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

CHAPTER 33

HOUSE BILL 2149

AN ACT

AMENDING SECTIONS 32-1901, 32-1923.01, 32-1925 AND 32-1961, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 18, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1961.01; AMENDING SECTION 36-2606, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 39; RELATING TO PHARMACIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-1901, Arizona Revised Statutes, is amended to read:

32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by the practitioner's authorized agent or the patient or research subject at the direction of the practitioner.

2. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.

3. "Advisory letter" means a nondisciplinary letter to notify a licensee or permittee that either:

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

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

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

4. "Antiseptic", if a drug is represented as such on its label, means a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or other use that involves prolonged contact with the body.

5. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.

6. "Board" or "board of pharmacy" means the Arizona state board of pharmacy.

7. "Certificate of composition" means a list of a product's ingredients.

8. "Certificate of free sale" means a document that authenticates a product that is generally and freely sold in domestic or international channels of trade.

9. "Color additive" means a material that either:

(a) Is any dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

(b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material that has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

10. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug by a pharmacist or an intern or pharmacy technician under the pharmacist's supervision, for the purpose of dispensing to a patient based on a valid prescription order. Compounding includes the preparation of drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and the preparation of drugs as an incident to research, teaching or chemical analysis or for administration by a medical practitioner to the medical practitioner's patient and not for sale or dispensing. Compounding does not include the preparation of commercially available products from bulk compounds or the preparation of drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

11. "Compressed medical gas distributor" means a person who holds a current permit issued by the board to distribute compressed medical gases pursuant to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

12. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

13. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

14. "Compressed medical gas supplier" means a person who holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

15. "Controlled substance" means a drug, substance or immediate precursor that is identified, defined or listed in title 36, chapter 27, article 2.

16. "Corrosive" means any substance that when it comes in contact with living tissue will cause destruction of tissue by chemical action.

17. "Counterfeit drug" means a drug that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness of

these, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed that drug.

18. "Dangerous drug" has the same meaning prescribed in section 13-3401.

19. "Decree of censure" means an official action that is taken by the board and that may include a requirement for restitution of fees to a patient or consumer.

20. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

21. "Deputy director" means a pharmacist who is employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

22. "Device", except as used in paragraph 17 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means instruments, ~~apparatus~~ APPARATUSES and contrivances, including their components, parts and accessories, including all such items under the federal act, intended either:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

23. "Director" means the director of the division of narcotics enforcement and criminal investigation of the department of public safety.

24. "Direct supervision of a pharmacist" means the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.

25. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare for that delivery.

26. "Dispenser" means a practitioner who dispenses.

27. "Distribute" means to deliver, other than by administering or dispensing.

28. "Distributor" means a person who distributes.

29. "Drug" means:

(a) Articles recognized, or for which standards or specifications are prescribed, in the official compendium.

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(c) Articles other than food intended to affect the structure or any function of the human body or other animals.

(d) Articles intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.

30. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

31. "Drug or device manufacturing" means the production, preparation, propagation or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and the promotion and marketing of the same. Drug or device manufacturing does not include compounding.

32. "Economic poison" means any substance that alone, in chemical combination WITH or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and that is used in the production, storage or transportation of raw agricultural commodities.

33. "Enteral feeding" means nourishment provided by means of a tube inserted into the stomach or intestine.

34. "Established name", with respect to a drug or ingredient of a drug, means any of the following:

(a) The applicable official name.

(b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, the official title in an official compendium.

(c) If neither subdivision (a) nor (b) of this paragraph applies, the common or usual name of ~~such~~ THE drug.

35. "Executive director" means the executive director of the board of pharmacy.

36. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are official at the time any drug, device, poison or hazardous substance is affected by this chapter.

37. "Full service wholesale permittee":

(a) Means a permittee who may distribute prescription-only drugs and devices, controlled substances and over-the-counter drugs and devices to pharmacies or other legal outlets from a place devoted in whole or in part to wholesaling these items.

(b) Includes a virtual wholesaler as defined in rule by the board.

