

House Engrossed

hospitals; physicians; dispensing opioids

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2564

AN ACT

AMENDING SECTIONS 32-854.01, 32-1401, 32-1606, 32-1854 AND 32-2532, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 32, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3248.03; RELATING TO HEALTH CARE PROFESSIONALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-854.01, Arizona Revised Statutes, is amended
3 to read:
4 32-854.01. Unprofessional conduct
5 Unprofessional conduct includes the following conduct, whether it
6 occurs in this state or elsewhere:
7 1. Requesting, listing, accepting or receiving any rebate or
8 commission for prescribing or recommending any footwear, drug, medicine,
9 or other article to the licensee's patients.
10 2. Prescribing, dispensing or pretending to use, in treating any
11 patient, any secret remedial agent, or manifesting or promoting its use in
12 any way, or guaranteeing or implying to guarantee any treatment, therapy
13 or remedy.
14 3. Representing that a disease or infirmity can be permanently
15 cured, or that any disease, ailment or infirmity can be cured by a secret
16 method, procedure, treatment, medicine or device, if this is not true.
17 4. Practicing podiatry under a trade name, under the name of
18 another podiatrist, under any other name than that which appears on the
19 practitioner's license, or under any title that misrepresents the practice
20 of podiatry.
21 5. Advertising in a false, deceptive or misleading manner or
22 advertising the quality of podiatric service.
23 6. Employing a solicitor to obtain business.
24 7. Fee splitting under any guise whatsoever.
25 8. Failing to report as required in section 32-852.01,
26 subsection A.
27 9. Failing to obtain written informed consent from a patient before
28 the licensee performs any surgical procedure on the patient.
29 10. Committing a felony, whether or not involving moral turpitude,
30 or a misdemeanor involving moral turpitude. In either case, conviction by
31 any court of competent jurisdiction is conclusive evidence that the
32 licensee committed the crime.
33 11. Failing or refusing to maintain adequate records on:
34 (a) A patient who is eighteen years of age or older for at least
35 six years.
36 (b) A patient who is under eighteen years of age for the later of
37 either:
38 (i) Three years after the patient's eighteenth birthday.
39 (ii) Six years after the last date the patient received medical or
40 health care services from the licensee.
41 12. Failing or refusing to make a patient's records available to a
42 physician or another podiatrist within twenty-one days after a request and
43 the receipt of proper authorization.

1 13. Habitual intemperance in the use of alcohol or habitual
2 substance abuse.

3 14. Using controlled substances or prescription-only drugs except
4 if provided by a physician for use during a prescribed lawful course of
5 treatment.

6 15. Prescribing controlled substances to members of the
7 podiatrist's immediate family.

8 16. Providing any controlled substance or prescription-only drug
9 for other than accepted therapeutic purposes.

10 17. Dispensing a schedule II controlled substance that is an
11 opioid, EXCEPT AS PROVIDED IN SECTION 32-3248.03.

12 18. Committing gross malpractice, repeated malpractice or any
13 malpractice resulting in the death of a patient.

14 19. Refusing to divulge to the board on demand the means, method,
15 procedure, modality of treatment or medicine used in treating a disease,
16 injury, ailment or infirmity.

17 20. Violating any federal or state law applicable to the practice
18 of podiatry.

19 21. Having the licensee's license refused, revoked or suspended by
20 any other licensing jurisdiction for inability to safely and skillfully
21 practice podiatry or for unprofessional conduct as defined by that
22 jurisdiction that directly or indirectly corresponds to any act of
23 unprofessional conduct as prescribed by this section or any act under
24 section 32-852.

25 22. Committing any conduct or practice that is or might be harmful
26 or dangerous to the health of a patient.

27 23. Violating any formal order, probation or stipulation issued by
28 the board pursuant to this chapter.

29 24. Violating or attempting to violate, directly or indirectly, or
30 assisting in or abetting the violation of or conspiring to violate any
31 provision of this chapter.

32 25. Charging or collecting a clearly excessive fee. In determining
33 the reasonableness of a fee, the fee customarily charged in the locality
34 for similar services shall be considered in light of modifying factors,
35 such as the time required, the complexity of the service and the skill
36 requisite to perform the service properly. This paragraph does not apply
37 if there is a clear written contract for a fixed fee between the
38 podiatrist and the patient that has been entered into before the licensee
39 provides the service.

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

41 27. Charging a fee for services not rendered.

42 28. Failing to dispense drugs and devices in compliance with
43 article 4 of this chapter.

