Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
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Forty-ninth Legislature
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CHAPTER 172

HOUSE BILL 2021

AN ACT

AMENDING SECTIONS 32-2501, 32-2504 AND 32-2521, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2524, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 25, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-2524; AMENDING SECTIONS 32-2526, 32-2528, 32-2531 AND 32-2533, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2534, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 25, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-2534; AMENDING SECTION 32-2551, ARIZONA REVISED STATUTES; RELATING TO PHYSICIAN ASSISTANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-2501, Arizona Revised Statutes, is amended to read:

32-2501. Definitions

In this chapter, unless the context otherwise requires:

1. "Active license" means a regular ~~or temporary~~ license issued pursuant to this chapter.

2. "Adequate records" means legible medical records 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 physician assistant 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 program" means a physician assistant educational program ~~that has been fully or provisionally~~ accredited by the ~~committee on allied health education and accreditation or by the commission on the accreditation for allied health education programs, or successor agencies, on the recommendation of the~~ accreditation review ~~committee~~ COMMISSION on education for physician assistants, OR ONE OF ITS PREDECESSOR AGENCIES, THE COMMITTEE ON ALLIED HEALTH EDUCATION AND ACCREDITATION OR THE COMMISSION ON THE ACCREDITATION OF ALLIED HEALTH EDUCATIONAL PROGRAMS.

5. "Board" means the Arizona regulatory board of physician assistants.

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

7. "Immediate family" means the spouse, natural or adopted children, father, mother, brothers and sisters of the physician assistant and the natural or adopted children, father, mother, brothers and sisters of the physician assistant's spouse.

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

9. "Limit" means a nondisciplinary action that is taken by the board and that alters a physician assistant's practice or medical activities if there is evidence that the physician assistant is or may be mentally or physically unable to safely engage in health care tasks.

10. "Medically incompetent" means that a physician assistant lacks sufficient medical knowledge or skills, or both, in performing delegated health care tasks to a degree likely to endanger the health or safety of patients.

11. "Minor surgery" means those invasive procedures that may be delegated to a physician assistant by a supervising physician, that are consistent with the training and experience of the physician assistant, that are normally taught in courses of training approved by the board and that have been approved by the board as falling within a scope of practice of a physician assistant. Minor surgery does not include a surgical abortion.

~~12. "Notification of supervision" means a written notice that is provided to the board by a supervising physician and that notifies the board that the physician intends to supervise a physician assistant. The physician shall provide this notice on a form prescribed by the board before the physician assistant begins work.~~

~~13.~~ 12. "Physician" means a physician WHO IS licensed pursuant to chapter 13 or 17 of this title.

~~14.~~ 13. "Physician assistant" means a person who is licensed pursuant to this chapter and who ~~performs health care tasks pursuant to a dependent relationship~~ PRACTICES MEDICINE with ~~a~~ physician SUPERVISION.

~~15. "Primary place for meeting patients" includes the supervising physician's office, health care institutions in which the supervising physician's patients are located or homes of patients.~~

~~16.~~ 14. "Regular license" means a valid and existing license issued pursuant to section 32-2521 to perform health care tasks. ~~Regular license does not include a temporary license.~~

~~17.~~ 15. "Restrict" means a disciplinary action that is taken by the board and that alters a physician assistant's practice or medical activities if there is evidence that the physician assistant is or may be medically incompetent or guilty of unprofessional conduct.

~~18.~~ 16. "Supervising physician" means a physician who holds a current unrestricted license, ~~provides a notification of supervision,~~ WHO SUPERVISES A PHYSICIAN ASSISTANT AND WHO assumes legal responsibility for health care tasks performed by the physician assistant ~~and is approved by the board~~.

~~19. "Supervising physician's agent" means a physician who holds a current unrestricted license, is a cosignatory on the notification of supervision, agrees to act as the supervising physician in the supervising physician's absence and is approved by the board.~~

~~20.~~ 17. "Supervision" means a physician's opportunity or ability to provide or exercise DIRECTION AND control over the services of a physician assistant. Supervision does not require a physician's constant physical

presence if the supervising physician ~~or the supervising physician's agent~~ is or can be easily in contact with the physician assistant by ~~radio, telephone or~~ telecommunication.

~~21.~~ 18. "Unprofessional conduct" includes the following acts by a physician assistant that occur in this state or elsewhere:

(a) Violation of any federal or state law or rule that applies to the performance of health care tasks as a physician assistant. Conviction in any court of competent jurisdiction is conclusive evidence of a violation.

(b) Claiming to be a physician or knowingly permitting another person to represent that person as a physician.

