REFERENCE TITLE: pharmacy board; nonprescription drugs; diversion

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2824

Introduced by
Representative Barto

AN ACT

AMENDING SECTIONS 13-3451 AND 32-1901, ARIZONA REVISED STATUTES; AMENDING SECTION 32-1904, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 257, SECTION 1; REPEALING SECTION 32-1904, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 320, SECTION 1, AMENDING SECTIONS 32-1921, 32-1927.03, 32-1930, 32-1931, 32-1941, 32-3208, 32-3214, 32-3224 AND 32-4801, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE BOARD OF PHARMACY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 13-3451, Arizona Revised Statutes, is amended to read:

13-3451. Definitions

In this chapter, unless the context otherwise requires:

1. "Controlled substance" means a drug, substance or immediate precursor in schedules I through V of title 36, chapter 27, or a dangerous drug or a narcotic drug listed in section 13-3401.

2. "Counterfeit preparation" means a preparation that has an appearance which imitates another preparation but that, in fact, is a different preparation.

3. "Distribute" means the actual, constructive or attempted transfer, delivery or sale of, or dispensing to another of, an imitation controlled substance, imitation prescription-only drug or imitation over-the-counter drug.

4. "Imitation controlled substance" means a drug, substance or immediate precursor which does or does not contain a controlled substance that by texture, consistency or color or dosage unit appearance as evidenced by color, shape, size or markings, apart from any other representations, packaging or advertisements, would lead a reasonable person to believe that the substance is a controlled substance but it is a counterfeit preparation.

5. "Imitation over-the-counter drug" means an imitation of a nonprescription drug ~~as defined in section 32-1901~~ that by texture, consistency or color or dosage unit appearance as evidenced by color, shape, size or markings, apart from any other representations, packaging or advertisements, would lead a reasonable person to believe that the substance is an over-the-counter drug.

6. "Imitation prescription-only drug" means a drug, substance or immediate precursor which does or does not contain a prescription-only drug as defined ~~by~~ IN section 32-1901 that by texture, consistency or color or dosage unit appearance as evidenced by color, shape, size or markings, apart from any other representations, packaging or advertisements, would lead a reasonable person to believe that the substance is a prescription-only drug but it is a counterfeit preparation.

7. "Manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, or labeling or relabeling of an imitation controlled substance, imitation prescription-only drug or imitation over-the-counter drug.

8. "Placebo" means an inactive substance or preparation used in controlled studies to determine the effectiveness of medicinal substances or used to please or gratify a physician's patient.

Sec. 2. 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~~ DIRECTLY APPLYING 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 THAT ARE 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~~ REPEATING 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. "Automated prescription-dispensing kiosk" means a mechanical system that is operated as an extension of a pharmacy, that maintains all transaction information within the pharmacy operating system, that is separately permitted from the pharmacy and that performs operations that either:

(a) Accept a prescription or refill order, store prepackaged or repackaged medications, label and dispense patient-specific prescriptions and provide counseling on new or refilled prescriptions.

(b) Dispense or deliver a prescription or refill that has been prepared by or on behalf of the pharmacy that oversees the automated prescription-dispensing kiosk.

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

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

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

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

(a) Is any dye, pigment or other substance THAT IS made by a process of synthesis or similar artifice~~,~~ or THAT IS 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.

11. "Compounding" means ~~the preparation~~ PREPARING, 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~~ PREPARING drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and ~~the preparation of~~ PREPARING 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~~ PREPARING commercially available products from bulk compounds or ~~the preparation of~~ PREPARING drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

12. "Compressed medical gas distributor" means a person ~~who~~ THAT 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.

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

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

15. "Compressed medical gas supplier" means a person ~~who~~ THAT 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.

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

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

18. "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~~ THAT in fact manufactured, distributed or dispensed that drug.

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

20. "Day" means a business day.

21. "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.

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

23. "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.

24. "Device", except as used in paragraph 18 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means ~~instruments~~ AN INSTRUMENT, ~~apparatuses and contrivances~~ APPARATUS OR CONTRIVANCE, including ~~their~~ ITS components, parts and accessories, including all such items under the federal act, THAT IS intended either:

(a) For use in ~~the diagnosis, cure, mitigation, treatment or prevention of~~ DIAGNOSING, CURING, MITIGATING, TREATING OR PREVENTING disease in the human body or other animals.

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

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

26. "Direct supervision of a pharmacist" means THAT 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.

27. "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 AS necessary to prepare for that delivery.

28. "Dispenser" means a practitioner who dispenses.

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

30. "Distributor" means a person who distributes.