38. "Good manufacturing practice" means a system for ensuring that products are consistently produced and controlled according to quality standards and covering all aspects of design, monitoring and control of manufacturing processes and facilities to ensure that products do not pose any risk to the consumer or public.

39. "Graduate intern" means a person who has graduated from a college, school or program of pharmacy approved by the board and who meets the qualifications and experience for a pharmacy intern as provided in section 32-1923.

40. "Highly toxic" means any substance that falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered.

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, if inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by humans if the substance is used in any reasonably foreseeable manner.

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, if administered by continuous contact with the bare skin for twenty-four hours or less.

If the board finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations prescribed in this paragraph, the human data shall take precedence.

41. "Hospital" means any institution for the care and treatment of the sick and injured that is approved and licensed as a hospital by the department of health services.

42. "Intern" means a pharmacy intern and a graduate intern.

43. "Internship" means the practical, experiential, hands-on training of a pharmacy intern under the supervision of a preceptor.

44. "Irritant" means any substance, other than a corrosive, that on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

45. "Jurisprudence examination" means a board-approved pharmacy law examination that is written and administered in cooperation with the national association of boards of pharmacy or another board-approved pharmacy law examination.

46. "Label" means a display of written, printed or graphic matter on the immediate container of any article that, unless easily legible through the outside wrapper or container, also appears on the outside wrapper or container of the article's retail package. For the purposes of this paragraph, the immediate container does not include package liners.

47. "Labeling" means all labels and other written, printed or graphic matter either:

(a) On any article or any of its containers or wrappers.

(b) Accompanying that article.

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

49. "Limited service pharmacy" means a pharmacy that is approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

50. "Manufacture" or "manufacturer":

(a) Means every person who prepares, derives, produces, compounds, processes, packages or repackages or labels any drug in a place, other than a pharmacy, THAT IS devoted to manufacturing the drug.

(b) Includes a virtual manufacturer as defined in rule by the board.

51. "Marijuana" has the same meaning prescribed in section 13-3401.

52. "Medical practitioner" means any medical doctor, doctor of ~~osteopathy~~ OSTEOPATHIC MEDICINE, dentist, podiatrist, veterinarian or other person who is licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or animals or for the diagnosis or prevention of sickness in human beings or animals in this state or any state, territory or district of the United States.

53. "Medication order" means a written or verbal order from a medical practitioner or that person's authorized agent to administer a drug or device.

54. "Narcotic drug" has the same meaning prescribed in section 13-3401.

55. "New drug" means either:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling.

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in the investigations, been used to a material extent or for a material time under those conditions.

56. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and THAT is prepackaged and labeled for use by the consumer in accordance with

the requirements of the laws of this state and federal law. Nonprescription drug does not include:

(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only".

(d) A drug that is intended for human use by hypodermic injection.

57. "Nonprescription drug wholesale permittee":

(a) Means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.

(b) Includes a virtual wholesaler as defined in rule by the board.

58. "Notice" means personal service or the mailing of a copy of the notice by certified mail addressed either to the person at the person's latest address of record in the board office or to the person's attorney.

59. "Nutritional supplementation" means vitamins, minerals and caloric supplementation. Nutritional supplementation does not include medication or drugs.

60. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

61. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.

62. "Package" means a receptacle defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

63. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.

64. "Parenteral nutrition" means intravenous feeding that provides a person with fluids and essential nutrients the person needs while the person is unable to receive adequate fluids or feedings by mouth or by enteral feeding.

65. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

66. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.

67. "Pharmacist" means an individual who is currently licensed by the board to practice the profession of pharmacy in this state.

68. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice of pharmacy, the manufacturing of drugs and the distribution of drugs and devices.

69. "Pharmacist licensure examination" means a board-approved examination that is written and administered in cooperation with the national association of boards of pharmacy or any other board-approved pharmacist licensure examination.

70. "Pharmacy" means ~~any place~~:

(a) ANY PLACE where drugs, devices, poisons or related hazardous substances are offered for sale at retail.