(c) Performing health care tasks that have not been delegated by the supervising physician.

(d) Habitual intemperance in the use of alcohol or habitual substance abuse.

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

(f) Gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient.

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

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

(i) Prescribing or dispensing controlled substances or prescription-only drugs for which the physician assistant is not approved or in excess of the amount authorized pursuant to this chapter.

(j) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public.

(k) Violation of a formal order, probation or stipulation issued by the board.

(l) Failing to clearly disclose the person's identity as a physician assistant in the course of the physician assistant's employment.

(m) Failing to use and affix the initials "P.A." or "P.A.-C." after the physician assistant's name or signature on charts, prescriptions or professional correspondence.

(n) Procuring or attempting to procure a physician assistant license by fraud, misrepresentation or knowingly taking advantage of the mistake of another.

(o) Having professional connection with or lending the physician assistant's name to an illegal practitioner of any of the healing arts.

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

(q) Using controlled substances that have not been prescribed by a physician, physician assistant, dentist or nurse practitioner for use during a prescribed course of treatment.

(r) Prescribing or dispensing controlled substances to members of the physician assistant's immediate family.

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

(t) Knowingly making any written or oral false or fraudulent statement in connection with the performance of health care tasks or when applying for privileges or renewing an application for privileges at a health care institution.

(u) 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.

(v) Having a certification or license refused, revoked, suspended, limited or restricted by any other licensing jurisdiction for the inability to safely and skillfully perform health care tasks or for unprofessional conduct as defined by that jurisdiction that directly or indirectly corresponds to any act of unprofessional conduct as prescribed by this paragraph.

(w) Having sanctions including restriction, suspension or removal from practice imposed by an agency of the federal government.

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

(y) Using the term "doctor" or the abbreviation "Dr." on a name tag or in a way that leads the public to believe that the physician assistant is licensed to practice as an allopathic or an osteopathic physician in this state.

(z) Failing to furnish legally requested information to the board or its investigator in a timely manner.

(aa) Failing to allow properly authorized board personnel to examine on demand documents, reports and records of any kind relating to the physician assistant's performance of health care tasks.

(bb) Knowingly making a false or misleading statement on a form required by the board or in written correspondence or attachments furnished to the board.

(cc) Failing to submit to a body fluid examination and other examinations known to detect the presence of alcohol or other drugs pursuant to an agreement with the board or an order of the board.

(dd) Violating a formal order, probation agreement or stipulation issued or entered into by the board or its executive director.

(ee) Except as otherwise required by law, intentionally betraying a professional secret or intentionally violating a privileged communication.

(ff) Allowing the use of the licensee's name in any way to enhance or permit the continuance of the activities of, or maintaining a professional

connection with, an illegal practitioner of medicine or the performance of health care tasks by a person who is not licensed pursuant to this chapter.

(gg) False, fraudulent, deceptive or misleading advertising by a physician assistant or the physician assistant's staff or representative.

(hh) 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 licensee has a direct financial interest in a separate diagnostic or treatment agency or in nonroutine goods or services that the patient is being prescribed and if the prescribed treatment, goods or services are available on a competitive basis. This subdivision does not apply to a referral by one physician assistant to another physician assistant or to a doctor of medicine or a doctor of osteopathy within a group working together.

(ii) WITH THE EXCEPTION OF HEAVY METAL POISONING, using chelation therapy in the treatment of arteriosclerosis ~~or as any other form of therapy~~ OR AS ANY OTHER FORM OF THERAPY WITHOUT ADEQUATE INFORMED PATIENT CONSENT OR WITHOUT CONFORMING TO GENERALLY ACCEPTED EXPERIMENTAL CRITERIA INCLUDING PROTOCOLS, DETAILED RECORDS, PERIODIC ANALYSIS OF RESULTS AND PERIODIC REVIEW BY A MEDICAL PEER REVIEW COMMITTEE, OR WITHOUT APPROVAL BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION OR ITS SUCCESSOR AGENCY.

(jj) Prescribing, dispensing or administering anabolic or androgenic steroids for other than therapeutic purposes.

(kk) 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 examination of that person or has previously established a professional relationship with the person. This subdivision does not apply to:

(i) A physician assistant who provides temporary patient care on behalf of 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 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 assistant.

(ll) 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 professional 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 other verbal conduct or physical contact of a sexual nature with a patient.

(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.

(mm) Performing health care tasks under a false or assumed name in this state.