31. "Drug" means:

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

(b) Articles THAT ARE 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 THAT ARE intended to affect the structure or any function of the human body or other animals.

(d) Articles THAT ARE 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.

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

33. "Drug or device manufacturing" means ~~the production~~ PRODUCING, ~~preparation~~ PREPARING, ~~propagation~~ PROPAGATING 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~~ PROMOTING and marketing ~~of~~ the same. Drug or device manufacturing does not include compounding.

34. "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~~ PRODUCING, ~~storage~~ STORING or ~~transportation of~~ TRANSPORTING raw agricultural commodities.

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

36. "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 the drug.

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

38. "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.

39. "Full service wholesale permittee":

(a) Means a permittee who may distribute prescription-only drugs and devices~~,~~ AND 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.

40. "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.

41. "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.

42. "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.

43. "Intern" means a pharmacy intern.

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

45. "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.

46. "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.

47. "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.

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

(a) IS on any article or any of its containers or wrappers.

(b) ~~Accompanying~~ ACCOMPANIES that article.

49. "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.

50. "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.

51. "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.

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

53. "Medical practitioner" means any medical doctor, doctor of 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~~ TO TREAT sick and injured human beings or animals or ~~for the diagnosis~~ TO DIAGNOSE or ~~prevention of~~ PREVENT sickness in human beings or animals in this state or any state, territory or district of the United States.

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

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

56. "New drug" means either:

(a) Any drug OF WHICH 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 OF WHICH 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.

~~57. "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.~~

~~58. "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.~~

~~59.~~ 57. "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.

~~60.~~ 58. "Nutritional supplementation" means vitamins, minerals and caloric supplementation. Nutritional supplementation does not include medication or drugs.

~~61.~~ 59. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

~~62.~~ 60. "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.

~~63.~~ 61. "Package" means a receptacle THAT IS defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

~~64.~~ 62. "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.

~~65.~~ 63. "Parenteral nutrition" means intravenous feeding that provides ~~a person~~ AN INDIVIDUAL with fluids and essential nutrients the ~~person~~ INDIVIDUAL needs while the ~~person~~ INDIVIDUAL is unable to receive adequate fluids or feedings by mouth or by enteral feeding.

~~66.~~ 64. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

~~67.~~ 65. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.

~~68.~~ 66. "Pharmacist" means an individual who is currently licensed by the board to practice the profession of pharmacy in this state.

~~69.~~ 67. "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.

~~70.~~ 68. "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.

~~71.~~ 69. "Pharmacy":

(a) Means:

(i) Any place where drugs, devices, poisons or related hazardous substances are offered for sale at retail.

(ii) Any place in which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(iii) 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.

(iv) Any place where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited.

(v) 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.

(vi) A remote dispensing site pharmacy ~~where a pharmacy technician or pharmacy intern prepares, compounds or dispenses prescription medications under remote supervision by a pharmacist~~.

(b) Includes a satellite pharmacy.

~~72.~~ 70. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

~~73.~~ 71. "Pharmacy technician" means a person who is licensed pursuant to this chapter.

~~74.~~ 72. "Pharmacy technician trainee" means a person who is licensed pursuant to this chapter.

~~75.~~ 73. "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.

~~76.~~ 74. "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 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 acts, services, operations or transactions THAT ARE necessary ~~in the~~ TO conduct, ~~operation~~ OPERATE, ~~management~~ MANAGE 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.

~~77.~~ 75. "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.

~~78.~~ 76. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and WHO complies with section 32-1923.

~~79.~~ 77. "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.

~~80.~~ 78. "Prescription" means either a prescription order or a prescription medication.

~~81.~~ 79. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

~~82.~~ 80. "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".

~~83.~~ 81. "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, THAT IS required by the federal act to bear on its label the legend "Rx only".

~~84.~~ 82. "Prescription order" means any of the following:

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

(b) An order THAT IS 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 THAT IS 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.

~~85.~~ 83. "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 or pharmacy 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.

~~86.~~ 84. "Radioactive substance" means a substance that emits ionizing radiation.

~~87.~~ 85. "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.

~~88.~~ 86. "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.

~~89.~~ 87. "Revocation" or "revoke" means the official cancellation of a license, permit, registration or other approval authorized by the board for a period of two years unless otherwise specified by the board. A request or new application for reinstatement may be presented to the board for review before the conclusion of the specified revocation period upon review of the executive director.

~~90.~~ 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.

