

COMMITTEE ON HEALTH AND HUMAN SERVICES

SENATE AMENDMENTS TO S.B. 1145

(Reference to printed bill)

1 Page 14, after line 9 insert:

2 "Sec. 3. Section 32-1901.01, Arizona Revised Statutes, is amended to
3 read:

4 32-1901.01. Definition of unethical and unprofessional conduct;
5 permittees; licensees

6 A. In this chapter, unless the context otherwise requires, for the
7 purposes of disciplining a permittee, "unethical conduct" means the following,
8 whether occurring in this state or elsewhere:

9 1. Committing a felony, whether or not involving moral turpitude, or a
10 misdemeanor involving moral turpitude or any drug-related offense. In either
11 case, conviction by a court of competent jurisdiction or a plea of no contest is
12 conclusive evidence of the commission.

13 2. Committing an act that is substantially related to the qualifications,
14 functions or duties of a permittee and that demonstrates either a lack of good
15 moral character or an actual or potential unfitness to hold a permit in light of
16 the public's safety.

17 3. Working under the influence of alcohol or other drugs.

18 4. Being addicted to the use of alcohol or other drugs to such a degree as
19 to render the permittee unfit to perform the permittee's employment duties.

20 5. Violating a federal or state law or administrative rule relating to the
21 manufacture, sale or distribution of drugs, devices, poisons, hazardous
22 substances or precursor chemicals.

23 6. Violating a federal or state law or administrative rule relating to
24 marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled
25 substances or precursor chemicals.

1 7. Violating state or federal reporting or recordkeeping requirements on
2 transactions relating to precursor chemicals.

3 8. Failing to report in writing to the board any evidence that a
4 pharmacist or pharmacy intern is or may be professionally incompetent, is or may
5 be guilty of unprofessional conduct or is or may be mentally or physically unable
6 safely to engage in the practice of pharmacy.

7 9. Failing to report in writing to the board any evidence that a pharmacy
8 technician or pharmacy technician trainee is or may be professionally
9 incompetent, is or may be guilty of unprofessional conduct or is or may be
10 mentally or physically unable safely to engage in the permissible activities of a
11 pharmacy technician or pharmacy technician trainee.

12 10. Failing to report in writing to the board any evidence that appears to
13 show that a permittee or permittee's employee is or may be guilty of unethical
14 conduct, is or may be mentally or physically unable safely to engage in
15 employment duties related to manufacturing, selling, distributing or dispensing
16 of drugs, devices, poisons, hazardous substances, controlled substances or
17 precursor chemicals or is or may be in violation of this chapter or a rule
18 adopted under this chapter.

19 11. Intending to sell, transfer or distribute, or to offer for sale,
20 transfer or distribution, or selling, transferring, distributing or dispensing or
21 offering for sale, transfer or distribution an imitation controlled substance,
22 imitation over-the-counter drug or imitation prescription-only drug as defined in
23 section 13-3451.

24 12. Having the permittee's permit to manufacture, sell, distribute or
25 dispense drugs, devices, poisons, hazardous substances or precursor chemicals
26 denied or disciplined in another jurisdiction.

27 13. Committing an offense in another jurisdiction that if committed in
28 this state would be grounds for discipline.

29 14. Obtaining or attempting to obtain a permit or a permit renewal by
30 fraud, by misrepresentation or by knowingly taking advantage of the mistake of
31 another person or an agency.

32 15. Wilfully making a false report or record required by this chapter,
33 required by federal or state laws pertaining to drugs, devices, poisons,

1 hazardous substances or precursor chemicals or required for the payment for
2 drugs, devices, poisons or hazardous substances or precursor chemicals or for
3 services pertaining to such drugs or substances.

4 16. Knowingly filing with the board any application, renewal or other
5 document that contains false or misleading information.

6 17. Providing false or misleading information or omitting material
7 information in any communication to the board or the board's employees or agents.

