

Senate Engrossed

telemedicine; physicians

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1145

AN ACT

AMENDING SECTIONS 32-1401, 32-1854 AND 32-1901.01, ARIZONA REVISED STATUTES; RELATING TO TELEMEDICINE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-1401, Arizona Revised Statutes, is amended to
3 read:

4 **32-1401. Definitions**

5 In this chapter, unless the context otherwise requires:

6 1. "Active license" means a valid and existing license to practice
7 medicine.

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

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

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

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

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

27 4. "Approved hospital internship, residency or clinical fellowship
28 program" means a program at a hospital that at the time the training
29 occurred was legally incorporated and that had a program that was approved
30 for internship, fellowship or residency training by the accreditation
31 council for graduate medical education, the association of American
32 medical colleges, the royal college of physicians and surgeons of Canada
33 or any similar body in the United States or Canada approved by the board
34 whose function is that of approving hospitals for internship, fellowship
35 or residency training.

36 5. "Approved school of medicine" means any school or college
37 offering a course of study that, on successful completion, results in the
38 degree of doctor of medicine and whose course of study has been approved
39 or accredited by an educational or professional association, recognized by
40 the board, including the association of American medical colleges, the
41 association of Canadian medical colleges or the American medical
42 association.

43 6. "Board" means the Arizona medical board.

1 7. "Completed application" means that the applicant has supplied
2 all required fees, information and correspondence requested by the board
3 on forms and in a manner acceptable to the board.

4 8. "Direct supervision" means that a physician, physician assistant
5 licensed pursuant to chapter 25 of this title or nurse practitioner
6 certified pursuant to chapter 15 of this title is within the same room or
7 office suite as the medical assistant in order to be available for
8 consultation regarding those tasks the medical assistant performs pursuant
9 to section 32-1456.

10 9. "Dispense" means the delivery by a doctor of medicine of a
11 prescription drug or device to a patient, except for samples packaged for
12 individual use by licensed manufacturers or repackagers of drugs, and
13 includes the prescribing, administering, packaging, labeling and security
14 necessary to prepare and safeguard the drug or device for delivery.

15 10. "Doctor of medicine" means a natural person holding a license,
16 registration or permit to practice medicine pursuant to this chapter.

17 11. "Full-time faculty member" means a physician who is employed
18 full time as a faculty member while holding the academic position of
19 assistant professor or a higher position at an approved school of
20 medicine.

21 12. "Health care institution" means any facility as defined in
22 section 36-401, any person authorized to transact disability insurance, as
23 defined in title 20, chapter 6, article 4 or 5, any person who is issued a
24 certificate of authority pursuant to title 20, chapter 4, article 9 or any
25 other partnership, association or corporation that provides health care to
26 consumers.

27 13. "Immediate family" means the spouse, natural or adopted
28 children, father, mother, brothers and sisters of the doctor and the
29 natural or adopted children, father, mother, brothers and sisters of the
30 doctor's spouse.

31 14. "Letter of reprimand" means a disciplinary letter that is
32 issued by the board and that informs the physician that the physician's
33 conduct violates state or federal law and may require the board to monitor
34 the physician.

35 15. "Limit" means taking a nondisciplinary action that alters the
36 physician's practice or professional activities if the board determines
37 that there is evidence that the physician is or may be mentally or
38 physically unable to safely engage in the practice of medicine.

39 16. "Medical assistant" means an unlicensed person who meets the
40 requirements of section 32-1456, has completed an education program
41 approved by the board, assists in a medical practice under the supervision
42 of a doctor of medicine, physician assistant or nurse practitioner and
43 performs delegated procedures commensurate with the assistant's education
44 and training but does not diagnose, interpret, design or modify

1 established treatment programs or perform any functions that would violate
2 any statute applicable to the practice of medicine.

3 17. "Medically incompetent" means a person who the board determines
4 is incompetent based on a variety of factors, including:

5 (a) A lack of sufficient medical knowledge or skills, or both, to a
6 degree likely to endanger the health of patients.

7 (b) When considered with other indications of medical incompetence,
8 failing to obtain a scaled score of at least seventy-five percent on the
9 written special purpose licensing examination.

10 18. "Medical peer review" means:

11 (a) The participation by a doctor of medicine in the review and
12 evaluation of the medical management of a patient and the use of resources
13 for patient care.