~~91.~~ 89. "Satellite pharmacy" means a work area located within a hospital or on a hospital campus that is not separated by other commercial property or residential property, that is under the direction of a pharmacist, that is a remote extension of a centrally licensed hospital pharmacy, ~~and~~ that is owned by and dependent on the centrally licensed hospital pharmacy for administrative control, staffing and drug procurement and that is not required to be separately permitted.

~~92.~~ 90. "Symbol" means the characteristic symbols that have historically identified pharmacy, including show globes and mortar and pestle, and the sign "Rx".

~~93.~~ 91. "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.

~~94.~~ 92. "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.

~~95.~~ 93. "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. 3. Section 32-1904, Arizona Revised Statutes, as amended by Laws 2019, chapter 257, section 1, is amended to read:

32-1904. Powers and duties of board; immunity

A. The board shall:

1. Make bylaws and adopt rules that are necessary to protect the public and that pertain to the practice of pharmacy, the manufacturing, wholesaling or supplying of drugs, devices, poisons or hazardous substances, the use of pharmacy technicians and support personnel and the lawful performance of its duties.

2. Fix standards and requirements to register and reregister pharmacies, except as otherwise specified.

3. Investigate compliance as to the quality, label and labeling of all drugs, devices, poisons or hazardous substances and take action necessary to prevent the sale of these if they do not conform to the standards prescribed in this chapter, the official compendium or the federal act.

4. Enforce its rules. In so doing, the board or its agents have free access, during the hours reported with the board or the posted hours at the facility, to any pharmacy, manufacturer, wholesaler, third-party logistics provider~~, nonprescription drug permittee~~ or other establishment in which drugs, devices, poisons or hazardous substances are manufactured, processed, packed or held, or to enter any vehicle being used to transport or hold such drugs, devices, poisons or hazardous substances for the purpose of:

(a) Inspecting the establishment or vehicle to determine whether any provisions of this chapter or the federal act are being violated.

(b) Securing samples or specimens of any drug, device, poison or hazardous substance after paying or offering to pay for the sample.

(c) Detaining or embargoing a drug, device, poison or hazardous substance in accordance with section 32-1994.

5. Examine and license as pharmacists and pharmacy interns all qualified applicants as provided by this chapter.

6. Require each applicant for an initial license to apply for a fingerprint clearance card pursuant to section 41-1758.03. If an applicant is issued a valid fingerprint clearance card, the applicant shall submit the valid fingerprint clearance card to the board with the completed application. If an applicant applies for a fingerprint clearance card and is denied, the applicant may request that the board consider the application for licensure notwithstanding the absence of a valid fingerprint clearance card. The board, in its discretion, may approve an application for licensure despite the denial of a valid fingerprint clearance card if the board determines that the applicant's criminal history information on which the denial was based does not alone disqualify the applicant from licensure.

7. Issue duplicates of lost or destroyed permits on the payment of a fee as prescribed by the board.

8. Adopt rules to rehabilitate pharmacists and pharmacy interns as provided by this chapter.

9. At least once every three months, notify pharmacies regulated pursuant to this chapter of any modifications on prescription writing privileges of podiatrists, dentists, doctors of medicine, registered nurse practitioners, osteopathic physicians, veterinarians, physician assistants, optometrists and homeopathic physicians of which it receives notification from the state board of podiatry examiners, state board of dental examiners, Arizona medical board, Arizona state board of nursing, Arizona board of osteopathic examiners in medicine and surgery, Arizona state veterinary medical examining board, Arizona regulatory board of physician assistants, state board of optometry or board of homeopathic and integrated medicine examiners.

10. Charge a permittee a fee, as determined by the board, for an inspection if the permittee requests the inspection.

11. Issue only one active or open license per individual.

12. Allow a licensee to regress to a lower level license on written explanation and review by the board for discussion, determination and possible action.

B. The board may:

1. Employ chemists, compliance officers, clerical help and other employees subject to title 41, chapter 4, article 4 and provide laboratory facilities for the proper conduct of its business.

2. Provide, by educating and informing the licensees and the public, assistance in curtailing abuse in the use of drugs, devices, poisons and hazardous substances.

3. Approve or reject the manner of storage and security of drugs, devices, poisons and hazardous substances.

4. Accept monies and services to assist in enforcing this chapter from other than licensees:

(a) For performing inspections and other board functions.

(b) For the cost of copies of the pharmacy and controlled substances laws, the annual report of the board and other information from the board.

5. Adopt rules for professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy.

6. Grant permission to deviate from a state requirement for MODERNIZATION OF PHARMACY PRACTICE, experimentation ~~and~~ OR technological advances.