8 18. Violating or attempting to violate, directly or indirectly, or
9 assisting in or abetting the violation of, or conspiring to violate, this
10 chapter.

11 19. Violating a formal order, terms of probation, a consent agreement or a
12 stipulation issued or entered into by the board or its executive director
13 pursuant to this chapter.

14 20. Failing to comply with a board subpoena or failing to comply in a
15 timely manner with a board subpoena without providing any explanation to the
16 board for not complying with the subpoena.

17 21. Failing to provide the board or its employees or agents or an
18 authorized federal or state official conducting a site investigation, inspection
19 or audit with access to any place for which a permit has been issued or for which
20 an application for a permit has been submitted.

21 22. Failing to notify the board of a change of ownership, management or
22 pharmacist in charge.

23 23. Failing to promptly produce on the request of the official conducting
24 a site investigation, inspection or audit any book, record or document.

25 24. Overruling or attempting to overrule a pharmacist in matters of
26 pharmacy ethics or interpreting laws pertaining to the practice of pharmacy or
27 the distribution of drugs or devices.

28 25. Distributing premiums or rebates of any kind in connection with the
29 sale of prescription medication, other than to the prescription medication
30 recipient.

31 26. Failing to maintain effective controls against the diversion of
32 controlled substances or precursor chemicals to unauthorized persons or entities.

33 27. Fraudulently claiming to have performed a service.

1 28. Fraudulently charging a fee for a service.

2 29. Advertising drugs or devices, or services pertaining to drugs or
3 devices, in a manner that is untrue or misleading in any particular, and that is
4 known, or that by the exercise of reasonable care should be known, to be untrue
5 or misleading.

6 B. In this chapter, unless the context otherwise requires, for the
7 purposes of disciplining a pharmacist or pharmacy intern, "unprofessional
8 conduct" means the following, whether occurring in this state or elsewhere:

9 1. Being addicted to the use of alcohol or other drugs to such a degree as
10 to render the licensee unfit to practice the profession of pharmacy.

11 2. Violating any federal or state law, rule or regulation relating to the
12 manufacture or distribution of drugs and devices or the practice of pharmacy.

13 3. Dispensing a different drug or brand of drug in place of the drug or
14 brand of drug ordered or prescribed without the express permission in each case
15 of the orderer, or in the case of a prescription order, the medical
16 practitioner. The conduct prohibited by this paragraph does not apply to
17 substitutions authorized pursuant to section 32-1963.01.

18 4. Obtaining or attempting to obtain a license to practice pharmacy or a
19 license renewal by fraud, by misrepresentation or by knowingly taking advantage
20 of the mistake of another person or an agency.

21 5. Having the licensee's license to practice pharmacy denied or
22 disciplined in another jurisdiction.

23 6. Claiming professional superiority in compounding or dispensing
24 prescription orders.

25 7. Failing to comply with the mandatory continuing professional pharmacy
26 education requirements of sections 32-1936 and 32-1937 and rules adopted by the
27 board.

28 8. Committing a felony, whether or not involving moral turpitude, or a
29 misdemeanor involving moral turpitude or any drug-related offense. In either
30 case, conviction by a court of competent jurisdiction or a plea of no contest is
31 conclusive evidence of the commission.

32 9. Working under the influence of alcohol or other drugs.

1 10. Violating a federal or state law or administrative rule relating to
2 marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled
3 substances or precursor chemicals when determined by the board or by conviction
4 in a federal or state court.

5 11. Knowingly dispensing a drug without a valid prescription order as
6 required pursuant to section 32-1968, subsection A.

7 12. Knowingly dispensing a drug on a prescription order that was issued in
8 the course of the conduct of business of dispensing drugs pursuant to diagnosis
9 by mail or the internet, unless the order was any of the following:

10 (a) Made by a physician who provides temporary patient supervision on
11 behalf of the patient's regular treating licensed health care professional or
12 provides a consultation requested by the patient's regular treating licensed
13 health care professional.