(b) ANY PLACE in which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(c) ANY PLACE that has displayed on it or in it the words "pharmacist~~,~~", "pharmaceutical chemist~~,~~", "apothecary~~,~~", "druggist~~,~~", "pharmacy~~,~~", "drugstore~~,~~", "drugs" or "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or that is advertised by any sign containing any of these words.

(d) ANY PLACE where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited.

(e) ANY PLACE or a portion of any building or structure that is leased, used or controlled by the permittee to conduct the business authorized by the board at the address for which the permit was issued and that is enclosed and secured when a pharmacist is not in attendance.

(f) A REMOTE DISPENSING SITE PHARMACY WHERE A PHARMACY TECHNICIAN OR PHARMACY INTERN PREPARES, COMPOUNDS OR DISPENSES PRESCRIPTION MEDICATIONS UNDER REMOTE SUPERVISION BY A PHARMACIST.

71. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

72. "Pharmacy technician" means a person who is licensed pursuant to this chapter.

73. "Pharmacy technician trainee" means a person who is licensed pursuant to this chapter.

74. "Poison" or "hazardous substance" includes, but is not limited to, any of the following if intended and suitable for household use or use by children:

(a) Any substance that, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, if applied to, introduced into or developed within the body in relatively small quantities by its inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.

(d) A corrosive substance.

(e) An irritant.

(f) A strong sensitizer.

(g) A mixture of any of the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal

injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(h) A substance that is designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive substances, economic poisons subject to the federal insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article that is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but that is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing an economic poison or hazardous substance.

75. "Practice of pharmacy":

(a) Means furnishing the following health care services as a medical professional:

(i) Interpreting, evaluating and dispensing prescription orders in the patient's best interests.

(ii) Compounding drugs pursuant to or in anticipation of a prescription order.

(iii) Labeling ~~of~~ drugs and devices in compliance with state and federal requirements.

(iv) Participating in drug selection and drug utilization reviews, drug administration, drug or drug-related research and drug therapy monitoring or management.

(v) Providing patient counseling necessary to provide pharmaceutical care.

(vi) Properly and safely storing drugs and devices in anticipation of dispensing.

(vii) Maintaining required records of drugs and devices.

(viii) Offering or performing ~~of~~ acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

(ix) Initiating, monitoring and modifying drug therapy pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970.

(x) Initiating and administering immunizations or vaccines pursuant to section 32-1974.

(b) Does not include initiating a prescription order for any medication, drug or other substance used to induce or cause a medication abortion as defined in section 36-2151.

76. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person who is licensed, registered or

otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state, or any pharmacy, hospital or other institution that is licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

77. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and complies with section 32-1923.

78. "Precursor chemical" means a substance that is:

(a) The principal compound that is commonly used or that is produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(b) Listed in section 13-3401, paragraph 26 or 27.

79. "Prescription" means either a prescription order or a prescription medication.

80. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

81. "Prescription-only device" includes:

(a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.

(b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

82. "Prescription-only drug" does not include a controlled substance but does include:

(a) Any drug that because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Rx only".

83. "Prescription order" means any of the following:

(a) An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

(b) An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964, and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

(c) An order initiated by a pharmacist pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970, or immunizations or vaccines administered by a pharmacist pursuant to section 32-1974.

(d) A diet order or an order for enteral feeding, nutritional supplementation or parenteral nutrition that is initiated by a registered dietitian or other qualified nutrition professional in a hospital pursuant to section 36-416.

84. "Professionally incompetent" means:

(a) Incompetence based on a variety of factors, including a lack of sufficient pharmaceutical knowledge or skills or experience to a degree likely to endanger the health of patients.

(b) When considered with other indications of professional incompetence, a pharmacist, pharmacy intern or graduate intern who fails to obtain a passing score on a board-approved pharmacist licensure examination or a pharmacy technician or pharmacy technician trainee who fails to obtain a passing score on a board-approved pharmacy technician licensure examination.

85. "Radioactive substance" means a substance that emits ionizing radiation.