14 (b) Activities relating to a health care institution's decision to
15 grant or continue privileges to practice at that institution.

16 19. "Medicine" means allopathic medicine as practiced by the
17 recipient of a degree of doctor of medicine.

18 20. "Office based surgery" means a medical procedure conducted in a
19 physician's office or other outpatient setting that is not part of a
20 licensed hospital or licensed ambulatory surgical center.

21 21. "Physician" means a doctor of medicine who is licensed pursuant
22 to this chapter.

23 22. "Practice of medicine" means the diagnosis, the treatment or
24 the correction of or the attempt or the claim to be able to diagnose,
25 treat or correct any and all human diseases, injuries, ailments,
26 infirmities or deformities, physical or mental, real or imaginary, by any
27 means, methods, devices or instrumentalities, except as the same may be
28 among the acts or persons not affected by this chapter. The practice of
29 medicine includes the practice of medicine alone or the practice of
30 surgery alone, or both.

31 23. "Restrict" means taking a disciplinary action that alters the
32 physician's practice or professional activities if the board determines
33 that there is evidence that the physician is or may be medically
34 incompetent or guilty of unprofessional conduct.

35 24. "Special purpose licensing examination" means an examination
36 that is developed by the national board of medical examiners on behalf of
37 the federation of state medical boards for use by state licensing boards
38 to test the basic medical competence of physicians who are applying for
39 licensure and who have been in practice for a considerable period of time
40 in another jurisdiction and to determine the competence of a physician who
41 is under investigation by a state licensing board.

42 25. "Teaching hospital's accredited graduate medical education
43 program" means that the hospital is incorporated and has an internship,
44 fellowship or residency training program that is accredited by the
45 accreditation council for graduate medical education, the American medical

1 association, the association of American medical colleges, the royal
2 college of physicians and surgeons of Canada or a similar body in the
3 United States or Canada that is approved by the board and whose function
4 is that of approving hospitals for internship, fellowship or residency
5 training.

6 26. "Teaching license" means a valid license to practice medicine
7 as a full-time faculty member of an approved school of medicine or a
8 teaching hospital's accredited graduate medical education program.

9 27. "Unprofessional conduct" includes the following, whether
10 occurring in this state or elsewhere:

11 (a) Violating any federal or state laws, rules or regulations
12 applicable to the practice of medicine.

13 (b) Intentionally disclosing a professional secret or intentionally
14 disclosing a privileged communication except as either act may otherwise
15 be required by law.

16 (c) Committing false, fraudulent, deceptive or misleading
17 advertising by a doctor of medicine or the doctor's staff, employer or
18 representative.

19 (d) Committing a felony, whether or not involving moral turpitude,
20 or a misdemeanor involving moral turpitude. In either case, conviction by
21 any court of competent jurisdiction or a plea of no contest is conclusive
22 evidence of the commission.

23 (e) Failing or refusing to maintain adequate records on a patient.

24 (f) Exhibiting a pattern of using or being under the influence of
25 alcohol or drugs or a similar substance while practicing medicine or to
26 the extent that judgment may be impaired and the practice of medicine
27 detrimentally affected.

28 (g) Using controlled substances except if prescribed by another
29 physician for use during a prescribed course of treatment.

30 (h) Prescribing or dispensing controlled substances to members of
31 the physician's immediate family.

32 (i) Prescribing, dispensing or administering schedule II controlled
33 substances as defined in section 36-2513, including amphetamines and
34 similar schedule II sympathomimetic drugs in the treatment of exogenous
35 obesity for a period in excess of thirty days in any one year, or the
36 nontherapeutic use of injectable amphetamines.

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

40 (k) Dispensing a schedule II controlled substance that is an
41 opioid, except as provided in section 32-1491.

42 (l) Signing a blank, undated or predated prescription form.

43 (m) Committing conduct that the board determines is gross
44 malpractice, repeated malpractice or any malpractice resulting in the
45 death of a patient.

1 (n) Representing that a manifestly incurable disease or infirmity
2 can be permanently cured, or that any disease, ailment or infirmity can be
3 cured by a secret method, procedure, treatment, medicine or device, if
4 this is not true.