7. Adopt rules for the training and practice of pharmacy interns, pharmacy technicians and support personnel.

8. Investigate alleged violations of this chapter, conduct hearings in respect to violations, subpoena witnesses and take such action as it deems necessary to revoke or suspend a license or a permit, place a licensee or permittee on probation or warn a licensee or permittee under this chapter or to bring notice of violations to the county attorney of the county in which a violation took place or to the attorney general.

9. By rule, approve colleges or schools of pharmacy.

10. By rule, approve programs of practical experience, clinical programs, internship training programs, programs of remedial academic work and preliminary equivalency examinations as provided by this chapter.

11. Assist in the continuing education of pharmacists and pharmacy interns.

12. Issue inactive status licenses as provided by this chapter.

13. Accept monies and services from the federal government or others for educational, research or other purposes pertaining to the enforcement of this chapter.

14. By rule, except from the application of all or any part of this chapter any material, compound, mixture or preparation containing any stimulant or depressant substance included in section 13-3401, paragraph 6, subdivision (c) or (d) from the definition of dangerous drug if the material, compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, provided that such admixtures are included in such combinations, quantity, proportion or concentration as to vitiate the potential for abuse of the substances that do have a stimulant or depressant effect on the central nervous system.

15. Adopt rules for the revocation, suspension or reinstatement of licenses or permits or the probation of licensees or permittees as provided by this chapter.

16. Issue a certificate of free sale to any person that is licensed by the board as a manufacturer for the purpose of manufacturing or distributing food supplements or dietary supplements as defined in rule by the board and that wants to sell food supplements or dietary supplements domestically or internationally. The application shall contain all of the following:

(a) The applicant's name, address, ~~e-mail~~ EMAIL address, telephone and fax number.

(b) The product's full, common or usual name.

(c) A copy of the label for each product listed. If the product is to be exported in bulk and a label is not available, the applicant shall include a certificate of composition.

(d) The country of export, if applicable.

(e) The number of certificates of free sale requested.

17. Establish an inspection process to issue certificates of free sale or good manufacturing practice certifications. The board shall establish in rule:

(a) A fee to issue certificates of free sale.

(b) A fee to issue good manufacturing practice certifications.

(c) An annual inspection fee.

18. Delegate to the executive director the authority to:

(a) Void a license or permit application and deem all fees forfeited by the applicant if the applicant provided inaccurate information on the application. ~~Except for inaccurate information provided regarding education or criminal history,~~ The applicant shall have the opportunity to correct the inaccurate information within thirty days after the initial application was ~~voided. If the applicant provides inaccurate information regarding education or criminal history and the application is voided, the applicant may submit a new application with all associated fees~~ REVIEWED BY BOARD STAFF AND THE APPLICANT WAS INFORMED OF THE INACCURACY.

(b) If the president or vice president of the board concurs after reviewing the case, enter into an interim consent agreement with a licensee or permittee if there is evidence that a restriction against the license or permit is needed to mitigate danger to the public health and safety. The board ~~shall~~ MAY subsequently formally adopt the interim consent agreement with any modifications the board deems necessary ~~for the agreement to be fully enforceable~~.

(c) Take no action or dismiss a complaint that has insufficient evidence that a violation of statute or rule GOVERNING THE PRACTICE OF PHARMACY occurred.

(d) Request an applicant or licensee to provide court documents and police reports if the applicant or licensee has been charged with or convicted of a criminal offense. The executive director may do either of the following if the applicant or licensee fails to provide the requested documents to the board within ~~fourteen~~ THIRTY business days after the request:

(i) Close the application, deem the application fee forfeited and not consider a new application complete unless the requested documents are submitted with the application.

~~(ii) Suspend the licensee and open a complaint for unprofessional conduct.~~

(ii) NOTIFY THE LICENSEE OF AN OPPORTUNITY FOR A HEARING IN ACCORDANCE WITH SECTION 41-1061 TO CONSIDER SUSPENSION OF THE LICENSEE.

(e) PURSUANT TO SECTION 36-2604, SUBSECTION B, REVIEW PRESCRIPTION INFORMATION COLLECTED PURSUANT TO TITLE 36, CHAPTER 28, ARTICLE 1.

C. At each regularly scheduled board meeting, the executive director shall provide to the board a list of the executive director's actions taken pursuant to subsection B, paragraph 18, subdivisions (a), (c) and (d) of this section since the last board meeting.

D. THE BOARD SHALL DEVELOP SUBSTANTIVE POLICY STATEMENTS PURSUANT TO SECTION 41-1091 FOR EACH SPECIFIC LICENSING AND REGULATORY AUTHORITY THE BOARD DELEGATES TO THE EXECUTIVE DIRECTOR.