1 Sec. 2. Section 32-1401, Arizona Revised Statutes, is amended to
2 read:

3 **32-1401. Definitions**

4 In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 13. "Immediate family" means the spouse, natural or adopted
25 children, father, mother, brothers and sisters of the doctor **OF MEDICINE**
26 and the natural or adopted children, father, mother, brothers and sisters
27 of the ~~doctor's~~ **DOCTOR OF MEDICINE'S** spouse.

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

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

36 16. "Medical assistant" means an unlicensed person who meets the
37 requirements of section 32-1456, has completed an education program
38 approved by the board, assists in a medical practice under the supervision
39 of a doctor of medicine, physician assistant or nurse practitioner and
40 performs delegated procedures commensurate with the **MEDICAL** assistant's
41 education and training but does not diagnose, interpret, design or modify
42 established treatment programs or perform any functions that would violate
43 any statute applicable to the practice of medicine.

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

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

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

8 18. "Medical peer review" means:

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

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

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

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

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

21 22. "Practice of medicine":

22 (a) Means the diagnosis, the treatment or the correction of or the
23 attempt or the claim to be able to diagnose, treat or correct any and all
24 human diseases, injuries, ailments, infirmities or deformities, physical
25 or mental, real or imaginary, by any means, methods, devices or
26 instrumentalities, except as the same may be among the acts or persons not
27 affected by this chapter. ~~The practice of medicine~~

28 (b) Includes the practice of medicine alone or the practice of
29 surgery alone, or both.

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

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

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

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

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

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

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

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

15 (c) Committing false, fraudulent, deceptive or misleading
16 advertising by a doctor of medicine or the ~~doctor's~~ DOCTOR OF MEDICINE'S
17 staff, employer or representative.

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

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

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

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

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

31 (i) Prescribing, dispensing or administering schedule II controlled
32 substances as prescribed by section 36-2513 or the rules adopted pursuant
33 to section 36-2513, including amphetamines and similar schedule II
34 sympathomimetic drugs in the treatment of exogenous obesity for a period
35 in excess of thirty days in any one year, or the nontherapeutic use of
36 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~~ **SECTIONS 32-1491 AND 32-3248.03.**

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~~ DOCTOR OF
10 MEDICINE'S mental or physical inability to engage safely in the practice
11 of medicine or the ~~doctor's~~ DOCTOR OF MEDICINE'S medical incompetence or
12 for unprofessional conduct as defined by that jurisdiction and that
13 corresponds directly or indirectly to an act of unprofessional conduct
14 prescribed by this paragraph. The action taken may include refusing,
15 denying, revoking or suspending a license by that jurisdiction or a
16 surrendering of a license to that jurisdiction, otherwise limiting,
17 restricting or monitoring a licensee by that jurisdiction or placing a
18 licensee on probation by that jurisdiction.

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

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

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

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

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

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

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

43 (x) Charging or collecting a clearly excessive fee. In determining
44 whether a fee is clearly excessive, the board shall consider the fee or
45 range of fees customarily charged in this state for similar services in

1 light of modifying factors such as the time required, the complexity of
2 the service and the skill requisite to perform the service properly. This
3 subdivision does not apply if there is a clear written contract for a
4 fixed fee between the physician and the patient that has been entered into
5 before the provision of the service.

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

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

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

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

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

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

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

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

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

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

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

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

1 patient is being prescribed if the prescribed treatment, goods or services
2 are available on a competitive basis. This subdivision does not apply to
3 a referral by one doctor of medicine to another doctor of medicine within
4 a group of doctors of medicine practicing together.

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

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

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

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

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

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

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

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

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

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

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

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

1 limited because of actions by the doctor **OF MEDICINE** that appear to show
2 that the doctor **OF MEDICINE** is or may be medically incompetent, is or may
3 be guilty of unprofessional conduct or is or may be unable to engage
4 safely in the practice of medicine.

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

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

16 (tt) Prescribing, dispensing or furnishing a prescription
17 medication or a prescription-only device as defined in section 32-1901 to
18 a person unless the licensee first conducts a physical or mental health
19 status examination of that person or has previously established a
20 doctor-patient relationship. The physical or mental health status
21 examination may be conducted through telehealth 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~~ OFFICE-BASED surgery using sedation in
16 violation of board rules.

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

19 Sec. 3. Section 32-1606, Arizona Revised Statutes, is amended to
20 read:

32-1606. Powers and duties of board

A. The board may:

23 1. Adopt and revise rules necessary to carry into effect this
24 chapter.

