perform health care tasks or for
35 unprofessional conduct as defined by that jurisdiction that directly or
36 indirectly corresponds to any act of unprofessional conduct as prescribed
37 by this paragraph.
- 38 (x) Having sanctions including restriction, suspension or removal
39 from practice imposed by an agency of the federal government.
- 40 (y) Violating or attempting to violate, directly or indirectly, or
41 assisting in or abetting the violation of or conspiring to violate a
42 provision of this chapter.
- 43 (z) Using the term "doctor" or the abbreviation "Dr." on a name tag
44 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.

1 (ll) Prescribing, dispensing or furnishing a prescription
2 medication or a prescription-only device as defined in section 32-1901 to
3 a person unless the licensee first conducts a physical examination of that
4 person or has previously established a professional relationship with the
5 person. This subdivision does not apply to:

6 (i) A physician assistant who provides temporary patient care on
7 behalf of the patient's regular treating licensed health care
8 professional.

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

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

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

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

23 (i) Engaging in or soliciting sexual relationships, whether
24 consensual or nonconsensual.

25 (ii) Making sexual advances, requesting sexual favors or engaging
26 in other verbal conduct or physical contact of a sexual nature with a
27 patient.

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

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

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

36 32-2532. Prescribing, administering and dispensing drugs;
37 limits and requirements; notice

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

40 1. A schedule II or schedule III controlled substance as defined in
41 the federal controlled substances act of 1970 (P.L. 91-513; 84 Stat. 1242;
42 21 United States Code section 802) without delegation by the supervising
43 physician, board approval and United States drug enforcement
44 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.

1 (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.

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

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

34 36-448.02. Pain management clinics; licensure requirements;
35 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:

- 43 1. Informed consent requirements.
- 44 2. The responsibilities of the medical director.
- 45 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
17 PURSUANT TO TITLE 32, CHAPTER 15, WHO HAS ADVANCED PAIN CERTIFICATION FROM
18 A NATIONALLY RECOGNIZED ACCREDITATION OR CERTIFICATION ENTITY AND WHO IS
19 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.