

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.

1 (vi) Prescriptions written or prescription medications issued for  
2 administration of immunizations or vaccines listed in the United States  
3 centers for disease control and prevention's recommended immunization  
4 schedule to a household member of a patient.

5 (vii) Prescriptions for epinephrine auto-injectors written or  
6 dispensed for a school district or charter school to be stocked for  
7 emergency use pursuant to section 15-157 or for an authorized entity to be  
8 stocked pursuant to section 36-2226.01.

9 (viii) Prescriptions written by a licensee through a telehealth  
10 program that is covered by the policies and procedures adopted by the  
11 administrator of a hospital or outpatient treatment center.

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:

21 32-1606. Powers and duties of board

22 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.

1 (e) Assessing fees.

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

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

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

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

15 16. Require each applicant for initial licensure or certification  
16 to submit a full set of fingerprints to the board for the purpose of  
17 obtaining a state and federal criminal records check pursuant to section  
18 41-1750 and Public Law 92-544. The department of public safety may  
19 exchange this fingerprint data with the federal bureau of investigation.

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

28 18. Establish standards to approve and reapprove **REGISTERED** nurse  
29 practitioner and clinical nurse specialist programs and provide for  
30 surveys of **REGISTERED** nurse practitioner and clinical nurse specialist  
31 programs as ~~++~~ **THE BOARD** deems necessary.

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

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

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

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

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

42 24. Maintain a list of approved medication assistant training  
43 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:

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

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

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

6 45. Committing conduct that the board determines constitutes gross  
7 negligence, repeated negligence or negligence that results in harm or  
8 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.

13 48. Failing to disclose to a patient that the licensee has a direct  
14 financial interest in a prescribed treatment, good or service if the  
15 treatment, good or service is available on a competitive basis. This  
16 paragraph does not apply to a referral by one licensee to another licensee  
17 within a group of licensees who practice together. A licensee meets the  
18 disclosure requirements of this paragraph if both of the following are  
19 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:

35 (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.

8 (f) Prescriptions for naloxone hydrochloride or any other opioid  
9 antagonist approved by the United States food and drug administration that  
10 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:

16 32-2532. Prescribing, administering and dispensing drugs;  
17 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.