25 2. Publish advisory opinions regarding registered and practical
26 nursing practice and nursing education.

27 3. Issue limited licenses or certificates if it determines that an
28 applicant or licensee cannot function safely in a specific setting or
29 within the full scope of practice.

30 4. Refer criminal violations of this chapter to the appropriate law
31 enforcement agency.

32 5. Establish a confidential program for monitoring licensees who
33 are chemically dependent and who enroll in rehabilitation programs that
34 meet the criteria established by the board. The board may take further
35 action if the licensee refuses to enter into a stipulated agreement or
36 fails to comply with its terms. In order to protect the public health and
37 safety, the confidentiality requirements of this paragraph do not apply if
38 the licensee does not comply with the stipulated agreement.

39 6. On the applicant's or regulated party's request, establish a
40 payment schedule with the applicant or regulated party.

41 7. Provide education regarding board functions.

42 8. Collect or assist in collecting workforce data.

43 9. Adopt rules to conduct pilot programs consistent with public
44 safety for innovative applications in nursing practice, education and
45 regulation.

1 10. Grant retirement status on request to retired nurses who are or
2 were licensed under this chapter, who have no open complaint or
3 investigation pending against them and who are not subject to discipline.

4 11. Accept and spend federal monies and private grants, gifts,
5 contributions and devises to assist in carrying out the purposes of this
6 chapter. These monies do not revert to the state general fund at the end
7 of the fiscal year.

8 B. The board shall:

9 1. Approve regulated training and educational programs that meet
10 the requirements of this chapter and rules adopted by the board.

11 2. By rule, establish approval and reapproval processes for nursing
12 and nursing assistant training programs that meet the requirements of this
13 chapter and board rules.

14 3. Prepare and maintain a list of approved nursing programs to
15 prepare registered **NURSES** and practical nurses whose graduates are
16 eligible for licensing under this chapter as registered nurses or as
17 practical nurses if they satisfy the other requirements of this chapter
18 and board rules.

19 4. Examine qualified registered **NURSE** and practical nurse
20 applicants.

21 5. License and renew the licenses of qualified registered **NURSE** and
22 practical nurse applicants and licensed nursing assistants who are not
23 qualified to be licensed by the executive director.

24 6. Adopt a seal, which the executive director shall keep.

25 7. Keep a record of all proceedings.

26 8. For proper cause, deny or rescind approval of a regulated
27 training or educational program for failure to comply with this chapter or
28 the rules of the board.

29 9. Adopt rules to approve credential evaluation services that
30 evaluate the qualifications of applicants who graduated from an
31 international nursing program.

32 10. Determine and administer appropriate disciplinary action
33 against all regulated parties who are found guilty of violating this
34 chapter or rules adopted by the board.

35 11. Perform functions necessary to carry out the requirements of
36 **THE** nursing assistant and nurse aide training and competency evaluation
37 program as set forth in the omnibus budget reconciliation act of 1987
38 (P.L. 100-203; 101 Stat. 1330), as amended by the medicare catastrophic
39 coverage act of 1988 (P.L. 100-360; 102 Stat. 683). These functions shall
40 include:

41 (a) Testing and registering certified nursing assistants.

42 (b) Testing and licensing licensed nursing assistants.

43 (c) Maintaining a list of board-approved training programs.

44 (d) Maintaining a registry of nursing assistants for all certified
45 nursing assistants and licensed nursing assistants.

(e) Assessing fees.

12. Adopt rules establishing ~~those~~ acts that may be performed by a registered nurse practitioner or certified nurse midwife, except that the board does not have authority to decide scope of practice relating to abortion as defined in section 36-2151.

13. Adopt rules that prohibit registered nurse practitioners, clinical nurse specialists or certified nurse midwives from dispensing a schedule II controlled substance that is an opioid, except for an implantable device or an opioid that is for medication-assisted treatment for substance use disorders OR AS PROVIDED IN SECTION 32-3248.03.

14. Adopt rules establishing educational requirements to certify school nurses.

15. Publish copies of board rules and distribute these copies on request.

16. Require each applicant for initial licensure or certification to submit a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

17. Except for a licensee who has been convicted of a felony that has been designated a misdemeanor pursuant to section 13-604, revoke a license of a person, revoke the multistate licensure privilege of a person pursuant to section 32-1669 or not issue a license or renewal to an applicant who has one or more felony convictions and who has not received an absolute discharge from the sentences for all felony convictions three or more years before the date of filing an application pursuant to this chapter.

