PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2211
(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 20-3117, Arizona Revised Statutes, is amended to read:

20-3117. Dispute resolution; notice of rights

A. The department in conjunction with the appropriate health care boards shall prescribe the notice outlining an enrollee's rights to dispute surprise out-of-network bills under this article.

B. Health insurers shall include the notice prescribed pursuant to subsection A of this section in each explanation of benefits or other similar claim adjudication notice that is issued to enrollees and that involves covered services provided by a noncontracted health care provider. This subsection applies only to claims that are not subject to an independent dispute resolution pursuant to ~~the No Surprises Act (P.L. 116-120; 134 Stat. 2758; 42 United States Code section 201)~~ 42 UNITED STATES CODE SECTION 300gg-111(c)(5) OR 300gg-112(b)(5), AS APPLICABLE.

C. If an enrollee contacts a health care provider, a HEALTH CARE provider's representative or a billing company regarding a dispute involving a surprise out-of-network bill that is not subject to an independent dispute resolution pursuant to the no surprises act (P.L. ~~116-120~~ 116-260; 134 Stat. 2758; 42 United States Code section ~~201~~ 300gg-111(c)), the health care provider, the HEALTH CARE provider's representative or the billing company shall provide written notice as prescribed in subsection A of this section to the enrollee of the dispute resolution process.

D. The department shall post on its website information for health care consumers regarding what constitutes a surprise out-of-network bill, how to try to avoid a surprise out-of-network bill and how the dispute resolution process may be used to resolve a surprise out-of-network bill.

Sec. 2. Title 20, chapter 20, article 2, Arizona Revised Statutes, is amended by adding section 20-3120, to read:

20-3120. Payment of postarbitration awards

A HEALTH INSURER SHALL REMIT PAYMENT OF ALL AMOUNTS DUE TO A NONPARTICIPATING HEALTH CARE PROVIDER OR HEALTH CARE FACILITY IN CONNECTION WITH AN INDEPENDENT DISPUTE RESOLUTION PROCEEDING WITHIN THE THIRTY-DAY TIME PERIOD SPECIFIED IN 42 UNITED STATE CODE SECTION 300gg-111(c)(6) OR 300gg-112(b)(6), AS APPLICABLE.

Sec. 3. Section 32-854.01, Arizona Revised Statutes, is amended to read:

32-854.01. Unprofessional conduct

Unprofessional conduct includes the following conduct, whether it occurs in this state or elsewhere:

1. Requesting, listing, accepting or receiving any rebate or commission for prescribing or recommending any footwear, drug, medicine, or other article to the licensee's patients.

2. Prescribing, dispensing or pretending to use, in treating any patient, any secret remedial agent, or manifesting or promoting its use in any way, or guaranteeing or implying to guarantee any treatment, therapy or remedy.

3. Representing that a disease or infirmity can be permanently cured, or that any disease, ailment or infirmity can be cured by a secret method, procedure, treatment, medicine or device, if this is not true.

4. Practicing podiatry under a trade name, under the name of another podiatrist, under any other name than that which appears on the practitioner's license, or under any title that misrepresents the practice of podiatry.

5. Advertising in a false, deceptive or misleading manner or advertising the quality of podiatric service.

6. Employing a solicitor to obtain business.

7. Fee splitting under any guise whatsoever.

8. Failing to report as required in section 32-852.01, subsection A.

9. Failing to obtain written informed consent from a patient before the licensee performs any surgical procedure on the patient.

10. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction is conclusive evidence that the licensee committed the crime.

11. Failing or refusing to maintain adequate records on:

(a) A patient who is eighteen years of age or older for at least six years.

(b) A patient who is under eighteen years of age for the later of either:

(i) Three years after the patient's eighteenth birthday.

(ii) Six years after the last date the patient received medical or health care services from the licensee.

12. Failing or refusing to make a patient's records available to a physician or another podiatrist within twenty-one days after a request and the receipt of proper authorization.