86. "REMOTE DISPENSING SITE PHARMACY" MEANS A PHARMACY WHERE A PHARMACY TECHNICIAN OR PHARMACY INTERN PREPARES, COMPOUNDS OR DISPENSES PRESCRIPTION MEDICATIONS UNDER REMOTE SUPERVISION BY A PHARMACIST.

87. "REMOTE SUPERVISION BY A PHARMACIST" MEANS THAT A PHARMACIST DIRECTS AND CONTROLS THE ACTIONS OF PHARMACY TECHNICIANS AND PHARMACY INTERNS THROUGH THE USE OF AUDIO AND VISUAL TECHNOLOGY.

~~86.~~ 88. "Safely engage in employment duties" means that a permittee or the permittee's employee is able to safely engage in employment duties related to the manufacture, sale, distribution or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals.

~~87.~~ 89. "Symbol" means the characteristic symbols that have historically identified pharmacy, including show globes and mortar and pestle, and the sign "Rx".

~~88.~~ 90. "Third-party logistics provider" means an entity that provides or coordinates warehousing or other logistics services for a prescription or over-the-counter dangerous drug or dangerous device in

intrastate or interstate commerce on behalf of a manufacturer, wholesaler or dispenser of the prescription or over-the-counter dangerous drug or dangerous device but that does not take ownership of the prescription or over-the-counter dangerous drug or dangerous device or have responsibility to direct its sale or disposition.

~~89.~~ 91. "Toxic substance" means a substance, other than a radioactive substance, that has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

~~90.~~ 92. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.

Sec. 2. Section 32-1923.01, Arizona Revised Statutes, is amended to read:

32-1923.01. Pharmacy technicians; pharmacy technician trainees; qualifications; remote dispensing site pharmacies

A. An applicant for licensure as a pharmacy technician must:

1. Be of good moral character.

2. Be at least eighteen years of age.

3. Have a high school diploma or the equivalent of a high school diploma.

4. Complete a training program prescribed by board rules.

5. Pass a ~~board approved~~ BOARD-APPROVED pharmacy technician examination.

B. An applicant for licensure as a pharmacy technician trainee must:

1. Be of good moral character.

2. Be at least eighteen years of age.

3. Have a high school diploma or the equivalent of a high school diploma.

C. BEFORE A PHARMACY TECHNICIAN PREPARES, COMPOUNDS OR DISPENSES PRESCRIPTION MEDICATIONS AT A REMOTE DISPENSING SITE PHARMACY, THE PHARMACY TECHNICIAN SHALL:

1. COMPLETE, IN ADDITION TO ANY OTHER BOARD-APPROVED MANDATORY CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS, A TWO-HOUR CONTINUING EDUCATION PROGRAM ON REMOTE DISPENSING SITE PHARMACY PRACTICES PROVIDED BY AN APPROVED PROVIDER.

2. HAVE AT LEAST ONE THOUSAND HOURS OF EXPERIENCE WORKING AS A PHARMACY TECHNICIAN IN AN OUTPATIENT PHARMACY SETTING UNDER THE DIRECT SUPERVISION OF A PHARMACIST.

D. A PHARMACY TECHNICIAN WORKING AT A REMOTE DISPENSING SITE PHARMACY:

1. SHALL MAINTAIN AN ACTIVE, NATIONALLY RECOGNIZED PHARMACY TECHNICIAN CERTIFICATION APPROVED BY THE BOARD.

2. MAY NOT PERFORM EXTEMPORANEOUS STERILE OR NONSTERILE COMPOUNDING BUT MAY PREPARE COMMERCIALLY AVAILABLE MEDICATIONS FOR DISPENSING, INCLUDING THE RECONSTITUTION OF ORALLY ADMINISTERED POWDER ANTIBIOTICS.