Sec. 2. Section 32-2504, Arizona Revised Statutes, is amended to read:

32-2504. Powers and duties; subcommittees

A. The board shall:

1. As its primary duty, protect the public from unlawful, incompetent, unqualified, impaired or unprofessional physician assistants.

2. License and regulate physician assistants pursuant to this chapter.

3. Order and evaluate physical, psychological, psychiatric and competency testing of licensees and applicants the board determines is necessary to enforce this chapter.

4. Review the credentials and the abilities of applicants for licensure whose professional records or physical or mental capabilities may not meet the requirements of this chapter.

5. Initiate investigations and determine on its own motion if a licensee has engaged in unprofessional conduct or is or may be incompetent or mentally or physically unable to safely perform health care tasks.

6. Establish fees and penalties pursuant to section 32-2526.

7. Develop and recommend standards governing the profession.

8. Engage in the full exchange of information with the licensing and disciplinary boards and professional associations of other states and jurisdictions of the United States and foreign countries and a statewide association for physician assistants.

9. Direct the preparation and circulation of educational material the board determines is helpful and proper for its licensees.

~~10. Approve notification of supervision including the selection of supervising physicians and supervising agents.~~

~~11.~~ 10. Discipline and rehabilitate physician assistants pursuant to this chapter.

~~12.~~ 11. Certify physician assistants for fourteen day prescription privileges for schedule II or schedule III controlled substances if the physician assistant:

(a) Within the preceding three years of application, completed forty-five hours in pharmacology or clinical management of drug therapy or ~~if~~ at the time of application is certified by a national commission on the certification of physician assistants or its successor.

(b) Met any other requirement established by board rule.

B. The board may make and adopt rules necessary or proper for the administration of this chapter.

C. The chairperson may establish subcommittees consisting of board members and define their duties as the chairperson deems necessary to carry out the functions of the board.

D. Board employees, including the executive director, temporary personnel and professional medical investigators, are immune from civil liability for good faith actions they take to enforce this chapter.

E. In performing its duties pursuant to subsection A of this section, the board may receive and review staff reports on complaints, malpractice cases and all investigations.

Sec. 3. Section 32-2521, Arizona Revised Statutes, is amended to read:

32-2521. Qualifications

A. An applicant for licensure shall:

1. Have ~~attended and completed a course of training for~~ GRADUATED FROM A physician assistants EDUCATIONAL PROGRAM approved by the board.

2. Pass a certifying examination approved by the board.

3. Be physically and mentally able to safely perform health care tasks as a physician assistant.

4. Have a professional record that indicates that the applicant has not committed any act or engaged in any conduct that constitutes grounds for disciplinary action against a licensee pursuant to this chapter. This paragraph does not prevent the board from considering the application of an applicant who was the subject of disciplinary action in another jurisdiction if the applicant's act or conduct was subsequently corrected, monitored and resolved to the satisfaction of that jurisdiction's regulatory board.

5. Not have had a license to practice revoked by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter.

6. Not be currently under investigation, suspension or restriction by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter. If the applicant is under investigation by a regulatory board in another jurisdiction, the board shall suspend the application process and may not issue or deny a license to the applicant until the investigation is resolved.

7. Not have surrendered, relinquished or given up a license in lieu of disciplinary action by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter. This paragraph does not prevent the board from considering the application of an applicant who surrendered, relinquished or gave up a license in lieu of disciplinary action by a regulatory board in another jurisdiction if that regulatory board subsequently reinstated the applicant's license.

B. The board may:

1. Require an applicant to submit written or oral proof of credentials.

2. Make ~~such~~ investigations ~~as~~ it deems necessary to advise itself with respect to the qualifications of the applicant, including physical examinations, mental evaluations, written competency examinations or any combination of ~~such~~ THESE examinations and evaluations.

~~3. Grant an exemption from the licensure requirements of this section to:~~

~~(a) A student enrolled in a physician assistant education program approved by the board in order for that student to work within that program. The student shall register with the board on a form prescribed by the board.~~

~~(b) A physician assistant who is an employee of the United States government and who works on land or in facilities owned or operated by the United States government or a physician assistant who is a member of the reserve components of the United States and on official orders or performing official duties as outlined in the appropriate regulation of that branch.~~

C. If the board finds that the applicant committed an act or engaged in conduct that would constitute grounds for disciplinary action in this state, before issuing a license the board must determine to its satisfaction that the act or conduct has been corrected, monitored and resolved. If the act or conduct has not been resolved, before issuing a license the board must determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

D. If another jurisdiction has taken disciplinary action against an applicant, before issuing a license the board must determine to its satisfaction that the cause for the action was corrected and the matter was resolved. If the other jurisdiction has not resolved the matter, before issuing a license the board must determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

E. The board may delegate to the executive director the authority to deny licenses to applicants who do not meet the requirements of this section.

