

House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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CHAPTER 122

SENATE BILL 1339

AN ACT

AMENDING SECTIONS 32-1401, 32-1501, 32-1854 AND 32-1901.01, ARIZONA REVISED
STATUTES; RELATING TO THE PRESCRIBING OF MEDICATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 32-1401. Definitions

5 In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

44 8. "Direct supervision" means that a physician, physician assistant
45 licensed pursuant to chapter 25 of this title or nurse practitioner certified

1 pursuant to chapter 15 of this title is within the same room or office suite
2 as the medical assistant in order to be available for consultation regarding
3 those tasks the medical assistant performs pursuant to section 32-1456.

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

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

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

14 12. "Health care institution" means any facility as defined in section
15 36-401, any person authorized to transact disability insurance, as defined in
16 title 20, chapter 6, article 4 or 5, any person who is issued a certificate
17 of authority pursuant to title 20, chapter 4, article 9 or any other
18 partnership, association or corporation that provides health care to
19 consumers.

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

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

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

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

39 17. "Medical peer review" means:

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

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

- 1 18. "Medically incompetent" means a person who the board determines is
2 incompetent based on a variety of factors, including:
3 (a) A lack of sufficient medical knowledge or skills, or both, to a
4 degree likely to endanger the health of patients.
5 (b) When considered with other indications of medical incompetence,
6 failing to obtain a scaled score of at least seventy-five per cent on the
7 written special purpose licensing examination.
- 8 19. "Medicine" means allopathic medicine as practiced by the recipient
9 of a degree of doctor of medicine.
- 10 20. "Office based surgery" means a medical procedure conducted in a
11 physician's office or other outpatient setting that is not part of a licensed
12 hospital or licensed ambulatory surgical center.
- 13 21. "Physician" means a doctor of medicine licensed pursuant to this
14 chapter.
- 15 22. "Practice of medicine" means the diagnosis, the treatment or the
16 correction of or the attempt or the claim to be able to diagnose, treat or
17 correct any and all human diseases, injuries, ailments, infirmities,
18 deformities, physical or mental, real or imaginary, by any means, methods,
19 devices or instrumentalities, except as the same may be among the acts or
20 persons not affected by this chapter. The practice of medicine includes the
21 practice of medicine alone or the practice of surgery alone, or both.
- 22 23. "Restrict" means taking a disciplinary action that alters the
23 physician's practice or professional activities if the board determines that
24 there is evidence that the physician is or may be medically incompetent or
25 guilty of unprofessional conduct.
- 26 24. "Special purpose licensing examination" means an examination
27 developed by the national board of medical examiners on behalf of the
28 federation of state medical boards for use by state licensing boards to test
29 the basic medical competence of physicians who are applying for licensure and
30 who have been in practice for a considerable period of time in another
31 jurisdiction and to determine the competence of a physician under
32 investigation by a state licensing board.
- 33 25. "Teaching hospital's accredited graduate medical education program"
34 means that the hospital is incorporated and has an internship, fellowship or
35 residency training program that is accredited by the accreditation council
36 for graduate medical education, the American medical association, the
37 association of American medical colleges, the royal college of physicians and
38 surgeons of Canada or a similar body in the United States or Canada approved
39 by the board whose function is that of approving hospitals for internship,
40 fellowship or residency training.
- 41 26. "Teaching license" means a valid license to practice medicine as a
42 full-time faculty member of an approved school of medicine or a teaching
43 hospital's accredited graduate medical education program.
- 44 27. "Unprofessional conduct" includes the following, whether occurring
45 in this state or elsewhere:

- 1 (a) Violating any federal or state laws, rules or regulations
2 applicable to the practice of medicine.
- 3 (b) Intentionally disclosing a professional secret or intentionally
4 disclosing a privileged communication except as either act may otherwise be
5 required by law.
- 6 (c) False, fraudulent, deceptive or misleading advertising by a doctor
7 of medicine or the doctor's staff, employer or representative.
- 8 (d) Committing a felony, whether or not involving moral turpitude, or
9 a misdemeanor involving moral turpitude. In either case, conviction by any
10 court of competent jurisdiction or a plea of no contest is conclusive
11 evidence of the commission.
- 12 (e) Failing or refusing to maintain adequate records on a patient.
- 13 (f) Habitual intemperance in the use of alcohol or habitual substance
14 abuse.
- 15 (g) Using controlled substances except if prescribed by another
16 physician for use during a prescribed course of treatment.
- 17 (h) Prescribing or dispensing controlled substances to members of the
18 physician's immediate family.
- 19 (i) Prescribing, dispensing or administering schedule II controlled
20 substances as defined in section 36-2513 including amphetamines and similar
21 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a
22 period in excess of thirty days in any one year, or the non-therapeutic use
23 of injectable amphetamines.
- 24 (j) Prescribing, dispensing or administering any controlled substance
25 or prescription-only drug for other than accepted therapeutic purposes.
- 26 (k) Signing a blank, undated or predated prescription form.
- 27 (l) Conduct that the board determines is gross malpractice, repeated
28 malpractice or any malpractice resulting in the death of a patient.
- 29 (m) Representing that a manifestly incurable disease or infirmity can
30 be permanently cured, or that any disease, ailment or infirmity can be cured
31 by a secret method, procedure, treatment, medicine or device, if this is not
32 true.
- 33 (n) Refusing to divulge to the board on demand the means, method,
34 procedure, modality of treatment or medicine used in the treatment of a
35 disease, injury, ailment or infirmity.
- 36 (o) Action that is taken against a doctor of medicine by another
37 licensing or regulatory jurisdiction due to that doctor's mental or physical
38 inability to engage safely in the practice of medicine or the doctor's
39 medical incompetence or for unprofessional conduct as defined by that
40 jurisdiction and that corresponds directly or indirectly to an act of
41 unprofessional conduct prescribed by this paragraph. The action taken may
42 include refusing, denying, revoking or suspending a license by that
43 jurisdiction or a surrendering of a license to that jurisdiction, otherwise
44 limiting, restricting or monitoring a licensee by that jurisdiction or
45 placing a licensee on probation by that jurisdiction.