~~D.~~ E. The executive director and other personnel or agents of the board are not subject to civil liability for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.

Sec. 4. Repeal

Section 32-1904, Arizona Revised Statutes, as amended by Laws 2019, chapter 320, section 1, is repealed.

Sec. 5. Section 32-1921, Arizona Revised Statutes, is amended to read:

32-1921. Exempted acts; exemption from registration fees; definition

A. This chapter does not prevent:

1. The prescription and dispensing of drugs or prescription medications by a registered nurse practitioner or clinical nurse specialist pursuant to rules adopted by the Arizona state board of nursing in consultation with the Arizona medical board, the Arizona board of osteopathic examiners in medicine and surgery and the Arizona state board of pharmacy.

2. The sale of nonprescription drugs that are sold at retail in original packages by a person holding a permit issued by the board under this chapter. THIS CHAPTER DOES NOT REQUIRE A PERSON TO HOLD A BOARD-ISSUED PERMIT TO SELL ONLY NONPRESCRIPTION DRUGS AT RETAIL IN ORIGINAL PACKAGES.

3. The sale of drugs at wholesale by a wholesaler or manufacturer that holds the required permit issued by the board to a person who holds the required permit issued under this chapter.

4. The manufacturing of drugs by a person who is not a pharmacist and who holds the required permit issued by the board under this chapter.

5. The following health professionals from dispensing or personally administering drugs or devices to a patient for a condition being treated by the health professional:

(a) A doctor of medicine licensed pursuant to chapter 13 of this title.

(b) An osteopathic physician licensed pursuant to chapter 17 of this title.

(c) A homeopathic physician licensed pursuant to chapter 29 of this title.

(d) A podiatrist licensed pursuant to chapter 7 of this title.

(e) A dentist licensed pursuant to chapter 11 of this title.

(f) A doctor of naturopathic medicine who is authorized to prescribe natural substances, drugs or devices and who is licensed pursuant to chapter 14 of this title.

(g) An optometrist who is licensed pursuant to chapter 16 of this title and who is certified for topical or oral pharmaceutical agents.

6. A veterinarian licensed pursuant to chapter 21 of this title from dispensing or administering drugs to an animal or from dispensing or administering devices to an animal being treated by the veterinarian.

7. The use of any pesticide chemical, soil or plant nutrient or other agricultural chemical that is a color additive solely because of its effect in aiding, retarding or otherwise affecting directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color whether before or after harvest.

8. A licensed practical or registered nurse employed by a person licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title from assisting in the delivery of drugs and devices to patients, in accordance with chapter 7, 11, 13, 14, 17 or 29 of this title.

9. The use of any mechanical device or vending machine in connection with the sale of any nonprescription drug, including proprietary and patent medicine. The board may adopt rules to prescribe conditions under which nonprescription drugs may be dispensed pursuant to this paragraph.

B. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title and who employs a licensed practical or registered nurse who in the course of employment assists in the delivery of drugs and devices is responsible for the dispensing process.

C. Pursuant to a prescription order written by a physician for the physician's patients and dispensed by a licensed pharmacist, a physical therapist licensed pursuant to chapter 19 of this title, an occupational therapist licensed pursuant to chapter 34 of this title or an athletic trainer licensed pursuant to chapter 41 of this title may procure, store and administer nonscheduled legend and topical anti-inflammatories and topical anesthetics for use in phonophoresis and iontophoresis procedures and within the scope of practice of physical or occupational therapy or athletic training.

D. A public health facility operated by this state or a county and a qualifying community health center may dispense medication or devices to patients at no cost without providing a written prescription if the public health facility or the qualifying community health center meets all storage, labeling, safety and record keeping rules adopted by the board of pharmacy.

E. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title, who is practicing at a public health facility or a qualifying community health center and who is involved in the dispensing

of medication or devices only at a facility or center, whether for a charge or at no cost, shall register to dispense with the appropriate licensing board but is exempt from paying registration fees.

F. For the purposes of this section, "qualifying community health center" means a primary care clinic that is recognized as nonprofit under section 501(c)(3) of the United States internal revenue code and whose board of directors includes patients of the center and residents of the center's service area.

Sec. 6. Section 32-1927.03, Arizona Revised Statutes, is amended to read:

32-1927.03. Persons required to be permitted; formal hearing; disciplinary action

A. A person that resides in this state or in any other jurisdiction and that sells a narcotic or other controlled substance, a prescription-only drug or device, ~~a nonprescription drug,~~ a precursor chemical or a restricted chemical within or into this state shall hold a valid board-issued permit. If the person does not hold a valid board-issued permit, the person is subject to disciplinary action by the board.