Sec. 4. Repeal

Section 32-2524, Arizona Revised Statutes, is repealed.

Sec. 5. Title 32, chapter 25, article 2, Arizona Revised Statutes, is amended by adding a new section 32-2524, to read:

32-2524. Exemption from licensure

THIS CHAPTER DOES NOT REQUIRE LICENSURE OF:

1. A STUDENT WHO IS ENROLLED IN A PHYSICIAN ASSISTANT EDUCATION PROGRAM APPROVED BY THE BOARD.

2. A PHYSICIAN ASSISTANT WHO IS AN EMPLOYEE OF THE UNITED STATES GOVERNMENT AND WHO WORKS ON LAND OR IN FACILITIES OWNED OR OPERATED BY THE UNITED STATES GOVERNMENT.

3. A PHYSICIAN ASSISTANT WHO IS A MEMBER OF THE RESERVE COMPONENTS OF THE UNITED STATES AND WHO IS ON OFFICIAL ORDERS OR PERFORMING OFFICIAL DUTIES AS OUTLINED IN THE APPROPRIATE REGULATION OF THAT BRANCH OF MILITARY SERVICE.

Sec. 6. Section 32-2526, Arizona Revised Statutes, is amended to read:

32-2526. Fees

A. By a vote at its annual fall meeting, the board shall establish nonrefundable fees and penalties that do not exceed the following:

1. Processing an application for an active license, four hundred dollars.

2. Issuing an active license, four hundred dollars.

~~3. Application for a temporary license, one hundred dollars.~~

~~4. Conversion from a temporary license to a regular license, three hundred dollars.~~

~~5.~~ 3. Annual renewal of a regular license, ~~a fee of not to exceed~~ four hundred dollars.

~~6.~~ 4. Penalty fee for late renewal of a regular license, three hundred fifty dollars.

~~7.~~ 5. Issuance of a duplicate license, twenty-five dollars.

~~8. Approval of notification of supervision by a supervising physician, three hundred fifty dollars.~~

~~9. Application to transfer the responsibility of the supervising physician to an approved supervising physician's agent, two hundred dollars.~~

~~10. Adding a supervising physician agent subsequent to the approved notification of supervision, twenty-five dollars.~~

~~11.~~ 6. Verification of a license, ten dollars.

~~12.~~ 7. Copying records, documents, letters, minutes, applications and files, one dollar for the first three pages and twenty-five cents for each additional page.

~~13.~~ 8. ~~For~~ The sale of computerized tapes or diskettes that do not require programming, one hundred dollars.

~~14.~~ 9. ~~For~~ Services not required to be provided by this chapter, but ~~which~~ THAT the board deems appropriate to carry out the intent and purpose of this chapter, a fee of not to exceed the actual cost of providing the services. Notwithstanding section 32-2506, the board shall deposit, pursuant to sections 35-146 and 35-147, all of the monies collected under this paragraph in the Arizona medical board fund established by section 32-1406.

B. Notwithstanding subsection A of this section, on written request the board may return the license renewal fee for good cause shown.

C. The board may collect from a drawer of a dishonored check, draft, order or note an amount allowed pursuant to section 44-6852.

Sec. 7. Section 32-2528, Arizona Revised Statutes, is amended to read:

32-2528. Inactive license; application; prohibited activities

A. A person who holds a regular license pursuant to this chapter may request an inactive license from the board if both of the following are true:

1. The licensee is not under investigation by the board.

2. The board has not begun disciplinary proceedings against the licensee.

B. The board may grant an inactive license and shall waive the annual renewal fee and requirements for continuing medical education if the person certifies total retirement from the performance of health care tasks in this state, any jurisdiction of the United States and any foreign country and is current on all fees required by this chapter.

C. An inactive licensee shall not perform health care tasks ~~or continue to hold or maintain a drug enforcement administration controlled substance registration license~~. ~~A licensee who performs health care tasks while holding an inactive license violates this chapter by performing health care tasks without a license.~~

D. The board may convert an inactive license to a regular license on payment of the annual renewal fee and presentation of evidence to the board that the holder possesses the medical knowledge and the physical and mental ability to safely engage in the performance of health care tasks. The board may require any combination of physical examination, psychiatric or psychological evaluation, oral competency examination or a board qualified written examination or interview it believes necessary to assist it in determining the ability of a physician assistant who holds an inactive license to return to regular licensure.