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

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

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

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

17. Dispensing a schedule II controlled substance that is an opioid, except as provided in section 32-3248.03.

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

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

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

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

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

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

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

25. Charging or collecting a clearly excessive fee. In determining the reasonableness of a fee, the fee customarily charged in the locality for similar services shall be considered in light of modifying factors, such as the time required, the complexity of the service and the skill requisite to perform the service properly This paragraph does not apply if there is a clear written contract for a fixed fee between the podiatrist and the patient that has been entered into before the licensee provides the service OR IF THE PATIENT HAS GIVEN INFORMED CONSENT TO WAIVE THE NO SURPRISES ACT PROTECTIONS IN ACCORDANCE WITH THE REQUIREMENTS OF 42 UNITED STATES CODE SECTION 300gg-132(d) AND THE PODIATRIST SUBMITS THE CONSENT FORM WITH THE CLAIM. WHEN SUBMITTING AN OFFER TO AN INDEPENDENT DISPUTE RESOLUTION ENTITY UNDER 42 UNITED STATES CODE SECTION 300gg-111(c)(5)(B), AN OFFER THAT EXCEEDS EITHER OF THE FOLLOWING IS DEEMED TO CONSTITUTE A CLEARLY EXCESSIVE FEE:

(a) THREE HUNDRED PERCENT OF THE APPROVED MEDICARE REIMBURSEMENT RATE.

(b) THREE HUNDRED PERCENT OF THE QUALIFIED PAYMENT AMOUNT UNDER 42 UNITED STATES CODE SECTION 300gg-111(a)(3)(E).

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

27. Charging a fee for services not rendered.

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

Sec. 4. Section 32-1401, Arizona Revised Statutes, is amended to read:

32-1401. Definitions

In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

6. "Board" means the Arizona medical board.

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

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

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

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

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

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

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

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

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

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

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

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

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

18. "Medical peer review" means:

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

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

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

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

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

22. "Practice of medicine":

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

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

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

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

25. "Teaching hospital's accredited graduate medical education program" means that the hospital is incorporated and has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American medical association, the association of American medical colleges, the royal college of physicians and surgeons of Canada or a similar body in the United States or Canada that is approved by the board and whose function is that of approving hospitals for internship, fellowship or residency training.

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

1 27. "Unprofessional conduct" includes the following, whether
2 occurring in this state or elsewhere:
3 (a) Violating any federal or state laws, rules or regulations
4 applicable to the practice of medicine.
5 (b) Intentionally disclosing a professional secret or intentionally
6 disclosing a privileged communication except as either act may otherwise
7 be required by law.
8 (c) Committing false, fraudulent, deceptive or misleading
9 advertising by a doctor of medicine or the doctor of medicine's staff,
10 employer or representative.
11 (d) Committing a felony, whether or not involving moral turpitude,
12 or a misdemeanor involving moral turpitude. In either case, conviction by
13 any court of competent jurisdiction or a plea of no contest is conclusive
14 evidence of the commission.
15 (e) Failing or refusing to maintain adequate records on a patient.
16 (f) Exhibiting a pattern of using or being under the influence of
17 alcohol or drugs or a similar substance while practicing medicine or to
18 the extent that judgment may be impaired and the practice of medicine
19 detrimentally affected.
20 (g) Using controlled substances except if prescribed by another
21 physician for use during a prescribed course of treatment.
22 (h) Prescribing or dispensing controlled substances to members of
23 the physician's immediate family.
24 (i) Prescribing, dispensing or administering schedule II controlled
25 substances as prescribed by section 36-2513 or the rules adopted pursuant
26 to section 36-2513, including amphetamines and similar schedule II
27 sympathomimetic drugs in the treatment of exogenous obesity for a period
28 in excess of thirty days in any one year, or the nontherapeutic use of
29 injectable amphetamines.
30 (j) Prescribing, dispensing or administering any controlled
31 substance or prescription-only drug for other than accepted therapeutic
32 purposes.
33 (k) Dispensing a schedule II controlled substance that is an
34 opioid, except as provided in sections 32-1491 and 32-3248.03.
35 (l) Signing a blank, undated or predated prescription form.
36 (m) Committing conduct that the board determines is gross
37 malpractice, repeated malpractice or any malpractice resulting in the
38 death of a patient.
39 (n) Representing that a manifestly incurable disease or infirmity
40 can be permanently cured, or that any disease, ailment or infirmity can be
41 cured by a secret method, procedure, treatment, medicine or device, if
42 this is not true.
43 (o) Refusing to divulge to the board on demand the means, method,
44 procedure, modality of treatment or medicine used in the treatment of a
45 disease, injury, ailment or infirmity.
46 (p) Having action taken against a doctor of medicine by another
47 licensing or regulatory jurisdiction due to that doctor of medicine's
48 mental or physical inability to engage safely in the practice of medicine
49 or the doctor of medicine's medical incompetence or for unprofessional

conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction.