B. A person that after a formal hearing is found by the board to be in violation of subsection A of this section may be subject to a civil penalty ~~not to exceed one thousand dollars~~ OF NOT MORE THAN $1,000 for each violation of this chapter or a rule adopted pursuant to this chapter.

C. The board may charge the cost of a formal hearing to the person that the board finds to be in violation of this chapter or a rule adopted pursuant to this chapter or whose employee the board finds to be in violation of this chapter or a rule adopted pursuant to this chapter.

D. The board on its own motion or in response to a complaint may inspect or investigate, or delegate to the executive director the authority to inspect or investigate, any evidence that appears to show a person is or may be acting in violation of subsection A of this section. The board may:

1. Send, or delegate to the executive director the authority to send, a cease and desist letter regarding the person's unauthorized business in this state.

2. Request a conference with the person if the board believes the information is or may be true. If the person refuses the invitation or fails to appear for the conference and the investigation indicates that grounds may exist for the board to impose a civil penalty, the board shall issue a formal notice that a hearing be held pursuant to title 41, chapter 6, article 10.

3. Dismiss the complaint if the complaint is without merit.

Sec. 7. Section 32-1930, Arizona Revised Statutes, is amended to read:

32-1930. Types of permits; restrictions on permits; discontinuance of pharmacy permit

A. On application, the board may issue the following classes or kinds of permits:

1. If approved by the board, a pharmacy, limited service pharmacy, automated prescription-dispensing kiosk, full service wholesale drug, third-party logistics provider~~, nonprescription drug wholesale~~ and drug manufacturer's permit.

2. Drug packager or drug prepackager permit to an individual or establishment that is currently listed by the United States food and drug administration and has met the requirements of that agency to purchase, repackage, relabel or otherwise alter the manufacturer's original package of an approved drug product with the intent of reselling these items to persons or businesses authorized to possess or resell the repackaged, prepackaged or relabeled drug.

3. A compressed medical gas distributor permit and a durable medical equipment and compressed medical gas supplier permit.

B. The board shall deny or revoke a pharmacy permit if a medical practitioner receives compensation, either directly or indirectly, from a pharmacy as a result of the practitioner's prescription orders. This does not include compensation to a medical practitioner who is the owner of a building where space is leased to a pharmacy at the prevailing rate, not resulting in a rebate to the medical practitioner.

C. If a pharmacy permanently discontinues operation, the permittee shall immediately surrender the permit to the executive director. The permittee shall remove all drug signs and symbols, either within or without the premises, and shall remove or destroy all drugs, devices, poisons and hazardous substances.

D. An automated prescription-dispensing kiosk may not contain or dispense a controlled substance as defined in section 36-2501 and the controlled substances act (P.L. 91-513; 84 Stat. 1242; 21 United States Code section 802).

Sec. 8. Section 32-1931, Arizona Revised Statutes, is amended to read:

32-1931. Permit fees; issuance; expiration; renewals; online profiles

A. The board shall assign the permit of all persons or firms issued under this chapter to one of two permit renewal groups. Except as provided in section 32-4301, a holder of a permit designated in the licensing database as even by way of verbiage or numerical value shall renew it biennially on or before November 1 of the even-numbered year, two years ~~from~~ AFTER the last renewal date. Except as provided in section 32-4301, a holder of a permit designated in the licensing database as odd

by way of verbiage or numerical value shall renew it biennially on or before November 1 of the odd-numbered year, two years ~~from~~ AFTER 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 permit. The board shall vacate a suspension when the permittee pays penalties of not to exceed $350 and all past due fees. The board may waive collection of a fee or penalty due after suspension under conditions established by a majority of the board.

B. Permit 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 the 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 the permit.

C. Applications for permits shall be accompanied by the following biennial fees as determined ~~by~~ PURSUANT TO subsection B of this section:

1. A drug manufacturer's permit, not more than $1,000.

2. A pharmacy permit, not more than $500.

3. A limited service pharmacy permit or an automated prescription-dispensing kiosk permit, not more than $500.

4. A full service wholesale drug permit or a third-party logistics provider permit, not more than $1,000.

~~5. A nonprescription drug wholesale permit, not more than $500.~~

~~6.~~ 5. A drug repackager's permit, not more than $1,000.

~~7.~~ 6. A compressed medical gas distributor permit, not more than $200.