Sec. 8. Section 32-2531, Arizona Revised Statutes, is amended to read:

32-2531. Physician assistant scope of practice; health care tasks; supervising physician duties; civil penalty

A. ~~After~~ A supervising physician ~~receives board approval of a notice of supervision, that physician~~ may delegate health care tasks to ~~the~~ A physician assistant.

B. A PHYSICIAN ASSISTANT SHALL NOT PERFORM SURGICAL ABORTIONS AS DEFINED IN SECTION 36-2151.

C. THE PHYSICIAN ASSISTANT MAY PERFORM THOSE DUTIES AND RESPONSIBILITIES, INCLUDING THE ORDERING, PRESCRIBING, DISPENSING AND ADMINISTRATION OF DRUGS AND MEDICAL DEVICES THAT ARE DELEGATED BY THE SUPERVISING PHYSICIAN.

D. THE PHYSICIAN ASSISTANT MAY PROVIDE ANY MEDICAL SERVICE THAT IS DELEGATED BY THE SUPERVISING PHYSICIAN IF THE SERVICE IS WITHIN THE PHYSICIAN ASSISTANT'S SKILLS, IS WITHIN THE PHYSICIAN'S SCOPE OF PRACTICE AND IS SUPERVISED BY THE PHYSICIAN.

E. THE PHYSICIAN ASSISTANT MAY PRONOUNCE DEATH AND, IF DELEGATED, MAY AUTHENTICATE BY THE PHYSICIAN ASSISTANT'S SIGNATURE ANY FORM THAT MAY BE AUTHENTICATED BY A PHYSICIAN'S SIGNATURE.

F. THE PHYSICIAN ASSISTANT IS THE AGENT OF THE PHYSICIAN ASSISTANT'S SUPERVISING PHYSICIAN IN THE PERFORMANCE OF ALL PRACTICE RELATED ACTIVITIES, INCLUDING THE ORDERING OF DIAGNOSTIC, THERAPEUTIC AND OTHER MEDICAL SERVICES.

G. The physician assistant may perform ~~these~~ HEALTH CARE tasks in any setting authorized by the ~~approved~~ supervising physician ~~and the board,~~

~~pursuant to subsections E and F of this section~~, including PHYSICIAN OFFICES, clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes and other health care institutions. These tasks may include:

1. Obtaining patient histories.
2. Performing physical examinations.
3. Ordering and performing diagnostic and therapeutic procedures.
4. Formulating a diagnostic impression.
5. Developing and implementing a treatment plan.
6. Monitoring the effectiveness of therapeutic interventions.
7. Assisting in surgery.
8. Offering counseling and education to meet patient needs.
9. Making appropriate referrals.
10. Prescribing schedule IV or V controlled substances as defined in the federal controlled substances act of 1970 (P.L. 91-513; 84 Stat. 1242; 21 United States Code section 802) and prescription-only medications.
11. Prescribing schedule II and III controlled substances as defined in the federal controlled substances act of 1970.
12. Performing minor surgery as defined in section 32-2501.
13. Performing other nonsurgical health care tasks that are normally taught in courses of training approved by the board, that are consistent with the training and experience of the physician assistant and that have been properly delegated by the ~~approved~~ supervising physician.

~~B.~~ H. The ~~approved~~ supervising physician shall:

1. Meet the requirements established by the board for supervising a physician assistant ~~and receive written board notification of this compliance~~.
2. Accept responsibility for all tasks and duties the physician delegates to a physician assistant.
3. Notify the board and the physician assistant in writing if the physician assistant exceeds the scope of the delegated health care tasks.
~~4. Notify the board if the physician has delegated authority to the physician assistant to prescribe medication. The physician shall also notify the board if the physician makes any changes to this authority.~~
4. MAINTAIN A WRITTEN AGREEMENT WITH THE PHYSICIAN ASSISTANT. THE AGREEMENT MUST STATE THAT THE PHYSICIAN WILL EXERCISE SUPERVISION OVER THE PHYSICIAN ASSISTANT AND RETAINS PROFESSIONAL AND LEGAL RESPONSIBILITY FOR THE CARE RENDERED BY THE PHYSICIAN ASSISTANT. THE AGREEMENT MUST BE SIGNED BY THE SUPERVISING PHYSICIAN AND THE PHYSICIAN ASSISTANT AND UPDATED ANNUALLY. THE AGREEMENT MUST BE KEPT ON FILE AT THE PRACTICE SITE AND MADE AVAILABLE TO THE BOARD ON REQUEST.