14 (b) Made in an emergency medical situation as defined in section 41-1831.

15 (c) Written to prepare a patient for a medical examination.

16 (d) Written or the prescription medications were issued for use by a
17 county or tribal public health department for immunization programs or emergency
18 treatment or in response to an infectious disease investigation, a public health
19 emergency, an infectious disease outbreak or an act of bioterrorism. For the
20 purposes of this subdivision, "bioterrorism" has the same meaning prescribed in
21 section 36-781.

22 (e) Written or antimicrobials were dispensed by the prescribing or
23 dispensing physician to a contact as defined in section 36-661 who is believed to
24 have had significant exposure risk as defined in section 36-661 with another
25 person who has been diagnosed with a communicable disease as defined in section
26 36-661.

27 (f) Written or the prescription medications were issued for administration
28 of immunizations or vaccines listed in the United States centers for disease
29 control and prevention's recommended immunization schedule to a household member
30 of a patient.

31 (g) For epinephrine auto-injectors that are written or dispensed for a
32 school district or charter school and that are to be stocked for emergency use

1 pursuant to section 15-157 or for an authorized entity to be stocked pursuant to
2 section 36-2226.01.

3 (h) Written by a licensee through a telemedicine program that is covered
4 by the policies and procedures adopted by the administrator of a hospital or
5 outpatient treatment center.

6 (i) Written pursuant to a physical or mental health status examination
7 that was conducted ~~during a real-time telemedicine encounter with audio and video~~
8 ~~capability~~ THROUGH TELEMEDECINE AS DEFINED IN SECTION 36-3601.

9 (j) For naloxone hydrochloride or any other opioid antagonist approved by
10 the United States food and drug administration and written or dispensed for use
11 pursuant to section 36-2228 or 36-2266.

12 13. Failing to report in writing to the board any evidence that a
13 pharmacist or pharmacy intern is or may be professionally incompetent, is or may
14 be guilty of unprofessional conduct or is or may be mentally or physically unable
15 to safely engage in the practice of pharmacy.

16 14. Failing to report in writing to the board any evidence that a pharmacy
17 technician or pharmacy technician trainee is or may be professionally
18 incompetent, is or may be guilty of unprofessional conduct or is or may be
19 mentally or physically unable to safely engage in the permissible activities of a
20 pharmacy technician or pharmacy technician trainee.

21 15. Failing to report in writing to the board any evidence that a
22 permittee or a permittee's employee is or may be guilty of unethical conduct or
23 is or may be in violation of this chapter or a rule adopted under this chapter.

24 16. Committing an offense in another jurisdiction that if committed in
25 this state would be grounds for discipline.

26 17. Knowingly filing with the board any application, renewal or other
27 document that contains false or misleading information.

28 18. Providing false or misleading information or omitting material
29 information in any communication to the board or the board's employees or agents.

30 19. Violating or attempting to violate, directly or indirectly, or
31 assisting in or abetting in the violation of, or conspiring to violate, this
32 chapter.

1 20. Violating a formal order, terms of probation, a consent agreement or a
2 stipulation issued or entered into by the board or its executive director
3 pursuant to this chapter.

4 21. Failing to comply with a board subpoena or failing to comply in a
5 timely manner with a board subpoena without providing any explanation to the
6 board for not complying with the subpoena.

7 22. Refusing without just cause to allow authorized agents of the board to
8 examine documents that are required to be kept pursuant to this chapter or title
9 36.

10 23. Participating in an arrangement or agreement to allow a prescription
11 order or a prescription medication to be left at, picked up from, accepted by or
12 delivered to a place that is not licensed as a pharmacy. This paragraph does not
13 prohibit a pharmacist or a pharmacy from using an employee or a common carrier to
14 pick up prescription orders at or deliver prescription medications to the office
15 or home of a medical practitioner, the residence of a patient or a patient's
16 hospital.