Sec. 3. Section 32-1925, Arizona Revised Statutes, is amended to read:

32-1925. Renewal of license of pharmacists, interns and pharmacy technicians; fees; expiration dates; penalty for failure to renew; continuing education

A. Except for interns and pharmacy technician trainees, the board shall assign all persons who are licensed under this chapter to one of two license renewal groups. Except as provided in section 32-4301, a holder of a license certificate ending in an even number shall renew it biennially on or before November 1 of the even-numbered year, two years from the last renewal date. Except as provided in section 32-4301, a holder of a license certificate ending in an odd number shall renew it biennially on or before November 1 of the odd-numbered year, two years from the last renewal date. Failure to renew and pay all required fees on or before November 1 of the year in which the renewal is due suspends the license. The board shall vacate a suspension when the licensee pays all past due fees and penalties. Penalties shall not exceed three hundred fifty dollars. The board may waive collection of a fee or penalty due after suspension under conditions established by a majority of the board.

B. A person shall not apply for license renewal more than sixty days before the expiration date of the license.

C. A person who is licensed as a pharmacist or a pharmacy technician and who has not renewed the license for five consecutive years shall furnish to the board satisfactory proof of fitness to be licensed as a pharmacist or a pharmacy technician, in addition to the payment of all past due fees and penalties before being reinstated.

D. Biennial renewal fees for licensure shall be not more than:

1. For a pharmacist, two hundred fifty dollars.

2. For a pharmacy technician, one hundred dollars.

3. For a duplicate renewal license, twenty-five dollars.

E. Fees that are designated to be not more than a maximum amount shall be set by the board for the following two fiscal years beginning November 1. The board shall establish fees approximately proportionate to the maximum fee allowed to cover the board's anticipated expenditures for the following two fiscal years. Variation in a fee is not effective except at the expiration date of a license.

F. The board shall not renew a license for a pharmacist unless the pharmacist has complied with the mandatory continuing professional pharmacy education requirements of sections 32-1936 and 32-1937.

G. The board shall prescribe intern licensure renewal fees that do not exceed seventy-five dollars. The license of an intern who does not receive specific board approval to renew the intern license or who receives board approval to renew but who does not renew and pay all required fees before the license expiration date is suspended after the license expiration date. The board shall vacate a suspension if the licensee pays all past due fees and penalties. Penalties shall not exceed three hundred fifty dollars. The board may waive collection of a fee or penalty due after suspension under conditions established by the board.

H. The board shall not renew a license for a pharmacy technician unless that person has a current board-approved license and has complied with board-approved mandatory continuing professional education requirements. IF A PHARMACY TECHNICIAN PREPARES, COMPOUNDS OR DISPENSES PRESCRIPTION MEDICATIONS AT A REMOTE DISPENSING SITE PHARMACY, IN ADDITION TO ANY OTHER BOARD-APPROVED MANDATORY CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS, THE PHARMACY TECHNICIAN SHALL COMPLETE A TWO-HOUR CONTINUING EDUCATION PROGRAM ON REMOTE DISPENSING SITE PHARMACY PRACTICES PROVIDED BY AN APPROVED PROVIDER.

Sec. 4. Section 32-1961, Arizona Revised Statutes, is amended to read:

32-1961. Limit on dispensing, compounding and sale of drugs

A. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, it is unlawful for any person to compound, sell or dispense any drugs or to dispense or compound the prescription orders of a medical practitioner, unless that person is a pharmacist or a pharmacy intern acting under the direct supervision of a pharmacist~~, except as provided in section 32-1921~~. This subsection does not prevent a pharmacy technician or support personnel from assisting in the dispensing of drugs if this is done pursuant to rules adopted by the board and under the direct supervision of a licensed pharmacist OR UNDER REMOTE SUPERVISION BY A PHARMACIST.

B. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, it is unlawful for any person, without placing a pharmacist in active personal charge at each place of business, to:

1. Open, advertise or conduct a pharmacy.

2. Stock, expose or offer drugs for sale at retail, except as otherwise specifically provided.

3. Use or exhibit the title "drugs", "drugstore", "drug shop", "pharmacy", "apothecary" or any combination of these words or titles or any title, symbol or description of like import or any other term designed to take its place.