I. A PHYSICIAN'S ABILITY TO SUPERVISE A PHYSICIAN ASSISTANT IS NOT AFFECTED BY RESTRICTIONS IMPOSED BY THE BOARD ON A PHYSICIAN ASSISTANT PURSUANT TO DISCIPLINARY ACTION TAKEN BY THE BOARD.

~~C.~~ J. Supervision MUST BE CONTINUOUS BUT does not require the personal presence of the physician at the place where health care tasks are

performed IF THE PHYSICIAN ASSISTANT IS IN CONTACT WITH THE SUPERVISING PHYSICIAN BY TELECOMMUNICATION. IF THE PHYSICIAN ASSISTANT PRACTICES IN A LOCATION WHERE A SUPERVISING PHYSICIAN IS NOT ROUTINELY PRESENT, THE PHYSICIAN ASSISTANT MUST MEET IN PERSON OR BY TELECOMMUNICATION WITH A SUPERVISING PHYSICIAN AT LEAST ONCE EACH WEEK TO ENSURE ONGOING DIRECTION AND OVERSIGHT OF THE PHYSICIAN ASSISTANT'S WORK. The board by order may require the personal presence of a SUPERVISING physician when designated health care tasks are performed.

~~D. A physician assistant shall meet in person with the supervising physician at least once each week to discuss patient management. If the supervising physician is unavailable due to vacation, illness or continuing education programs, a physician assistant may meet with the supervising physician's agent. If the supervising physician is unavailable for any other reason, the fulfillment of this responsibility by the supervising physician's agent is subject to board approval.~~

~~E. A physician assistant shall not perform health care tasks in a place which is geographically separated from the supervising physician's primary place for meeting patients without the authorization of the supervising physician and the board.~~

~~F. The board may approve the performance of health care tasks by a physician assistant in a place which is geographically separated from the supervising physician's primary place for meeting patients if:~~

~~1. Adequate provision for immediate communication between the supervising physician or supervising physician's agent and the physician assistant exists.~~

~~2. The physician assistant's performance of health care tasks is adequately supervised and reviewed.~~

~~3. A printed announcement which contains the names of the physician assistant and supervising physician and states that the facility employs a physician assistant who is performing health care tasks under the supervision of a licensed physician is posted in the waiting room of the geographically separated site.~~

~~G.~~ K. At all times while a physician assistant is on duty, ~~he~~ THE PHYSICIAN ASSISTANT shall wear a name tag with the designation "physician assistant" on it.

~~H.~~ L. The board by rule may prescribe a civil penalty for a violation of this article ~~relating to charting, wearing tags, identifying prescriptions and posting signs in geographically separated locations~~. The penalty shall not exceed fifty dollars for each violation. The board shall deposit, pursuant to sections 35-146 and 35-147, all monies it receives from this penalty in the state general fund. A physician assistant and the supervising physician may contest the imposition of this penalty pursuant to board rule. The imposition of a civil penalty is public information, and the board may use this information in any future disciplinary actions.

Sec. 9. Section 32-2533, Arizona Revised Statutes, is amended to read:

32-2533. Supervising physician; responsibilities

A. ~~The~~ A supervising physician is responsible for all aspects of the performance of a physician assistant, whether or not the supervising physician actually pays the physician assistant a salary. The supervising physician is responsible for supervising the physician assistant and ensuring that the health care tasks performed by a physician assistant are within the physician assistant's scope of training and experience and have been properly delegated by the supervising physician.

B. EACH PHYSICIAN-PHYSICIAN ASSISTANT TEAM MUST ENSURE THAT:

1. THE PHYSICIAN ASSISTANT'S SCOPE OF PRACTICE IS IDENTIFIED.

2. THE DELEGATION OF MEDICAL TASKS IS APPROPRIATE TO THE PHYSICIAN ASSISTANT'S LEVEL OF COMPETENCE.

3. THE RELATIONSHIP OF, AND ACCESS TO, THE SUPERVISING PHYSICIAN IS DEFINED.

4. A PROCESS FOR EVALUATION OF THE PHYSICIAN ASSISTANT'S PERFORMANCE IS ESTABLISHED.

~~B.~~ C. A supervising physician shall not supervise more than ~~two~~ FOUR physician assistants who work ~~the same hours at the same employment location.~~ AT THE SAME TIME.