~~8.~~ 7. A durable medical equipment and compressed medical gas supplier permit, not more than $100.

D. If an applicant is found to be satisfactory to the board, the executive director shall issue to the applicant a permit for each pharmacy, manufacturer, wholesaler or other place of business in which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale, for which application is made.

E. Permits issued under this section are not transferable.

F. If a permittee does not apply for renewal, the permit expires pursuant to subsection A of this section. A person may activate and renew an expired permit by filing the required application and fee. Renewal thirty days after the expiration date of a permit may be made only on payment of the required biennial renewal fee, all past due fees and a penalty of one-half of the amount of the applicable biennial renewal fee. The board may waive the collection of a fee or penalty due after suspension pursuant to conditions prescribed by the board.

G. A permittee shall create an online profile using the board's licensing software.

Sec. 9. Section 32-1941, Arizona Revised Statutes, is amended to read:

32-1941. Third-party logistics providers; permit required; designated representative; fingerprinting requirements

A. A third-party logistics provider that engages in the logistics services of prescription ~~or over-the-counter~~ dangerous drugs or dangerous devices into, within or from this state shall hold a third-party logistics provider permit in this state.

B. A third-party logistics provider shall comply with storage practices, including all of the following:

1. Maintain access to warehouse space of A suitable size to facilitate safe operations, including a suitable area to quarantine a suspect product.

2. Maintain adequate security.

3. Have written policies and procedures to:

(a) Address the receipt, security, storage, inventory, shipment and distribution of a product.

(b) Identify, record and report confirmed significant losses or thefts in the United States.

(c) Correct errors and inaccuracies in inventories.

(d) Provide support for manufacturer recalls.

(e) Prepare for, protect against and address any reasonably foreseeable crisis that affects a facility's security or operation, such as an employee strike, A fire or A flood.

(f) Ensure that any expired product is segregated from other products and returned to the manufacturer, repackager or agent of the manufacturer or repackager or is destroyed.

(g) Maintain records reflecting the receipt and distribution of products and supplies and records of inventories.

(h) Quarantine or destroy a suspect product if directed to do so by the respective manufacturer, wholesale distributor or dispenser or an authorized governmental agency.

C. A third-party logistics provider shall make its facility available to the board for inspection during regular business hours to ensure compliance with this section.

D. A third-party logistics provider shall have a designated representative at each facility who has not been convicted of any felony violation under any federal, state or local law relating to wholesale or retail prescription ~~or over-the-counter~~ dangerous drugs or dangerous devices distribution or the distribution of controlled substances.

E. A third-party logistics provider shall provide the board on the board's request with a list of all manufacturers, wholesale distributors and dispensers for whom the third-party logistics provider provides services at a facility.

F. A third-party logistics provider's designated representative shall have a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1, which shall be submitted with the completed application. If the third-party logistics provider changes its designated representative, the new designated representative shall have a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1 and submitted to the board before the change in representation is made.

Sec. 10. Section 32-3208, Arizona Revised Statutes, is amended to read:

32-3208. Criminal charges; mandatory reporting requirements; civil penalty; exceptions

A. A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed.

B. An applicant for licensure or certification as a health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after submitting the application must notify the regulatory board in writing within ten working days after the charge is filed.

C. On receipt of this information the regulatory board may conduct an investigation.

D. A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than ~~one thousand dollars~~ $1,000 in addition to other disciplinary action it takes.

E. The regulatory board may deny the application of an applicant who does not comply with the notification requirements of this section.

F. On request, a health profession regulatory board shall provide an applicant or health professional with a list of misdemeanors that the applicant or health professional must report.

G. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A PERSON WHO IS LICENSED OR PERMITTED PURSUANT TO CHAPTER 18 OF THIS TITLE IS NOT SUBJECT TO:

1. AN INVESTIGATION, A CIVIL PENALTY OR ANY OTHER DISCIPLINARY ACTION FOR FAILING TO DISCLOSE A CRIMINAL CHARGE IF THE CRIMINAL CHARGE IS MORE THAN FOUR YEARS OLD AND DOES NOT INVOLVE SEXUAL MISCONDUCT, AN INCIDENT OR OCCURRENCE INVOLVING A FELONY, DIVERSION OF A CONTROLLED SUBSTANCE OR IMPAIRMENT WHILE PRACTICING. DIVERSION OF A CONTROLLED SUBSTANCE DOES NOT INCLUDE ADMINISTRATIVE ERRORS OR RECORDKEEPING VIOLATIONS WHEN THERE IS NOT EVIDENCE OF AN ACTUAL LOSS OF A CONTROLLED SUBSTANCE.