Sec. 5. Title 32, chapter 18, article 3, Arizona Revised Statutes, is amended by adding section 32-1961.01, to read:

32-1961.01. Remote dispensing site pharmacies

A. A REMOTE DISPENSING SITE PHARMACY SHALL OBTAIN AND MAINTAIN A PHARMACY LICENSE ISSUED BY THE BOARD.

B. A REMOTE DISPENSING SITE PHARMACY SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

1. EITHER BE JOINTLY OWNED BY A SUPERVISING PHARMACY IN THIS STATE OR BE OPERATED UNDER A CONTRACT WITH A PHARMACY LICENSED AND LOCATED IN THIS STATE.

2. BE SUPERVISED BY A PHARMACIST LICENSED AND LOCATED IN THIS STATE WHO IS DESIGNATED AS THE PHARMACIST WHO IS RESPONSIBLE FOR THE OVERSIGHT OF THE REMOTE DISPENSING SITE PHARMACY.

3. DISPLAY A SIGN VISIBLE TO THE PUBLIC INDICATING THAT THE FACILITY IS A REMOTE DISPENSING SITE PHARMACY, THAT THE FACILITY IS UNDER CONTINUOUS VIDEO SURVEILLANCE AND THAT THE VIDEO IS RECORDED AND RETAINED.

4. USE A COMMON ELECTRONIC RECORDKEEPING SYSTEM BETWEEN THE SUPERVISING PHARMACY AND THE REMOTE DISPENSING SITE PHARMACY OR ALLOW THE SUPERVISING PHARMACY TO ACCESS ALL OF THE REMOTE DISPENSING SITE PHARMACY'S DISPENSING SYSTEM RECORDS.

C. A PHARMACIST MAY SUPERVISE ONE REMOTE DISPENSING SITE PHARMACY IF THE PHARMACIST IS ALSO SUPERVISING AND DISPENSING IN A LICENSED PHARMACY. A PHARMACIST MAY SUPERVISE UP TO TWO REMOTE DISPENSING SITE PHARMACIES IF THE PHARMACIST IS NOT SIMULTANEOUSLY SUPERVISING AND DISPENSING AT ANOTHER LICENSED PHARMACY. A PHARMACIST MAY SUPERVISE ADDITIONAL REMOTE DISPENSING SITE PHARMACIES WITH BOARD APPROVAL.

D. A REMOTE DISPENSING SITE PHARMACY MAY STORE, HOLD AND DISPENSE ALL PRESCRIPTION MEDICATIONS. THE REMOTE DISPENSING SITE PHARMACY SHALL:

1. MAINTAIN A PERPETUAL INVENTORY OF CONTROLLED SUBSTANCES.

2. SECURE SCHEDULE II CONTROLLED SUBSTANCES THAT ARE OPIOIDS SEPARATELY FROM OTHER PRESCRIPTION MEDICATIONS USED BY THIS PHARMACY LOCKED BY KEY, COMBINATION OR OTHER MECHANICAL OR ELECTRONIC MEANS TO PROHIBIT ACCESS BY UNAUTHORIZED PERSONNEL.

3. REQUIRE THAT THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM BE QUERIED PURSUANT TO SECTION 36-2606 BY A PHARMACIST WHO IS DESIGNATED AS THE PHARMACIST RESPONSIBLE FOR THE OVERSIGHT OF THE REMOTE DISPENSING SITE PHARMACY BEFORE A PRESCRIPTION ORDER FOR A SCHEDULE II CONTROLLED SUBSTANCE IS DISPENSED.

4. COMPLY WITH ANY DISPENSING LIMITS ASSOCIATED WITH THE PRESCRIBING OF SCHEDULE II CONTROLLED SUBSTANCES THAT ARE OPIOIDS.

5. MAINTAIN A CONTINUOUS SYSTEM OF VIDEO SURVEILLANCE AND RECORDING OF THE PHARMACY DEPARTMENT FOR AT LEAST SIXTY DAYS AFTER THE DATE OF RECORDING.