~~C. A supervising physician may designate a supervising physician's agent to provide consultation and supervise a physician assistant when the supervising physician is not immediately available. The supervising physician remains responsible for the acts of a physician assistant when the physician assistant is supervised by a supervising physician's agent.~~

D. A supervising physician shall develop a system for recordation and review of all instances in which the physician assistant prescribes fourteen day prescriptions of schedule II or schedule III controlled substances. ~~The board shall approve this system.~~

~~E. In order to act as a supervising physician or a supervising physician's agent, a physician shall:~~

~~1. Complete an application as prescribed by the board.~~

~~2. Hold a license pursuant to chapter 13 or 17 of this title and not hold a license under probation, restriction or suspension unrelated to rehabilitation.~~

~~3. Submit a statement that the supervising physician or supervising physician's agent is familiar with the statutes and rules regarding the performance of health care tasks of physician assistants and accepts responsibility for supervising the physician assistant.~~

~~F. A physician who violates the provisions of this chapter shall not serve as a supervising physician or supervising physician's agent.~~

~~G. The supervising physician's agent is responsible for the acts of a physician assistant in the absence of the supervising physician if the board approves. The board considers the supervising physician's agent's signature on a physician assistant's current notification of supervision to be~~

~~acknowledgement by the supervising physician's agent that the agent understands and is familiar with the physician assistant's approved health care tasks.~~

~~H. A supervising physician or supervising physician's agent shall not delegate to the physician assistant any health care task that the supervising physician or supervising physician's agent does not have training or experience in and does not perform.~~

Sec. 10. Repeal

Section 32-2534, Arizona Revised Statutes, is repealed.

Sec. 11. Title 32, chapter 25, article 3, Arizona Revised Statutes, is amended by adding a new section 32-2534, to read:

32-2534. Initiation of practice

A PHYSICIAN ASSISTANT MAY NOT PERFORM HEALTH CARE TASKS UNTIL THE PHYSICIAN ASSISTANT HAS COMPLETED AND SIGNED A WRITTEN AGREEMENT WITH A SUPERVISING PHYSICIAN PURSUANT TO SECTION 32-2531, SUBSECTION H, PARAGRAPH 4.

Sec. 12. Section 32-2551, Arizona Revised Statutes, is amended to read:

32-2551. Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice; civil penalty

A. The board on its own motion may investigate any evidence that appears to show that a physician assistant is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to carry out approved health care tasks. Any physician, physician assistant or health care institution as defined in section 36-401 shall, and any other person may, report to the board any information the physician, physician assistant, health care institution or other person has that appears to show that a physician assistant is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to carry out approved health care tasks. IF THE BOARD BEGINS AN INVESTIGATION PURSUANT TO THIS SECTION, IT MAY REQUIRE THE PHYSICIAN ASSISTANT TO PROMPTLY PROVIDE THE NAME AND ADDRESS OF THE PHYSICIAN ASSISTANT'S SUPERVISING PHYSICIAN OR PHYSICIANS. The board or the executive director shall notify the physician assistant and the ~~approved~~ supervising physician of the content of the reported information in writing within one hundred twenty days of its receipt of the information. Any physician, physician assistant, health care institution or other person that reports or provides information to the board in good faith is not subject to an action for civil damages as a result of reporting or providing information, and, if requested, the name of the reporter shall not be disclosed unless the information is essential to proceedings conducted pursuant to this section.

B. The board or, if delegated by the board, the executive director may require a mental, physical or medical competency examination or any combination of those examinations or may make investigations including

investigational interviews between representatives of the board and the physician assistant and the supervising physician as it deems necessary to fully inform itself with respect to any information reported pursuant to subsection A of this section. These examinations may include biological fluid testing and other examinations known to detect the presence of alcohol or other drugs. The board or, if delegated by the board, the executive director may require the physician assistant, at the physician assistant's expense, to undergo assessment by a board approved rehabilitative, retraining or assessment program.

C. If the board finds, based on the information it receives under subsections A and B of this section, that the public safety imperatively requires emergency action, and incorporates a finding to that effect in its order, the board may restrict a license or order a summary suspension of a license pending proceedings for revocation or other action. If the board acts pursuant to this subsection, the physician assistant shall also be served with a written notice of complaint and formal hearing, setting forth the charges, and is entitled to a formal hearing before the board or an administrative law judge on the charges within sixty days pursuant to title 41, chapter 6, article 10.

D. If, after completing its investigation, the board finds that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit disciplinary action against the physician assistant's license, it may take the following actions:

1. Dismiss if, in the opinion of the board, the complaint is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.

3. Require the licensee to complete designated continuing medical education courses.

E. If the board finds that it can take rehabilitative or disciplinary action without the presence of the physician assistant at a formal interview it may enter into a consent agreement with the physician assistant to limit or restrict the physician assistant's practice or to rehabilitate the physician assistant, protect the public and ensure the physician assistant's ability to safely practice. The board may also require the physician assistant to successfully complete a board approved rehabilitative, retraining or assessment program at the physician assistant's own expense.