2. A CIVIL PENALTY OR ANY OTHER DISCIPLINARY ACTION FOR FAILING TO REPORT A CRIMINAL CHARGE IF THE LICENSEE OR PERMITTEE HAS DISCLOSED THE CHARGE IN ANY MANNER, INCLUDING A RENEWAL APPLICATION, EVEN IF THE DISCLOSURE OCCURRED AFTER THE TEN-WORKING-DAY PERIOD SPECIFIED IN SUBSECTION A OF THIS SECTION.

Sec. 11. Section 32-3214, Arizona Revised Statutes, is amended to read:

32-3214. Board actions; public access to records; website

A. If a health profession regulatory board dismisses a complaint, the record of that complaint is available to that regulatory board and the public pursuant to section 39-121 but may not appear on the board's website. For the purposes of this subsection, "dismisses a complaint" means that a board does not issue a disciplinary or nondisciplinary order or action against a licensee or certificate holder. A pending complaint or investigation may not be disclosed to the public.

B. All disciplinary actions against a licensee or certificate holder shall be available on the health profession regulatory board's website FOR NOT MORE THAN FIVE YEARS. ~~After January 1, 2018,~~ If a health profession regulatory board issues a final nondisciplinary order or action, the record of the final nondisciplinary order or action shall be made available on the board's website for NOT MORE THAN five years. Letters of concern and advisory letters may not be made available on the website but a copy of such letters are available to the public pursuant to section 39-121 and shall be provided to any person on request.

C. If a health profession regulatory board maintains a website, the board must display on its website a statement that a person may obtain additional public records related to any licensee or certificate holder, including dismissed complaints and nondisciplinary actions and orders, by contacting the board directly.

D. This section does not prohibit a health profession regulatory board from conducting its authorized duties in a public meeting.

E. Subsections A and B of this section do not apply to meeting minutes and notices kept by the board in accordance with the public meeting requirements of title 38, chapter 3, article 3.1.

~~F. A health profession regulatory board must comply with the requirements of this section on or before January 1, 2018.~~

Sec. 12. Section 32-3224, Arizona Revised Statutes, is amended to read:

32-3224. Complaints; time limit on filing; exceptions

A. Notwithstanding any time ~~limitation~~ LIMIT to the contrary in this title, a health profession regulatory board may not act on its own motion or on any complaint received by the board in which an allegation of unprofessional conduct or any other violation of the chapter that applies to a professional who holds an Arizona license or certificate occurred

more than four years before the complaint is received by the board. This time ~~limitation~~ LIMIT does not apply to:

1. Medical malpractice settlements or judgments, ~~or~~ allegations of sexual misconduct or ~~if such~~ AN incident or occurrence THAT involved a felony, diversion of a controlled substance or impairment while practicing by the licensee or certificate holder.

2. ~~A~~ THE board's consideration of the specific unprofessional conduct related to ~~a~~ THE licensee's or certificate holder's failure to disclose conduct or a violation as required by law. THIS PARAGRAPH DOES NOT APPLY TO A PERSON WHO IS LICENSED OR PERMITTED PURSUANT TO CHAPTER 18 OF THIS TITLE UNLESS THE CONDUCT OR VIOLATION IS RELATED TO SEXUAL MISCONDUCT, AN INCIDENT OR OCCURRENCE INVOLVING A FELONY, DIVERSION OF A CONTROLLED SUBSTANCE OR IMPAIRMENT WHILE PRACTICING.

B. DIVERSION OF A CONTROLLED SUBSTANCE DOES NOT INCLUDE ADMINISTRATIVE ERRORS OR RECORDKEEPING VIOLATIONS WHEN THERE IS NOT EVIDENCE OF AN ACTUAL LOSS OF A CONTROLLED SUBSTANCE.

Sec. 13. Section 32-4801, Arizona Revised Statutes, is amended to read:

32-4801. Public meetings; digital recordings; posting; definition

A. Each licensing authority shall:

1. In addition to the requirements prescribed in title 38, chapter 3, article 3.1, provide for a digital recording of each licensing authority meeting, except for executive sessions.

2. Post on its website the digital recording of the meeting not later than five days after the meeting and retain the recording on its website for at least three years.

3. Except as prescribed by sections 32-3214 and 41-1092.09, post on its website all final decisions, orders and actions the licensing authority takes not later than five days after the meeting and retain this information on its website for at least three years BUT NOT MORE THAN FIVE YEARS.

B. For the purposes of this section, "licensing authority" has the same meaning prescribed in section 32-4701.