5 (o) Refusing to divulge to the board on demand the means, method,
6 procedure, modality of treatment or medicine used in the treatment of a
7 disease, injury, ailment or infirmity.

8 (p) Having action taken against a doctor of medicine by another
9 licensing or regulatory jurisdiction due to that doctor's mental or
10 physical inability to engage safely in the practice of medicine or the
11 doctor's medical incompetence or for unprofessional conduct as defined by
12 that jurisdiction and that corresponds directly or indirectly to an act of
13 unprofessional conduct prescribed by this paragraph. The action taken may
14 include refusing, denying, revoking or suspending a license by that
15 jurisdiction or a surrendering of a license to that jurisdiction,
16 otherwise limiting, restricting or monitoring a licensee by that
17 jurisdiction or placing a licensee on probation by that jurisdiction.

18 (q) Having sanctions imposed by an agency of the federal
19 government, including restricting, suspending, limiting or removing a
20 person from the practice of medicine or restricting that person's ability
21 to obtain financial remuneration.

22 (r) Committing any conduct or practice that is or might be harmful
23 or dangerous to the health of the patient or the public.

24 (s) Violating a formal order, probation, consent agreement or
25 stipulation issued or entered into by the board or its executive director
26 under this chapter.

27 (t) Violating or attempting to violate, directly or indirectly, or
28 assisting in or abetting the violation of or conspiring to violate any
29 provision of this chapter.

30 (u) Knowingly making any false or fraudulent statement, written or
31 oral, in connection with the practice of medicine or if applying for
32 privileges or renewing an application for privileges at a health care
33 institution.

34 (v) Charging a fee for services not rendered or dividing a
35 professional fee for patient referrals among health care providers or
36 health care institutions or between these providers and institutions or a
37 contractual arrangement that has the same effect. This subdivision does
38 not apply to payments from a medical researcher to a physician in
39 connection with identifying and monitoring patients for a clinical trial
40 regulated by the United States food and drug administration.

41 (w) Obtaining a fee by fraud, deceit or misrepresentation.

42 (x) Charging or collecting a clearly excessive fee. In determining
43 whether a fee is clearly excessive, the board shall consider the fee or
44 range of fees customarily charged in this state for similar services in
45 light of modifying factors such as the time required, the complexity of

1 the service and the skill requisite to perform the service properly. This
2 subdivision does not apply if there is a clear written contract for a
3 fixed fee between the physician and the patient that has been entered into
4 before the provision of the service.

5 (y) Committing conduct that is in violation of section 36-2302.

6 (z) Using experimental forms of diagnosis and treatment without
7 adequate informed patient consent, and without conforming to generally
8 accepted experimental criteria, including protocols, detailed records,
9 periodic analysis of results and periodic review by a medical peer review
10 committee as approved by the United States food and drug administration or
11 its successor agency.

12 (aa) Engaging in sexual conduct with a current patient or with a
13 former patient within six months after the last medical consultation
14 unless the patient was the licensee's spouse at the time of the contact
15 or, immediately preceding the physician-patient relationship, was in a
16 dating or engagement relationship with the licensee. For the purposes of
17 this subdivision, "sexual conduct" includes:

18 (i) Engaging in or soliciting sexual relationships, whether
19 consensual or nonconsensual.

20 (ii) Making sexual advances, requesting sexual favors or engaging
21 in any other verbal conduct or physical contact of a sexual nature.

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

25 (bb) Procuring or attempting to procure a license to practice
26 medicine or a license renewal by fraud, by misrepresentation or by
27 knowingly taking advantage of the mistake of another person or an agency.

28 (cc) Representing or claiming to be a medical specialist if this is
29 not true.

30 (dd) Maintaining a professional connection with or lending one's
31 name to enhance or continue the activities of an illegal practitioner of
32 medicine.

33 (ee) Failing to furnish information in a timely manner to the board
34 or the board's investigators or representatives if legally requested by
35 the board.

36 (ff) Failing to allow properly authorized board personnel on demand
37 to examine and have access to documents, reports and records maintained by
38 the physician that relate to the physician's medical practice or medically
39 related activities.