F. The board shall not disclose the name of the person who provided the information regarding a licensee's drug or alcohol impairment or the name of the person who files a complaint if that person requests anonymity.

G. If, after completing its investigation, the board believes that the information is or may be true and that the information may be of sufficient seriousness to merit direct action against the physician assistant's license, it may request a formal interview with the physician assistant and the supervising physician. If the physician assistant refuses the invitation for

a formal interview, the board may issue a formal complaint and order that a hearing be held pursuant to title 41, chapter 6, article 10. The board shall notify the physician assistant in writing of the time, date and place of the formal interview at least twenty days before the interview. The notice shall include the right to be represented by counsel and shall fully set forth the conduct or matters to be discussed.

H. After the formal interview, the board may take the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.

3. Enter into a stipulation with the physician assistant to restrict or limit the physician assistant's practice or medical activities or to rehabilitate, retrain or assess the physician assistant, in order to protect the public and ensure the physician assistant's ability to safely perform health care tasks. The board may also require the physician assistant to successfully complete a board approved rehabilitative, retraining or assessment program at the physician assistant's own expense as prescribed in subsection E of this section.

4. File a letter of reprimand.

5. Issue a decree of censure. A decree of censure is a disciplinary action against the physician assistant's license and may include a requirement for restitution of fees to a patient resulting from violations of this chapter or rules adopted under this chapter.

6. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the physician assistant. Failure to comply with any terms of probation is cause for initiating formal proceedings pursuant to title 41, chapter 6, article 10. Probation may include:

(a) Restrictions on the health care tasks the physician assistant may perform.

(b) Temporary suspension for not to exceed twelve months.

(c) Restitution of patient fees.

(d) Education or rehabilitation at the licensee's own expense.

7. Require the licensee to complete designated continuing medical education courses.

I. If the board finds that the information provided pursuant to subsection A of this section warrants suspension or revocation of a physician assistant's license, it shall immediately initiate formal proceedings for the suspension or revocation of the license as provided in title 41, chapter 6, article 10. The notice of complaint and hearing is fully effective by mailing a true copy of the notice of complaint and hearing by certified mail addressed to the physician assistant's last known address of record in the

board's files. The notice of complaint and hearing is complete at the time of its deposit in the mail.

J. A physician assistant who after a formal hearing pursuant to title 41, chapter 6, article 10 is found to be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely carry out the physician assistant's approved health care tasks, or any combination of these, is subject to censure, probation, suspension or revocation, or any combination of these, for a period of time or permanently and under conditions the board deems appropriate for the protection of the public health and safety.

K. In a formal interview pursuant to subsection G of this section or in a hearing pursuant to subsection I of this section, the board in addition to any other action may impose a civil penalty in the amount of not less than three hundred dollars nor more than ten thousand dollars for each violation of this chapter or a rule adopted under this chapter.

L. An advisory letter is a public document and may be used in future disciplinary actions against a physician assistant.

M. The board may charge the costs of a formal hearing to the licensee if it finds the licensee in violation of this chapter.

N. If the board acts to modify a physician assistant's prescription writing privileges, the Arizona regulatory board of physician assistants shall immediately notify the Arizona state board of pharmacy and the United States drug enforcement administration of this modification.

O. If during the course of an investigation the Arizona regulatory board of physician assistants determines that a criminal violation may have occurred involving the performance of health care tasks, it shall provide evidence of the violation to the appropriate criminal justice agency.

P. The board may accept the surrender of an active license from a person who admits in writing to any of the following:

1. Being unable to safely engage in the practice of medicine.
2. Having committed an act of unprofessional conduct.
3. Having violated this chapter or a board rule.

Q. In determining the appropriate disciplinary action under this section, the board shall consider all previous nondisciplinary and disciplinary actions against a licensee.

Sec. 13. Effective date

This act is effective from and after December 31, 2010.

APPROVED BY THE GOVERNOR APRIL 27, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2010.

Passed the House March 3, 2010

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 19, 2010

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Chairman Billington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2021

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 21, 2010,

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21 day of April, 2010

at 3:40 o'clock P. M.

Nicole Bandle

Secretary to the Governor

Approved this 27th day of

April, 2010,

at 2:15 o'clock P. M.

Jan Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 28th day of April, 2010,

at 8:32 o'clock a M.

Ken Bennett

Secretary of State

H.B. 2021