18. Establish standards to approve and reapprove REGISTERED nurse practitioner and clinical nurse specialist programs and provide for surveys of REGISTERED nurse practitioner and clinical nurse specialist programs as ~~it~~ THE BOARD deems necessary.

19. Provide the licensing authorities of health care institutions, facilities and homes with any information the board receives regarding practices that place a patient's health at risk.

20. Limit the multistate licensure privilege of any person who holds or applies for a license in this state pursuant to section 32-1668.

21. Adopt rules to establish competency standards for obtaining and maintaining a license.

22. Adopt rules to qualify and certify clinical nurse specialists.

23. Adopt rules to approve and reapprove refresher courses for nurses who are not currently practicing.

24. Maintain a list of approved medication assistant training programs.

1 25. Test and certify medication assistants.
2 26. Maintain a registry and disciplinary record of medication
3 assistants who are certified pursuant to this chapter.

4 27. Adopt rules to establish the requirements for a clinical nurse
5 specialist to prescribe and dispense drugs and devices consistent with
6 section 32-1651 and within the clinical nurse specialist's population or
7 disease focus.

8 C. The board may conduct an investigation on receipt of information
9 that indicates that a person or regulated party may have violated this
10 chapter or a rule adopted pursuant to this chapter. Following the
11 investigation, the board may take disciplinary action pursuant to this
12 chapter.

13 D. The board may limit, revoke or suspend the privilege of a nurse
14 to practice in this state granted pursuant to section 32-1668.

15 E. Failure to comply with any final order of the board, including
16 an order of censure or probation, is cause for suspension or revocation of
17 a license or a certificate.

18 F. The president or a member of the board designated by the
19 president may administer oaths in transacting the business of the board.

20 Sec. 4. Section 32-1854, Arizona Revised Statutes, is amended to
21 read:

22 32-1854. **Definition of unprofessional conduct**

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

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

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

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

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

- 1 5. Prescribing, dispensing or administering controlled substances
2 or prescription-only drugs for other than accepted therapeutic purposes.
- 3 6. Engaging in the practice of medicine in a manner that harms or
4 may harm a patient or that the board determines falls below the community
5 standard.
- 6 7. Impersonating another physician.
- 7 8. Acting or assuming to act as a member of the board if this is
8 not true.
- 9 9. Procuring, renewing or attempting to procure or renew a license
10 to practice osteopathic medicine by fraud or misrepresentation.
- 11 10. Having professional connection with or lending one's name to an
12 illegal practitioner of osteopathic medicine or any of the other healing
13 arts.
- 14 11. Representing that a manifestly incurable disease, injury,
15 ailment or infirmity can be permanently cured or that a curable disease,
16 injury, ailment or infirmity can be cured within a stated time if this is
17 not true.
- 18 12. Failing to reasonably disclose and inform the patient or the
19 patient's representative of the method, device or instrumentality the
20 licensee uses to treat the patient's disease, injury, ailment or
21 infirmity.
- 22 13. Refusing to divulge to the board on demand the means, method,
23 device or instrumentality used to treat a disease, injury, ailment or
24 infirmity.
- 25 14. Charging a fee for services not rendered or dividing a
26 professional fee for patient referrals. This paragraph does not apply to
27 payments from a medical researcher to a physician in connection with
28 identifying and monitoring patients for clinical trial regulated by the
29 United States food and drug administration.
- 30 15. Knowingly making any false or fraudulent statement, written or
31 oral, in connection with the practice of medicine or when applying for or
32 renewing privileges at a health care institution or a health care program.
- 33 16. Advertising in a false, deceptive or misleading manner.
- 34 17. Representing or claiming to be an osteopathic medical
35 specialist if the physician has not satisfied the applicable requirements
36 of this chapter or board rules.
- 37 18. Having a license denied or disciplinary action taken against a
38 license by any other state, territory, district or country, unless it can
39 be shown that this occurred for reasons that did not relate to the
40 person's ability to safely and skillfully practice osteopathic medicine or
41 to any act of unprofessional conduct as provided in this section.

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

3 20. Violating or attempting to violate, directly or indirectly, or
4 assisting in or abetting the violation of or conspiring to violate any of
5 the provisions of this chapter.

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

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

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

15 22. Using controlled substances or prescription-only drugs unless
16 they are provided by a medical practitioner, as defined in section
17 32-1901, as part of a lawful course of treatment.

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

21 24. Committing nontherapeutic use of injectable amphetamines.