40 (gg) Knowingly failing to disclose to a patient on a form that is
41 prescribed by the board and that is dated and signed by the patient or
42 guardian acknowledging that the patient or guardian has read and
43 understands that the doctor has a direct financial interest in a separate
44 diagnostic or treatment agency or in nonroutine goods or services that the
45 patient is being prescribed if the prescribed treatment, goods or services

1 are available on a competitive basis. This subdivision does not apply to
2 a referral by one doctor of medicine to another doctor of medicine within
3 a group of doctors of medicine practicing together.

4 (hh) Using chelation therapy in the treatment of arteriosclerosis
5 or as any other form of therapy, with the exception of treatment of heavy
6 metal poisoning, without:

7 (i) Adequate informed patient consent.
8 (ii) Conforming to generally accepted experimental criteria,
9 including protocols, detailed records, periodic analysis of results and
10 periodic review by a medical peer review committee.

11 (iii) Approval by the United States food and drug administration or
12 its successor agency.

13 (ii) Prescribing, dispensing or administering anabolic-androgenic
14 steroids to a person for other than therapeutic purposes.

15 (jj) Exhibiting a lack of or inappropriate direction, collaboration
16 or direct supervision of a medical assistant or a licensed, certified or
17 registered health care provider employed by, supervised by or assigned to
18 the physician.

19 (kk) Knowingly making a false or misleading statement to the board
20 or on a form required by the board or in a written correspondence,
21 including attachments, with the board.

22 (ll) Failing to dispense drugs and devices in compliance with
23 article 6 of this chapter.

24 (mm) Committing conduct that the board determines is gross
25 negligence, repeated negligence or negligence resulting in harm to or the
26 death of a patient.

27 (nn) Making a representation by a doctor of medicine or the
28 doctor's staff, employer or representative that the doctor is boarded or
29 board certified if this is not true or the standing is not current or
30 without supplying the full name of the specific agency, organization or
31 entity granting this standing.

32 (oo) Refusing to submit to a body fluid examination or any other
33 examination known to detect the presence of alcohol or other drugs as
34 required by the board pursuant to section 32-1452 or pursuant to a board
35 investigation into a doctor of medicine's alleged substance abuse.

36 (pp) Failing to report in writing to the Arizona medical board or
37 the Arizona regulatory board of physician assistants any evidence that a
38 doctor of medicine or a physician assistant is or may be medically
39 incompetent, guilty of unprofessional conduct or mentally or physically
40 unable to safely practice medicine or to perform as a physician assistant.

41 (qq) As a physician who is the chief executive officer, the medical
42 director or the medical chief of staff of a health care institution,
43 failing to report in writing to the board that the hospital privileges of
44 a doctor of medicine have been denied, revoked, suspended, supervised or
45 limited because of actions by the doctor that appear to show that the

1 doctor is or may be medically incompetent, is or may be guilty of
2 unprofessional conduct or is or may be unable to engage safely in the
3 practice of medicine.

4 (rr) Claiming to be a current member of the board or its staff or a
5 board medical consultant if this is not true.

6 (ss) Failing to make patient medical records in the physician's
7 possession promptly available to a physician assistant, a nurse
8 practitioner, a person licensed pursuant to this chapter or a podiatrist,
9 chiropractor, naturopathic physician, osteopathic physician or homeopathic
10 physician licensed under chapter 7, 8, 14, 17 or 29 of this title on
11 receipt of proper authorization to do so from the patient, a minor
12 patient's parent, the patient's legal guardian or the patient's authorized
13 representative or failing to comply with title 12, chapter 13, article
14 7.1.

15 (tt) Prescribing, dispensing or furnishing a prescription
16 medication or a prescription-only device as defined in section 32-1901 to
17 a person unless the licensee first conducts a physical or mental health
18 status examination of that person or has previously established a
19 doctor-patient relationship. The physical or mental health status
20 examination may be conducted ~~during a real-time telemedicine encounter~~
21 ~~with audio and video capability~~ THROUGH TELEMEDICINE AS DEFINED IN SECTION
22 36-3601 WITH A CLINICAL EVALUATION THAT IS APPROPRIATE FOR THE PATIENT AND
23 THE CONDITION WITH WHICH THE PATIENT PRESENTS, unless the examination is
24 for the purpose of obtaining a written certification from the physician
25 for the purposes of title 36, chapter 28.1. This subdivision does not
26 apply to:

27 (i) A physician who provides temporary patient supervision on
28 behalf of the patient's regular treating licensed health care professional
29 or provides a consultation requested by the patient's regular treating
30 licensed health care professional.