E. EACH REMOTE DISPENSING SITE PHARMACY SHALL MAINTAIN A POLICY AND PROCEDURES MANUAL, WHICH SHALL BE MADE AVAILABLE TO THE BOARD OR ITS AGENT ON REQUEST. IN ADDITION TO ANY BOARD-APPROVED COMMUNITY PHARMACY POLICY AND PROCEDURE REQUIREMENTS, THE POLICY AND PROCEDURES MANUAL SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:

1. A DESCRIPTION OF HOW THE REMOTE DISPENSING SITE PHARMACY WILL COMPLY WITH FEDERAL AND STATE LAWS, RULES AND REGULATIONS.

2. THE PROCEDURE FOR SUPERVISING THE REMOTE DISPENSING SITE PHARMACY AND COUNSELING THE PATIENT OR PATIENT'S CAREGIVER USING AUDIO AND VISUAL TECHNOLOGY THAT COMPLIES WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

3. THE ELEMENTS OF A MONTHLY INSPECTION OF THE REMOTE DISPENSING SITE PHARMACY BY THE PHARMACIST WHO IS DESIGNATED AS THE PHARMACIST RESPONSIBLE FOR THE OVERSIGHT OF THE REMOTE DISPENSING SITE PHARMACY, INCLUDING REQUIREMENTS FOR DOCUMENTATION AND RETENTION OF THE RESULTS OF EACH INSPECTION.

4. THE PROCEDURE FOR RECONCILING ON A MONTHLY BASIS THE PERPETUAL INVENTORY OF CONTROLLED SUBSTANCES TO THE ON-HAND COUNT OF CONTROLLED SUBSTANCES AT THE REMOTE DISPENSING SITE PHARMACY.

5. A DESCRIPTION OF HOW THE REMOTE DISPENSING SITE PHARMACY WILL IMPROVE PATIENT ACCESS TO A PHARMACIST AND PHARMACY SERVICES.

Sec. 6. Section 36-2606, Arizona Revised Statutes, as amended by Laws 2018, first special session, chapter 1, section 39, is amended to read:

36-2606. Registration; access; requirements; mandatory use; annual user satisfaction survey; report; definitions

A. A medical practitioner regulatory board shall notify each medical practitioner who receives an initial or renewal license and who intends to apply for registration or has an active registration under the controlled substances act (21 United States Code sections 801 through 904) of the medical practitioner's responsibility to register with the Arizona state board of pharmacy and be granted access to the controlled substances prescription monitoring program's central database tracking system. The Arizona state board of pharmacy shall provide access to the central database tracking system to each medical practitioner who has a valid license pursuant to title 32 and who possesses an Arizona registration under the controlled substances act (21 United States Code sections 801 through 904). The Arizona state board of pharmacy shall notify each pharmacist of the pharmacist's responsibility to register with the Arizona state board of pharmacy and be granted access to the controlled substances prescription monitoring program's central database tracking system. The Arizona state board of pharmacy shall provide access to the central database tracking system to each pharmacist who has a valid license pursuant to title 32, chapter 18 and who is employed by a facility that has a valid United States drug enforcement administration registration number.

B. The registration is:

1. Valid in conjunction with a valid United States drug enforcement administration registration number and a valid license issued by a medical practitioner regulatory board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 25 or 29.

2. Valid in conjunction with a valid license issued by the Arizona state board of pharmacy for a pharmacist who is employed by a facility that has a valid United States drug enforcement administration registration number.

3. Not transferable or assignable.

C. An applicant for registration pursuant to this section must submit an application as prescribed by the board.

D. Pursuant to a fee prescribed by the board by rule, the board may issue a replacement registration to a registrant who requests a replacement because the original was damaged or destroyed, because of a change of name or for any other good cause as prescribed by the board.

E. A person who is authorized to access the controlled substances prescription monitoring program's central database tracking system may do so using only that person's assigned identifier and may not use the assigned identifier of another person.