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

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

27 27. Using experimental forms of therapy without adequate informed
28 patient consent or without conforming to generally accepted criteria and
29 complying with federal and state statutes and regulations governing
30 experimental therapies.

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

39 29. Failing to allow properly authorized board personnel to have,
40 on presentation of a subpoena, access to any documents, reports or records
41 that are maintained by the physician and that relate to the physician's
42 medical practice or medically related activities pursuant to section
43 32-1855.01.

- 1 30. Signing a blank, undated or predated prescription form.
- 2 31. Obtaining a fee by fraud, deceit or misrepresentation.
- 3 32. Failing to report to the board an osteopathic physician and
4 surgeon who is or may be guilty of unprofessional conduct or is or may be
5 mentally or physically unable safely to engage in the practice of
6 medicine.
- 7 33. Referring a patient to a diagnostic or treatment facility or
8 prescribing goods and services without disclosing that the physician has a
9 direct pecuniary interest in the facility, goods or services to which the
10 patient has been referred or prescribed. This paragraph does not apply to
11 a referral by one physician to another physician within a group of
12 physicians practicing together.
- 13 34. Exhibiting a lack of or inappropriate direction, collaboration
14 or supervision of a licensed, certified or registered health care provider
15 or office personnel employed by or assigned to the physician in the
16 medical care of patients.
- 17 35. Violating a federal law, a state law or a rule applicable to
18 the practice of medicine.
- 19 36. Prescribing or dispensing controlled substances or
20 prescription-only medications without establishing and maintaining
21 adequate patient records.
- 22 37. Dispensing a schedule II controlled substance that is an
23 opioid, except as provided in ~~SECTION~~ **SECTIONS 32-1871 AND 32-3248.03.**
- 24 38. Failing to dispense drugs and devices in compliance with
25 article 4 of this chapter.
- 26 39. Committing any conduct or practice that endangers a patient's
27 or the public's health or may reasonably be expected to do so.
- 28 40. Committing any conduct or practice that impairs the licensee's
29 ability to safely and skillfully practice medicine or that may reasonably
30 be expected to do so.
- 31 41. With the exception of heavy metal poisoning, using chelation
32 therapy in the treatment of arteriosclerosis or as any other form of
33 therapy without adequate informed patient consent and without conforming
34 to generally accepted experimental criteria, including protocols, detailed
35 records, periodic analysis of results and periodic review by a medical
36 peer review committee.
- 37 42. Prescribing, dispensing or administering anabolic-androgenic
38 steroids to a person for other than therapeutic purposes.
- 39 43. Engaging in sexual conduct with a current patient or with a
40 former patient within six months after the last medical consultation
41 unless the patient was the licensee's spouse at the time of the contact
42 or, immediately preceding the physician-patient relationship, was in a
43 dating or engagement relationship with the licensee. For the purposes of
44 this paragraph, "sexual conduct" includes:

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

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

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

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

9 46. Committing conduct in the practice of medicine that evidences
10 unfitness to practice medicine.

11 47. Engaging in disruptive or abusive behavior in a professional
12 setting.

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

20 (a) The licensee makes the disclosure on a form prescribed by the
21 board.

22 (b) The patient or the patient's guardian or parent acknowledges by
23 signing the form that the licensee has disclosed the licensee's direct
24 financial interest.

25 49. Prescribing, dispensing or furnishing a prescription medication
26 or a prescription-only device to a person if the licensee has not
27 conducted a physical or mental health status examination of that person or
28 has not previously established a physician-patient relationship. The
29 physical or mental health status examination may be conducted through
30 telehealth as defined in section 36-3601 with a clinical evaluation that
31 is appropriate for the patient and the condition with which the patient
32 presents, unless the examination is for the purpose of obtaining a written
33 certification from the physician for the purposes of title 36,
34 chapter 28.1. This paragraph does not apply to:

(a) Emergencies.

36 (b) A licensee who provides patient care on behalf of the patient's
37 regular treating licensed health care professional or provides a
38 consultation requested by the patient's regular treating licensed health
39 care professional.

40 (c) 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.

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

5 (e) Prescriptions written by a licensee through a telehealth
6 program that is covered by the policies and procedures adopted by the
7 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.

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

14 Sec. 5. Section 32-2532, Arizona Revised Statutes, is amended to
15 read:

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

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

20 1. A schedule II or schedule III controlled substance as defined in
21 the federal controlled substances act of 1970 (P.L. 91-513; 84 Stat. 1242;
22 21 United States Code section 802) without delegation by the supervising
23 physician, board approval and United States drug enforcement
24 administration registration.