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

32 (iii) Prescriptions written to prepare a patient for a medical
33 examination.

34 (iv) Prescriptions written or prescription medications issued for
35 use by a county or tribal public health department for immunization
36 programs or emergency treatment or in response to an infectious disease
37 investigation, public health emergency, infectious disease outbreak or act
38 of bioterrorism. For the purposes of this item, "bioterrorism" has the
39 same meaning prescribed in section 36-781.

40 (v) Prescriptions written or antimicrobials dispensed to a contact
41 as defined in section 36-661 who is believed to have had significant
42 exposure risk as defined in section 36-661 with another person who has
43 been diagnosed with a communicable disease as defined in section 36-661 by
44 the prescribing or dispensing physician.

12 (ix) Prescriptions for naloxone hydrochloride or any other opioid
13 antagonist approved by the United States food and drug administration that
14 are written or dispensed for use pursuant to section 36-2228 or 36-2266.

15 (uu) Performing office based surgery using sedation in violation of
16 board rules.

17 (vv) Practicing medicine under a false or assumed name in this
18 state.

19 Sec. 2. Section 32-1854, Arizona Revised Statutes, is amended to
20 read:

32-1854. Definition of unprofessional conduct

22 For the purposes of this chapter, "unprofessional conduct" includes
23 the following acts, whether occurring in this state or elsewhere:

24 1. Knowingly betraying a professional secret or wilfully violating
25 a privileged communication except as either of these may otherwise be
26 required by law. This paragraph does not prevent members of the board
27 from exchanging information with the licensing and disciplinary boards of
28 other states, territories or districts of the United States or with
29 foreign countries or with osteopathic medical organizations located in
30 this state or in any state, district or territory of this country or in
31 any foreign country.

32 2. Committing a felony or a misdemeanor involving moral turpitude.
33 In either case conviction by any court of competent jurisdiction is
34 conclusive evidence of the commission of the offense.

35 3. Practicing medicine while under the influence of alcohol, a
36 dangerous drug as defined in section 13-3401, narcotic or hypnotic drugs
37 or any substance that impairs or may impair the licensee's ability to
38 safely and skillfully practice medicine.

39 4. Being diagnosed by a physician licensed under this chapter or
40 chapter 13 of this title or a psychologist licensed under chapter 19.1 of
41 this title as excessively or illegally using alcohol or a controlled
42 substance.

43 5. Prescribing, dispensing or administering controlled substances
44 or prescription-only drugs for other than accepted therapeutic purposes.

1 6. Engaging in the practice of medicine in a manner that harms or
2 may harm a patient or that the board determines falls below the community
3 standard.

4 7. Impersonating another physician.

5 8. Acting or assuming to act as a member of the board if this is
6 not true.

7 9. Procuring, renewing or attempting to procure or renew a license
8 to practice osteopathic medicine by fraud or misrepresentation.

9 10. Having professional connection with or lending one's name to an
10 illegal practitioner of osteopathic medicine or any of the other healing
11 arts.

12 11. Representing that a manifestly incurable disease, injury,
13 ailment or infirmity can be permanently cured or that a curable disease,
14 injury, ailment or infirmity can be cured within a stated time, if this is
15 not true.

16 12. Failing to reasonably disclose and inform the patient or the
17 patient's representative of the method, device or instrumentality the
18 licensee uses to treat the patient's disease, injury, ailment or
19 infirmity.

20 13. Refusing to divulge to the board on demand the means, method,
21 device or instrumentality used in the treatment of a disease, injury,
22 ailment or infirmity.

23 14. Charging a fee for services not rendered or dividing a
24 professional fee for patient referrals. This paragraph does not apply to
25 payments from a medical researcher to a physician in connection with
26 identifying and monitoring patients for clinical trial regulated by the
27 United States food and drug administration.

28 15. Knowingly making any false or fraudulent statement, written or
29 oral, in connection with the practice of medicine or when applying for or
30 renewing privileges at a health care institution or a health care program.

31 16. Advertising in a false, deceptive or misleading manner.