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

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

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

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

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

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

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

(x) Charging or collecting a clearly excessive fee. In determining whether a fee is clearly excessive, the board shall consider the fee or range of fees customarily charged in this state for similar services in light of modifying factors such as the time required, the complexity of the service and the skill requisite to perform the service properly. This subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that has been entered into before the provision of the service OR IF THE PATIENT HAS GIVEN INFORMED CONSENT TO WAIVE THE NO SURPRISES ACT PROTECTIONS IN ACCORDANCE WITH THE REQUIREMENTS OF 42 UNITED STATES CODE SECTION 300gg-132(d) AND THE PHYSICIAN SUBMITS THE CONSENT FORM WITH THE CLAIM. WHEN SUBMITTING AN OFFER TO AN INDEPENDENT DISPUTE RESOLUTION ENTITY UNDER 42 UNITED STATES CODE SECTION 300gg-111(c)(5)(B), AN OFFER THAT EXCEEDS EITHER OF THE FOLLOWING IS DEEMED TO CONSTITUTE A CLEARLY EXCESSIVE FEE:

(i) THREE HUNDRED PERCENT OF THE APPROVED MEDICARE REIMBURSEMENT RATE.

(ii) THREE HUNDRED PERCENT OF THE QUALIFIED PAYMENT AMOUNT UNDER 42 UNITED STATES CODE SECTION 300gg-111(a)(3)(E).

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

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

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

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

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

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

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

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

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

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

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

(gg) Knowingly failing to disclose to a patient on a form that is prescribed by the board and that is dated and signed by the patient or guardian acknowledging that the patient or guardian has read and understands that the doctor has a direct financial interest in a separate diagnostic or treatment agency or in nonroutine goods or services that the patient is being prescribed if the prescribed treatment, goods or services are available on a competitive basis. This subdivision does not apply to a referral by one doctor of medicine to another doctor of medicine within a group of doctors of medicine practicing together.

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

(i) Adequate informed patient consent.

1 (ii) Conforming to generally accepted experimental criteria,
2 including protocols, detailed records, periodic analysis of results and
3 periodic review by a medical peer review committee.
4 (iii) Approval by the United States food and drug administration or
5 its successor agency.
6 (ii) Prescribing, dispensing or administering anabolic-androgenic
7 steroids to a person for other than therapeutic purposes.
8 (jj) Exhibiting a lack of or inappropriate direction, collaboration
9 or direct supervision of a medical assistant or a licensed, certified or
10 registered health care provider employed by, supervised by or assigned to
11 the physician.
12 (kk) Knowingly making a false or misleading statement to the board
13 or on a form required by the board or in a written correspondence,
14 including attachments, with the board.
15 (ll) Failing to dispense drugs and devices in compliance with
16 article 6 of this chapter.
17 (mm) Committing conduct that the board determines is gross
18 negligence, repeated negligence or negligence resulting in harm to or the
19 death of a patient.
20 (nn) Making a representation by a doctor of medicine or the doctor
21 of medicine's staff, employer or representative that the doctor of
22 medicine is boarded or board certified if this is not true or the standing
23 is not current or without supplying the full name of the specific agency,
24 organization or entity granting this standing.
25 (oo) Refusing to submit to a body fluid examination or any other
26 examination known to detect the presence of alcohol or other drugs as
27 required by the board pursuant to section 32-1452 or pursuant to a board
28 investigation into a doctor of medicine's alleged substance abuse.
29 (pp) Failing to report in writing to the Arizona medical board or
30 the Arizona regulatory board of physician assistants any evidence that a
31 doctor of medicine or a physician assistant is or may be medically
32 incompetent, guilty of unprofessional conduct or mentally or physically
33 unable to safely practice medicine or to perform as a physician assistant.
34 (qq) As a physician who is the chief executive officer, the medical
35 director or the medical chief of staff of a health care institution,
36 failing to report in writing to the board that the hospital privileges of
37 a doctor of medicine have been denied, revoked, suspended, supervised or
38 limited because of actions by the doctor of medicine that appear to show
39 that the doctor of medicine is or may be medically incompetent, is or may
40 be guilty of unprofessional conduct or is or may be unable to engage
41 safely in the practice of medicine.
42 (rr) Claiming to be a current member of the board or its staff or a
43 board medical consultant if this is not true.
44 (ss) Failing to make patient medical records in the physician's
45 possession promptly available to a physician assistant, a nurse
46 practitioner, a person licensed pursuant to this chapter or a podiatrist,
47 chiropractor, naturopathic physician, osteopathic physician or homeopathic
48 physician licensed under chapter 7, 8, 14, 17 or 29 of this title on
49 receipt of proper authorization to do so from the patient, a minor

patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

(tt) Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical or mental health status examination of that person or has previously established a doctor-patient relationship. The physical or mental health status examination may be conducted through telehealth as defined in section 36-3601 with a clinical evaluation that is appropriate for the patient and the condition with which the patient presents, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This subdivision does not apply to:

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

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

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

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

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

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

(vii) Prescriptions for epinephrine delivery systems that are written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157 or for an authorized entity to be stocked pursuant to section 36-2226.01.

(viii) Prescriptions for glucagon written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-344.01.

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

(x) 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.

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

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

Sec. 5. Section 32-1601, Arizona Revised Statutes, is amended to read:

32-1601. Definitions

In this chapter, unless the context otherwise requires:

1. "Absolute discharge from the sentence" means completion of any sentence, including imprisonment, probation, parole, community supervision or any form of court supervision.

2. "Appropriate health care professional" means a licensed health care professional whose scope of practice, education, experience, training and accreditation are appropriate for the situation or condition of the patient who is the subject of a consultation or referral.

3. "Approval" means that a regulated training or educational program to prepare persons for licensure, certification or registration has met standards established by the board.

4. "Board" means the Arizona state board of nursing.

5. "Certified nurse midwife" means a registered nurse who:

(a) Is certified by the board.

(b) Has completed a nurse midwife education program approved or recognized by the board and educational requirements prescribed by the board by rule.

(c) Holds a national certification as a certified nurse midwife from a national certifying body recognized by the board.

(d) Has an expanded scope of practice in providing health care services for women from adolescence to beyond menopause, including antepartum, intrapartum, postpartum, reproductive, gynecologic and primary care, for normal newborns during the first twenty-eight days of life and for men for the treatment of sexually transmitted diseases. The expanded scope of practice under this subdivision includes:

(i) Assessing patients, synthesizing and analyzing data and understanding and applying principles of health care at an advanced level.

(ii) Managing the physical and psychosocial health care of patients.

(iii) Analyzing multiple sources of data, identifying alternative possibilities as to the nature of a health care problem and selecting, implementing and evaluating appropriate treatment.

(iv) Making independent decisions in solving complex patient care problems.

(v) Diagnosing, performing diagnostic and therapeutic procedures and prescribing, administering and dispensing therapeutic measures, including legend drugs, medical devices and controlled substances, within the scope of the certified nurse midwife practice after meeting requirements established by the board.

(vi) Recognizing the limits of the ~~nurse's~~ CERTIFIED NURSE MIDWIFE'S knowledge and experience by consulting with or referring patients to other appropriate health care professionals if a situation or condition occurs that is beyond the knowledge and experience of the CERTIFIED nurse MIDWIFE or if the referral will protect the health and welfare of the patient.

(vii) Delegating to a medical assistant pursuant to section 32-1456.

(viii) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a certified nurse midwife.

6. "Certified nursing assistant" means a person who is registered on the registry of nursing assistants pursuant to this chapter to provide or assist in delivering nursing or nursing-related services under the supervision and direction of a licensed nursing staff member. Certified nursing assistant does not include a person who:

(a) Is a licensed health care professional.

(b) Volunteers to provide nursing assistant services without monetary compensation.

(c) Is a licensed nursing assistant.

7. "Certified registered nurse" means a registered nurse who has been certified by a national nursing credentialing agency recognized by the board.

8. "Certified registered nurse anesthetist" means a registered nurse who meets the requirements of section 32-1634.03 and who practices pursuant to the requirements of section 32-1634.04.