25 2. A schedule IV or schedule V controlled substance as defined in
26 the federal controlled substances act of 1970 without United States drug
27 enforcement administration registration and delegation by the supervising
28 physician.

29 3. Prescription-only medication without delegation by the
30 supervising physician.

31 4. Prescription medication intended to perform or induce an
32 abortion.

33 B. All prescription orders issued by a physician assistant shall
34 contain the name, address and telephone number of the physician
35 assistant. A physician assistant shall issue prescription orders for
36 controlled substances under the physician assistant's own United States
37 drug enforcement administration registration number.

38 C. If certified for prescription privileges pursuant to section
39 32-2504, subsection A, initial prescriptions for schedule II controlled
40 substances that are opioids are subject to the limits prescribed in
41 sections 32-3248 and 32-3248.01 if the physician assistant has been
42 delegated to prescribe schedule II controlled substances by the
43 supervising physician pursuant to this section. For each schedule IV or
44 schedule V controlled substance, the physician assistant may not prescribe

1 the controlled substance more than five times in a six-month period for
2 each patient.

3 D. A prescription for a schedule III controlled substance that is
4 an opioid or benzodiazepine is not refillable without the written consent
5 of the supervising physician.

6 E. Prescription-only drugs shall not be dispensed, prescribed or
7 refillable for a period exceeding one year.

8 F. Except in an emergency, a physician assistant may dispense
9 schedule II or schedule III controlled substances for a period of use of
10 not to exceed seventy-two hours with board approval or any other
11 controlled substance for a period of use of not to exceed ninety days and
12 may administer controlled substances without board approval if it is
13 medically indicated in an emergency dealing with potential loss of life or
14 limb or major acute traumatic pain. Notwithstanding the authority granted
15 in this subsection, a physician assistant may not dispense a schedule II
16 controlled substance that is an opioid, except for an implantable device
17 or an opioid that is for medication-assisted treatment for substance use
18 disorders **OR AS PROVIDED IN SECTION 32-3248.03.**

19 G. Except for samples provided by manufacturers, all drugs
20 dispensed by a physician assistant shall be labeled to show the name of
21 the physician assistant.

22 H. A physician assistant shall not obtain a drug from any source
23 other than the supervising physician or a pharmacist. A physician
24 assistant may receive manufacturers' samples if delegated to do so by the
25 supervising physician.

26 I. If a physician assistant is approved by the board to prescribe,
27 administer or dispense schedule II and schedule III controlled substances,
28 the physician assistant shall maintain an up-to-date and complete log of
29 all schedule II and schedule III controlled substances the physician
30 assistant administers or dispenses. The board may not grant a physician
31 assistant the authority to dispense schedule II controlled substances that
32 are opioids, except for implantable devices or opioids that are for
33 medication-assisted treatment for substance use disorders.

34 J. The **ARIZONA REGULATORY board OF PHYSICIAN ASSISTANTS** shall
35 advise the Arizona state board of pharmacy and the United States drug
36 enforcement administration of all physician assistants who are authorized
37 to prescribe or dispense drugs and any modification of their authority.

38 K. The Arizona state board of pharmacy shall notify all pharmacies
39 at least quarterly of physician assistants who are authorized to prescribe
40 or dispense drugs.

1 Sec. 6. Title 32, chapter 32, article 4, Arizona Revised Statutes,
2 is amended by adding section 32-3248.03, to read:

3 32-3248.03. Health professionals; hospitals; dispensing
4 controlled substances; opioids; definition

5 A. A HOSPITAL OR A HEALTH PROFESSIONAL WHO IS WORKING IN A HOSPITAL
6 THAT IS NOT WITHIN FIFTY MILES OF A TWENTY-FOUR-HOUR PHARMACY, WHEN
7 DISCHARGING A PATIENT WITH AN ACUTE ILLNESS OR INJURY AFTER REGULAR
8 PHARMACY BUSINESS HOURS, MAY DISPENSE A TWELVE-HOUR SUPPLY OF A SCHEDULE
9 II CONTROLLED SUBSTANCE THAT IS AN OPIOID TO THE PATIENT.

10 B. FOR THE PURPOSES OF THIS SECTION, "HEALTH PROFESSIONAL" MEANS A
11 PERSON WHO IS LICENSED PURSUANT TO CHAPTER 7, 13, 15, 17 OR 25 OF THIS
12 TITLE AND WHO HOLDS A VALID UNITED STATES DRUG ENFORCEMENT ADMINISTRATION
13 REGISTRATION NUMBER.