32 17. Representing or claiming to be an osteopathic medical
33 specialist if the physician has not satisfied the applicable requirements
34 of this chapter or board rules.

35 18. Having a license denied or disciplinary action taken against a
36 license by any other state, territory, district or country, unless it can
37 be shown that this occurred for reasons that did not relate to the
38 person's ability to safely and skillfully practice osteopathic medicine or
39 to any act of unprofessional conduct as provided in this section.

40 19. Committing any conduct or practice contrary to recognized
41 standards of ethics of the osteopathic medical profession.

42 20. Violating or attempting to violate, directly or indirectly, or
43 assisting in or abetting the violation of or conspiring to violate any of
44 the provisions of this chapter.

1 21. Failing or refusing to establish and maintain adequate records
2 on a patient as follows:

3 (a) If the patient is an adult, for at least six years after the
4 last date the licensee provided the patient with medical or health care
5 services.

6 (b) If the patient is a child, either for at least three years
7 after the child's eighteenth birthday or for at least six years after the
8 last date the licensee provided that patient with medical or health care
9 services, whichever date occurs later.

10 22. Using controlled substances or prescription-only drugs unless
11 they are provided by a medical practitioner, as defined in section
12 32-1901, as part of a lawful course of treatment.

13 23. Prescribing controlled substances to members of one's immediate
14 family unless there is no other physician available within fifty miles to
15 treat a member of the family and an emergency exists.

16 24. Committing nontherapeutic use of injectable amphetamines.

17 25. Violating a formal order, probation or a stipulation issued by
18 the board under this chapter.

19 26. Charging or collecting an inappropriate fee. This paragraph
20 does not apply to a fee that is fixed in a written contract between the
21 physician and the patient and entered into before treatment begins.

22 27. Using experimental forms of therapy without adequate informed
23 patient consent or without conforming to generally accepted criteria and
24 complying with federal and state statutes and regulations governing
25 experimental therapies.

26 28. Failing to make patient medical records in the physician's
27 possession promptly available to a physician assistant, a nurse
28 practitioner, a person licensed pursuant to this chapter or a podiatrist,
29 chiropractor, naturopathic physician, physician or homeopathic physician
30 licensed under chapter 7, 8, 13, 14 or 29 of this title on receipt of
31 proper authorization to do so from the patient, a minor patient's parent,
32 the patient's legal guardian or the patient's authorized representative or
33 failing to comply with title 12, chapter 13, article 7.1.

34 29. Failing to allow properly authorized board personnel to have,
35 on presentation of a subpoena, access to any documents, reports or records
36 that are maintained by the physician and that relate to the physician's
37 medical practice or medically related activities pursuant to section
38 32-1855.01.

39 30. Signing a blank, undated or predated prescription form.

40 31. Obtaining a fee by fraud, deceit or misrepresentation.

41 32. Failing to report to the board an osteopathic physician and
42 surgeon who is or may be guilty of unprofessional conduct or is or may be
43 mentally or physically unable safely to engage in the practice of
44 medicine.

1 33. Referring a patient to a diagnostic or treatment facility or
2 prescribing goods and services without disclosing that the physician has a
3 direct pecuniary interest in the facility, goods or services to which the
4 patient has been referred or prescribed. This paragraph does not apply to
5 a referral by one physician to another physician within a group of
6 physicians practicing together.

7 34. Exhibiting a lack of or inappropriate direction, collaboration
8 or supervision of a licensed, certified or registered health care provider
9 or office personnel employed by or assigned to the physician in the
10 medical care of patients.

11 35. Violating a federal law, a state law or a rule applicable to
12 the practice of medicine.

13 36. Prescribing or dispensing controlled substances or
14 prescription-only medications without establishing and maintaining
15 adequate patient records.

16 37. Dispensing a schedule II controlled substance that is an
17 opioid, except as provided in section 32-1871.

18 38. Failing to dispense drugs and devices in compliance with
19 article 4 of this chapter.

20 39. Committing any conduct or practice that endangers a patient's
21 or the public's health or may reasonably be expected to do so.

22 40. Committing any conduct or practice that impairs the licensee's
23 ability to safely and skillfully practice medicine or that may reasonably
24 be expected to do so.