9. "Clinical nurse specialist" means a registered nurse who:

(a) Is certified by the board as a clinical nurse specialist.

(b) Holds a graduate degree with a major in nursing and completes educational requirements as prescribed by the board by rule.

(c) Is nationally certified as a clinical nurse specialist or, if certification is not available, provides proof of competence to the board.

(d) Has an expanded scope of practice based on advanced education in a clinical nursing specialty that includes:

(i) Assessing clients, synthesizing and analyzing data and understanding and applying nursing principles at an advanced level.

(ii) Managing directly and indirectly a client's physical and psychosocial health status.

(iii) Analyzing multiple sources of data, identifying alternative possibilities as to the nature of a health care problem and selecting appropriate nursing interventions.

(iv) Developing, planning and guiding programs of care for populations of patients.

(v) Making independent nursing decisions to solve complex client care problems.

(vi) Using research skills and acquiring and applying critical new knowledge and technologies to nursing practice.

(vii) Prescribing and dispensing durable medical equipment.

(viii) Consulting with or referring a client to other health care providers based on assessment of the client's health status and needs.

(ix) Facilitating collaboration with other disciplines to attain the desired client outcome across the continuum of care.

(x) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a clinical nurse specialist.

(xi) Prescribing, ordering and dispensing pharmacological agents subject to the requirements and limits specified in section 32-1651.

10. "Conditional license" or "conditional approval" means a license or approval that specifies the conditions under which the regulated party is allowed to practice or to operate and that is prescribed by the board pursuant to section 32-1644 or 32-1663.

11. "Delegation" means transferring to a competent individual the authority to perform a selected nursing task in a designated situation in which the nurse making the delegation retains accountability for the delegation.

12. "Disciplinary action" means a regulatory sanction of a license, certificate or approval pursuant to this chapter in any combination of the following:

(a) A civil penalty for each violation of this chapter, not to exceed $1,000 for each violation.

(b) Restitution made to an aggrieved party.

(c) A decree of censure.

(d) A conditional license or a conditional approval that ~~fixed~~ FIXES a period and terms of probation.

(e) Limited licensure.

(f) Suspension of a license, a certificate or an approval.

(g) Voluntary surrender of a license, a certificate or an approval.

(h) Revocation of a license, a certificate or an approval.

13. "Health care institution" has the same meaning prescribed in section 36-401.

14. "Licensed health aide" means a person who:

(a) Is licensed pursuant to this chapter to provide or to assist in providing nursing-related services authorized pursuant to section 36-2939.

(b) Is the parent, guardian or family member by affinity or consanguinity of the Arizona long-term care system member receiving services who may provide licensed health aide services only to that member and only consistent with that member's plan of care.

(c) Has a scope of practice that is the same as a licensed nursing assistant and may also provide medication administration, tracheostomy care, enteral care and routine ventilator care and therapy and any other tasks approved by the board in rule.

(d) Has supervision requirements that are the same as a certified nursing assistant.

15. "Licensed nursing assistant" means a person who is licensed pursuant to this chapter to provide or assist in delivering nursing or nursing-related services under the supervision and direction of a licensed nursing staff member. Licensed nursing assistant does not include a person who:

(a) Is a licensed health care professional.

(b) Volunteers to provide nursing assistant services without monetary compensation.

(c) Is a certified nursing assistant.

16. "Licensee" means a person who is licensed pursuant to this chapter or in a party state as defined in section 32-1668.

17. "Limited license" means a license that restricts the scope or setting of a licensee's practice.

18. "Medication order" means a written or verbal communication given by a certified registered nurse anesthetist to a health care professional to administer a drug or medication, including controlled substances.

19. "Practical nurse" means a person who holds a practical nurse license issued pursuant to this chapter or pursuant to a multistate compact privilege and who practices practical nursing ~~as defined in this section~~.

20. "Practical nursing" includes the following activities that are performed under the supervision of a physician or a registered nurse:

(a) Contributing to the assessment of the health status of individuals and groups.

(b) Participating in the development and modification of the strategy of care.

(c) Implementing aspects of the strategy of care within the nurse's scope of practice.

(d) Maintaining safe and effective nursing care that is rendered directly or indirectly.

(e) Participating in the evaluation of responses to interventions.