F. Beginning the later of October 1, 2017 or sixty days after the statewide health information exchange has integrated the controlled substances prescription monitoring program data into the exchange, a medical practitioner, before prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule II, III or IV for a patient, shall obtain a patient utilization report regarding the patient for the preceding twelve months from the controlled substances prescription monitoring program's central database tracking system at the beginning of each new course of treatment and at least quarterly while that prescription remains a part of the treatment. Each medical practitioner regulatory board shall notify the medical practitioners licensed by that board of the applicable date. A medical practitioner may be granted a one-year waiver from the requirement in this subsection due to technological limitations that are not reasonably within the control of the practitioner or other exceptional circumstances demonstrated by the practitioner, pursuant to a process established by rule by the Arizona state board of pharmacy.

G. ~~A dispenser,~~ Before ~~dispensing~~ A PHARMACIST DISPENSES OR BEFORE A PHARMACY TECHNICIAN OR PHARMACY INTERN OF A REMOTE DISPENSING SITE PHARMACY DISPENSES a schedule II controlled substance, A DISPENSER shall obtain a patient utilization report regarding the patient for the preceding twelve months from the controlled substances prescription monitoring program's central database tracking system at the beginning of each new course of treatment. The Arizona state board of pharmacy shall establish a process to provide to a dispenser a waiver for up to one year after the effective date of this amendment to this section from the requirement in this subsection due to technological limitations that are not reasonably within the control of the dispenser or other exceptional circumstances as demonstrated by the dispenser.

H. The medical practitioner or dispenser is not required to obtain a patient utilization report from the central database tracking system pursuant to subsection F of this section if any of the following applies:

1. The patient is receiving hospice care or palliative care for a serious or chronic illness.

2. The patient is receiving care for cancer, a cancer-related illness or condition or dialysis treatment.

3. A medical practitioner will administer the controlled substance.

4. The patient is receiving the controlled substance during the course of inpatient or residential treatment in a hospital, nursing care facility, assisted living facility, correctional facility or mental health facility.

5. The medical practitioner is prescribing the controlled substance to the patient for no more than a five-day period for an invasive medical or dental procedure or a medical or dental procedure that results in acute pain to the patient.

6. The medical practitioner is prescribing the controlled substance to the patient for no more than a five-day period for a patient who has suffered an acute injury or a medical or dental disease process that is diagnosed in an emergency department setting and that results in acute pain to the patient. An acute injury or medical disease process does not include back pain.

I. If a medical practitioner or dispenser uses electronic medical records that integrate data from the controlled substances prescription monitoring program, a review of the electronic medical records with the integrated data shall be deemed compliant with the review of the program's central database tracking system as required in subsection F of this section.

J. The board shall promote and enter into data sharing agreements for the purpose of integrating the controlled substances prescription monitoring program into electronic medical records.

K. By complying with this section, a medical practitioner or dispenser acting in good faith, or the medical practitioner's or dispenser's employer, is not subject to liability or disciplinary action arising solely from either:

1. Requesting or receiving, or failing to request or receive, prescription monitoring data from the program's central database tracking system.

2. Acting or failing to act on the basis of the prescription monitoring data provided by the program's central database tracking system.

L. Notwithstanding any provision of this section to the contrary, medical practitioners or dispensers and their delegates are not in violation of this section during any time period in which the controlled substances prescription monitoring program's central database tracking

system is suspended or is not operational or available in a timely manner. If the program's central database tracking system is not accessible, the medical practitioner or dispenser or the medical practitioner's or dispenser's delegate shall document the date and time the practitioner, dispenser or delegate attempted to use the central database tracking system pursuant to a process established by board rule.

M. The board shall conduct an annual voluntary survey of program users to assess user satisfaction with the program's central database tracking system. The survey may be conducted electronically. On or before December 1 of each year, the board shall provide a report of the survey results to the president of the senate, the speaker of the house of representatives and the governor and shall provide a copy of this report to the secretary of state.

N. This section does not prohibit a medical practitioner regulatory board or the Arizona state board of pharmacy from obtaining and using information from the program's central database tracking system.

O. For the purposes of this section:

1. "Dispenser" means a pharmacist who is licensed pursuant to title 32, chapter 18.

2. "Emergency department" means the unit within a hospital that is designed for the provision of emergency services.

APPROVED BY THE GOVERNOR MARCH 20, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 20, 2018.