25 41. With the exception of heavy metal poisoning, using chelation
26 therapy in the treatment of arteriosclerosis or as any other form of
27 therapy without adequate informed patient consent and without conforming
28 to generally accepted experimental criteria, including protocols, detailed
29 records, periodic analysis of results and periodic review by a medical
30 peer review committee.

31 42. Prescribing, dispensing or administering anabolic-androgenic
32 steroids to a person for other than therapeutic purposes.

33 43. Engaging in sexual conduct with a current patient or with a
34 former patient within six months after the last medical consultation
35 unless the patient was the licensee's spouse at the time of the contact
36 or, immediately preceding the physician-patient relationship, was in a
37 dating or engagement relationship with the licensee. For the purposes of
38 this paragraph, "sexual conduct" includes:

39 (a) Engaging in or soliciting sexual relationships, whether
40 consensual or nonconsensual.

41 (b) Making sexual advances, requesting sexual favors or engaging in
42 any other verbal conduct or physical conduct of a sexual nature.

43 44. Committing conduct that is in violation of section 36-2302.

1 45. Committing conduct that the board determines constitutes gross
2 negligence, repeated negligence or negligence that results in harm or
3 death of a patient.

4 46. Committing conduct in the practice of medicine that evidences
5 moral unfitness to practice medicine.

6 47. Engaging in disruptive or abusive behavior in a professional
7 setting.

8 48. Failing to disclose to a patient that the licensee has a direct
9 financial interest in a prescribed treatment, good or service if the
10 treatment, good or service is available on a competitive basis. This
11 paragraph does not apply to a referral by one licensee to another licensee
12 within a group of licensees who practice together. A licensee meets the
13 disclosure requirements of this paragraph if both of the following are
14 true:

15 (a) The licensee makes the disclosure on a form prescribed by the
16 board.

17 (b) The patient or the patient's guardian or parent acknowledges by
18 signing the form that the licensee has disclosed the licensee's direct
19 financial interest.

20 49. Prescribing, dispensing or furnishing a prescription medication
21 or a prescription-only device to a person if the licensee has not
22 conducted a physical or mental health status examination of that person or
23 has not previously established a physician-patient relationship. The
24 physical or mental health status examination may be conducted ~~during a~~
25 ~~real-time telemedicine encounter with audio and video capability~~ THROUGH
26 TELEMEDICINE AS DEFINED IN SECTION 36-3601 WITH A CLINICAL EVALUATION THAT
27 IS APPROPRIATE FOR THE PATIENT AND THE CONDITION WITH WHICH THE PATIENT
28 PRESENTS, unless the examination is for the purpose of obtaining a written
29 certification from the physician for the purposes of title 36, chapter
30 28.1. This paragraph does not apply to:

31 (a) Emergencies.

32 (b) A licensee who provides patient care on behalf of the patient's
33 regular treating licensed health care professional or provides a
34 consultation requested by the patient's regular treating licensed health
35 care professional.

36 (c) Prescriptions written or antimicrobials dispensed to a contact
37 as defined in section 36-661 who is believed to have had significant
38 exposure risk as defined in section 36-661 with another person who has
39 been diagnosed with a communicable disease as defined in section 36-661 by
40 the prescribing or dispensing physician.

41 (d) Prescriptions for epinephrine auto-injectors written or
42 dispensed for a school district or charter school to be stocked for
43 emergency use pursuant to section 15-157 or for an authorized entity to be
44 stocked pursuant to section 36-2226.01.

(e) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(f) Prescriptions for naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration that are written or dispensed for use pursuant to section 36-2228 or 36-2266.

50. If a licensee provides medical care by computer, failing to disclose the licensee's license number and the board's address and telephone number.

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

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

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

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

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

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

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

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

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

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

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

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

1 permissible activities of a pharmacy technician or pharmacy technician
2 trainee.

3 10. Failing to report in writing to the board any evidence that
4 appears to show that a permittee or permittee's employee is or may be
5 guilty of unethical conduct, is or may be mentally or physically unable
6 safely to engage in employment duties related to manufacturing, selling,
7 distributing or dispensing of drugs, devices, poisons, hazardous
8 substances, controlled substances or precursor chemicals or is or may be
9 in violation of this chapter or a rule adopted under this chapter.