17 24. Paying rebates or entering into an agreement for the payment of
18 rebates to a medical practitioner or any other person in the health care field.

19 25. Providing or causing to be provided to a medical practitioner
20 prescription order blanks or forms bearing the pharmacist's or pharmacy's name,
21 address or other means of identification.

22 26. Fraudulently claiming to have performed a professional service.

23 27. Fraudulently charging a fee for a professional service.

24 28. Failing to report a change of the licensee's home address, contact
25 information, employer or employer's address as required by section 32-1926.

26 29. Failing to report a change in the licensee's residency status as
27 required by section 32-1926.01.

28 30. Failing to maintain effective controls against the diversion of
29 controlled substances or precursor chemicals to unauthorized persons or entities.

30 C. In this chapter, unless the context otherwise requires, for the
31 purposes of disciplining a pharmacy technician or pharmacy technician trainee,
32 "unprofessional conduct" means the following, whether occurring in this state or
33 elsewhere:

1 1. Being addicted to the use of alcohol or other drugs to such a degree as
2 to render the licensee unfit to perform the licensee's employment duties.

3 2. Violating a federal or state law or administrative rule relating to the
4 manufacture or distribution of drugs or devices.

5 3. Obtaining or attempting to obtain a pharmacy technician or pharmacy
6 technician trainee license or a pharmacy technician license renewal by fraud, by
7 misrepresentation or by knowingly taking advantage of the mistake of another
8 person or an agency.

9 4. Having the licensee's license to practice as a pharmacy technician
10 denied or disciplined in another jurisdiction.

11 5. Failing to comply with the mandatory continuing professional education
12 requirements of section 32-1925, subsection H and rules adopted by the board.

13 6. Committing a felony, whether or not involving moral turpitude, or a
14 misdemeanor involving moral turpitude or any drug-related offense. In either
15 case, conviction by a court of competent jurisdiction or a plea of no contest is
16 conclusive evidence of the commission.

17 7. Working under the influence of alcohol or other drugs.

18 8. Violating a federal or state law or administrative rule relating to
19 marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled
20 substances or precursor chemicals when determined by the board or by conviction
21 in a federal or state court.

22 9. Failing to report in writing to the board any evidence that a
23 pharmacist or pharmacy intern is or may be professionally incompetent, is or may
24 be guilty of unprofessional conduct or is or may be mentally or physically unable
25 to safely engage in the practice of pharmacy.

26 10. Failing to report in writing to the board any evidence that a pharmacy
27 technician or pharmacy technician trainee is or may be professionally
28 incompetent, is or may be guilty of unprofessional conduct or is or may be
29 mentally or physically unable to safely engage in the permissible activities of a
30 pharmacy technician or pharmacy technician trainee.

31 11. Failing to report in writing to the board any evidence that a
32 permittee or a permittee's employee is or may be guilty of unethical conduct or
33 is or may be in violation of this chapter or a rule adopted under this chapter.

1 12. Committing an offense in another jurisdiction that if committed in
2 this state would be grounds for discipline.

3 13. Knowingly filing with the board any application, renewal or other
4 document that contains false or misleading information.

5 14. Providing false or misleading information or omitting material
6 information in any communication to the board or the board's employees or agents.

7 15. Violating or attempting to violate, directly or indirectly, or
8 assisting in or abetting in the violation of, or conspiring to violate, this
9 chapter.

10 16. Violating a formal order, terms of probation, a consent agreement or a
11 stipulation issued or entered into by the board or its executive director
12 pursuant to this chapter.

13 17. Failing to comply with a board subpoena or failing to comply in a
14 timely manner with a board subpoena without providing any explanation to the
15 board for not complying with the subpoena.

16 18. Failing to report a change of the licensee's home address, contact
17 information, employer or employer's address as required by section 32-1926.

18 19. Failing to report a change in the licensee's residency status as
19 required by section 32-1926.01.

20 Amend title to conform

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