(f) Delegating nursing activities within the scope of practice of a practical nurse.

(g) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a practical nurse.

21. "Presence" means within the same health care institution or office as specified in section 32-1634.04, subsection A~~,~~ and available as necessary.

22. "Registered nurse" or "professional nurse" means a person who practices registered nursing and who holds a registered nurse license issued pursuant to this chapter or pursuant to a multistate compact privilege.

23. "Registered nurse practitioner" means a registered nurse who:

(a) Is certified by the board.

(b) Has completed a nurse practitioner education program approved or recognized by the board and educational requirements prescribed by the board by rule.

(c) If applying for certification after July 1, 2004, holds national certification as a nurse practitioner from a national certifying body recognized by the board.

(d) Has an expanded scope of practice within a specialty area that includes:

(i) Assessing clients, synthesizing and analyzing data and understanding and applying principles of health care at an advanced level.

(ii) Managing the physical and psychosocial health status of patients.

(iii) Analyzing multiple sources of data, identifying alternative possibilities as to the nature of a health care problem and selecting, implementing and evaluating appropriate treatment.

(iv) Making independent decisions in solving complex patient care problems.

(v) Diagnosing, performing diagnostic and therapeutic procedures, and prescribing, administering and dispensing therapeutic measures, including legend drugs, medical devices and controlled substances within the scope of registered nurse practitioner practice on meeting the requirements established by the board.

(vi) Recognizing the limits of the ~~nurse's~~ REGISTERED NURSE PRACTITIONER'S knowledge and experience by consulting with or referring patients to other appropriate health care professionals if a situation or condition occurs that is beyond the knowledge and experience of the REGISTERED nurse PRACTITIONER or if the referral will protect the health and welfare of the patient.

(vii) Delegating to a medical assistant pursuant to section 32-1456.

(viii) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a REGISTERED nurse practitioner.

24. "Registered nursing" includes the following:

(a) Diagnosing and treating human responses to actual or potential health problems.

(b) Assisting individuals and groups to maintain or attain optimal health by implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment.

(c) Assessing the health status of individuals and groups.

(d) Establishing a nursing diagnosis.

(e) Establishing goals to meet identified health care needs.

(f) Prescribing nursing interventions to implement a strategy of care.

(g) Delegating nursing interventions to others who are qualified to do so.

(h) Providing for the maintenance of safe and effective nursing care that is rendered directly or indirectly.

(i) Evaluating responses to interventions.

(j) Teaching nursing knowledge and skills.

(k) Managing and supervising the practice of nursing.

(l) Consulting and coordinating with other health care professionals in the management of health care.

(m) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a registered nurse.

25. "Registry of nursing assistants" means the nursing assistants registry maintained by the board pursuant to the omnibus budget reconciliation act of 1987 (P.L. 100-203; 101 Stat. 1330), as amended by the medicare catastrophic coverage act of 1988 (P.L. 100-360; 102 Stat. 683).

26. "Regulated party" means any person or entity that is licensed, certified, registered, recognized or approved pursuant to this chapter.

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

(a) Committing fraud or deceit in obtaining, attempting to obtain or renewing a license or a certificate issued pursuant to this chapter.

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

(c) Aiding or abetting in a criminal abortion or attempting, agreeing or offering to procure or assist in a criminal abortion.

(d) COMMITTING any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public.

(e) Being mentally incompetent or physically unsafe to a degree that is or might be harmful or dangerous to the health of a patient or the public.

(f) Having a license, certificate, permit or registration to practice a health care profession denied, suspended, conditioned, limited or revoked in another jurisdiction and not reinstated by that jurisdiction.

(g) Wilfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter.

(h) Committing an act that deceives, defrauds or harms the public.

(i) Failing to comply with a stipulated agreement, consent agreement or board order.

(j) Violating this chapter or a rule that is adopted by the board pursuant to this chapter.

(k) Failing to report to the board any evidence that a registered ~~or~~ NURSE, A practical nurse or a nursing assistant is or may be:

(i) Incompetent to practice.

(ii) Guilty of unprofessional conduct.

(iii) Mentally or physically unable to safely practice nursing or to perform nursing-related duties. A nurse who is providing therapeutic counseling for a nurse who is in a drug rehabilitation program is required to report that nurse only if the nurse providing therapeutic counseling has personal knowledge that patient safety is being jeopardized.