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

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

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

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

23 15. Wilfully making a false report or record required by this
24 chapter, required by federal or state laws pertaining to drugs, devices,
25 poisons, hazardous substances or precursor chemicals or required for the
26 payment for drugs, devices, poisons or hazardous substances or precursor
27 chemicals or for services pertaining to such drugs or substances.

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

30 17. Providing false or misleading information or omitting material
31 information in any communication to the board or the board's employees or
32 agents.

33 18. Violating or attempting to violate, directly or indirectly, or
34 assisting in or abetting the violation of, or conspiring to violate, this
35 chapter.

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

39 20. Failing to comply with a board subpoena or failing to comply in
40 a timely manner with a board subpoena without providing any explanation to
41 the board for not complying with the subpoena.

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

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

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

6 24. Overruling or attempting to overrule a pharmacist in matters of
7 pharmacy ethics or interpreting laws pertaining to the practice of
8 pharmacy or the distribution of drugs or devices.

9 25. Distributing premiums or rebates of any kind in connection with
10 the sale of prescription medication, other than to the prescription
11 medication recipient.

12 26. Failing to maintain effective controls against the diversion of
13 controlled substances or precursor chemicals to unauthorized persons or
14 entities.

15 27. Fraudulently claiming to have performed a service.

16 28. Fraudulently charging a fee for a service.

17 29. Advertising drugs or devices, or services pertaining to drugs
18 or devices, in a manner that is untrue or misleading in any particular,
19 and that is known, or that by the exercise of reasonable care should be
20 known, to be untrue or misleading.

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

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

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

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

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

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

41 6. Claiming professional superiority in compounding or dispensing
42 prescription orders.

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

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

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

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

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

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

16 (a) Made by a physician who provides temporary patient supervision
17 on behalf of the patient's regular treating licensed health care
18 professional or provides a consultation requested by the patient's regular
19 treating licensed health care professional.

20 (b) Made in an emergency medical situation as defined in section
21 41-1831.

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

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

29 (e) Written or antimicrobials were dispensed by the prescribing or
30 dispensing physician to a contact as defined in section 36-661 who is
31 believed to have had significant exposure risk as defined in section
32 36-661 with another person who has been diagnosed with a communicable
33 disease as defined in section 36-661.

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

38 (g) For epinephrine auto-injectors that are written or dispensed
39 for a school district or charter school and that are to be stocked for
40 emergency use pursuant to section 15-157 or for an authorized entity to be
41 stocked pursuant to section 36-2226.01.

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

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

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

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

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

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

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

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

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

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

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

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

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

23. Participating in an arrangement or agreement to allow a prescription order or a prescription medication to be left at, picked up from, accepted by or delivered to a place that is not licensed as a pharmacy. This paragraph does not prohibit a pharmacist or a pharmacy from using an employee or a common carrier to pick up prescription orders at or

1 deliver prescription medications to the office or home of a medical
2 practitioner, the residence of a patient or a patient's hospital.

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

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

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

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

11 28. Failing to report a change of the licensee's home address,
12 contact information, employer or employer's address as required by section
13 32-1926.

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

16 30. Failing to maintain effective controls against the diversion of
17 controlled substances or precursor chemicals to unauthorized persons or
18 entities.

19 C. In this chapter, unless the context otherwise requires, for the
20 purposes of disciplining a pharmacy technician or pharmacy technician
21 trainee, "unprofessional conduct" means the following, whether occurring
22 in this state or elsewhere:

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

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

28 3. Obtaining or attempting to obtain a pharmacy technician or
29 pharmacy technician trainee license or a pharmacy technician license
30 renewal by fraud, by misrepresentation or by knowingly taking advantage of
31 the mistake of another person or an agency.

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

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

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

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

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

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

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

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

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

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

19 14. Providing false or misleading information or omitting material
20 information in any communication to the board or the board's employees or
21 agents.

22 15. Violating or attempting to violate, directly or indirectly, or
23 assisting in or abetting in the violation of, or conspiring to violate,
24 this chapter.

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

28 17. Failing to comply with a board subpoena or failing to comply in
29 a timely manner with a board subpoena without providing any explanation to
30 the board for not complying with the subpoena.

31 18. Failing to report a change of the licensee's home address,
32 contact information, employer or employer's address as required by section
33 32-1926.

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