(l) Failing to self-report a conviction for a felony or undesignated offense within ten days after the conviction.

(m) Cheating or assisting another to cheat on a licensure or certification examination.

(n) CHARGING OR COLLECTING AN INAPPROPRIATE FEE. THIS SUBDIVISION DOES NOT APPLY IF THERE IS A CLEAR WRITTEN CONTRACT FOR A FIXED FEE BETWEEN THE LICENSEE AND THE PATIENT THAT HAS BEEN ENTERED INTO BEFORE THE PROVISION OF THE SERVICE OR IF THE PATIENT HAS GIVEN INFORMED CONSENT TO WAIVE THE NO SURPRISES ACT PROTECTIONS IN ACCORDANCE WITH THE REQUIREMENTS OF 42 UNITED STATES CODE SECTION 300gg-132(d) AND THE LICENSEE SUBMITS THE CONSENT FORM WITH THE CLAIM. WHEN SUBMITTING AN OFFER TO AN INDEPENDENT DISPUTE RESOLUTION ENTITY UNDER 42 UNITED STATES CODE SECTION 300gg-111(c)(5)(B), AN OFFER THAT EXCEEDS ANY OF THE FOLLOWING IS DEEMED TO CONSTITUTE AN INAPPROPRIATE FEE:

(i) THREE HUNDRED PERCENT OF THE APPROVED MEDICARE REIMBURSEMENT RATE.

(ii) THREE HUNDRED PERCENT OF THE QUALIFIED PAYMENT AMOUNT UNDER 42 UNITED STATES CODE SECTION 300gg-111(a)(3)(E).

Sec. 6. Section 32-1854, Arizona Revised Statutes, is amended to read:

32-1854. Definition of unprofessional conduct

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

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

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

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

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

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

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

7. Impersonating another physician.

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

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

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

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

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

13. Refusing to divulge to the board on demand the means, method, device or instrumentality used to treat a disease, injury, ailment or infirmity.

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

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

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

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

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

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

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

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

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

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

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

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

24. Committing nontherapeutic use of injectable amphetamines.

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

26. Charging or collecting an inappropriate fee. This paragraph does not apply to a fee that is fixed in a written contract between the physician and the patient and entered into before treatment begins OR IF THE PATIENT HAS GIVEN INFORMED CONSENT TO WAIVE THE NO SURPRISES ACT PROTECTIONS IN ACCORDANCE WITH THE REQUIREMENTS OF 42 UNITED STATES CODE SECTION 300gg-132(d) AND THE PHYSICIAN SUBMITS THE CONSENT FORM WITH THE CLAIM. WHEN SUBMITTING AN OFFER TO AN INDEPENDENT DISPUTE RESOLUTION ENTITY UNDER 42 UNITED STATES CODE SECTION 300gg-111(c)(5)(B), AN OFFER THAT EXCEEDS EITHER OF THE FOLLOWING IS DEEMED TO CONSTITUTE A CLEARLY EXCESSIVE FEE:

(a) THREE HUNDRED PERCENT OF THE APPROVED MEDICARE REIMBURSEMENT RATE.

(b) THREE HUNDRED PERCENT OF THE QUALIFIED PAYMENT AMOUNT UNDER 42 UNITED STATES CODE SECTION 300gg-111(a)(3)(E).

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

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

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

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

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

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

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

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

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

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

37. Dispensing a schedule II controlled substance that is an opioid, except as provided in sections 32-1871 and 32-3248.03.

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

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

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

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

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

43. Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of 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.

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

47. Engaging in disruptive or abusive behavior in a professional 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:

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

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

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

(a) Emergencies.

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

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

(d) Prescriptions for epinephrine delivery systems that are written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157 or for an authorized entity to be stocked pursuant to section 36-2226.01.

(e) Prescriptions for glucagon written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-344.01.

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

1 (g) Prescriptions for naloxone hydrochloride or any other opioid
2 antagonist approved by the United States food and drug administration that
3 are written or dispensed for use pursuant to section 36-2228 or 36-2266.
4 50. If a licensee provides medical care by computer, failing to
5 disclose the licensee's license number and the board's address and
6 telephone number."
7 Amend title to conform

DAVID LIVINGSTON

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