1 (p) Sanctions imposed by an agency of the federal government,
2 including restricting, suspending, limiting or removing a person from the
3 practice of medicine or restricting that person's ability to obtain financial
4 remuneration.

5 (q) Any conduct or practice that is or might be harmful or dangerous
6 to the health of the patient or the public.

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

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

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

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

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

25 (w) Charging or collecting a clearly excessive fee. In determining if
26 a fee is clearly excessive, the board shall consider the fee or range of fees
27 customarily charged in the state for similar services in light of modifying
28 factors such as the time required, the complexity of the service and the
29 skill requisite to perform the service properly. This subdivision does not
30 apply if there is a clear written contract for a fixed fee between the
31 physician and the patient that has been entered into before the provision of
32 service.

33 (x) Fetal experiments conducted in violation of section 36-2302.

34 (y) The use of experimental forms of diagnosis and treatment without
35 adequate informed patient consent, and without conforming to generally
36 accepted experimental criteria, including protocols, detailed records,
37 periodic analysis of results and periodic review by a medical peer review
38 committee as approved by the federal food and drug administration or its
39 successor agency.

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

- 1 (i) Engaging in or soliciting sexual relationships, whether consensual
2 or nonconsensual.
- 3 (ii) Making sexual advances, requesting sexual favors or engaging in
4 any other verbal conduct or physical contact of a sexual nature.
- 5 (iii) Intentionally viewing a completely or partially disrobed patient
6 in the course of treatment if the viewing is not related to patient diagnosis
7 or treatment under current practice standards.
- 8 (aa) Procuring or attempting to procure a license to practice medicine
9 or a license renewal by fraud, by misrepresentation or by knowingly taking
10 advantage of the mistake of another person or an agency.
- 11 (bb) Representing or claiming to be a medical specialist if this is
12 not true.
- 13 (cc) Maintaining a professional connection with or lending one's name
14 to enhance or continue the activities of an illegal practitioner of medicine.
- 15 (dd) Failing to furnish information in a timely manner to the board or
16 the board's investigators or representatives if legally requested by the
17 board.
- 18 (ee) Failing to allow properly authorized board personnel on demand to
19 examine and have access to documents, reports and records maintained by the
20 physician that relate to the physician's medical practice or medically
21 related activities.
- 22 (ff) Knowingly failing to disclose to a patient on a form that is
23 prescribed by the board and that is dated and signed by the patient or
24 guardian acknowledging that the patient or guardian has read and understands
25 that the doctor has a direct financial interest in a separate diagnostic or
26 treatment agency or in nonroutine goods or services that the patient is being
27 prescribed and if the prescribed treatment, goods or services are available
28 on a competitive basis. This subdivision does not apply to a referral by one
29 doctor of medicine to another doctor of medicine within a group of doctors of
30 medicine practicing together.
- 31 (gg) Using chelation therapy in the treatment of arteriosclerosis or
32 as any other form of therapy, with the exception of treatment of heavy metal
33 poisoning, without:
- 34 (i) Adequate informed patient consent.
- 35 (ii) Conforming to generally accepted experimental criteria, including
36 protocols, detailed records, periodic analysis of results and periodic review
37 by a medical peer review committee.
- 38 (iii) Approval by the federal food and drug administration or its
39 successor agency.
- 40 (hh) Prescribing, dispensing or administering anabolic-androgenic
41 steroids to a person for other than therapeutic purposes.
- 42 (ii) Lack of or inappropriate direction, collaboration or direct
43 supervision of a medical assistant or a licensed, certified or registered
44 health care provider employed by, supervised by or assigned to the physician.

1 (jj) Knowingly making a false or misleading statement to the board or
2 on a form required by the board or in a written correspondence, including
3 attachments, with the board.

4 (kk) Failing to dispense drugs and devices in compliance with article
5 6 of this chapter.

6 (ll) Conduct that the board determines is gross negligence, repeated
7 negligence or negligence resulting in harm to or the death of a patient.

8 (mm) The representation by a doctor of medicine or the doctor's staff,
9 employer or representative that the doctor is boarded or board certified if
10 this is not true or the standing is not current or without supplying the full
11 name of the specific agency, organization or entity granting this standing.

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

16 (oo) Failing to report in writing to the Arizona medical board or the
17 Arizona regulatory board of physician assistants any evidence that a doctor
18 of medicine or a physician assistant is or may be medically incompetent,
19 guilty of unprofessional conduct or mentally or physically unable to safely
20 practice medicine or to perform as a physician assistant.

21 (pp) The failure of a physician who is the chief executive officer,
22 the medical director or the medical chief of staff of a health care
23 institution to report in writing to the board that the hospital privileges of
24 a doctor of medicine have been denied, revoked, suspended, supervised or
25 limited because of actions by the doctor that appear to show that the doctor
26 is or may be medically incompetent, is or may be guilty of unprofessional
27 conduct or is or may be unable to engage safely in the practice of medicine.

28 (qq) Claiming to be a current member of the board, its staff or a
29 board medical consultant if this is not true.

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

38 (ss) Prescribing, dispensing or furnishing a prescription medication
39 or a prescription-only device as defined in section 32-1901 to a person
40 unless the licensee first conducts a physical OR MENTAL HEALTH STATUS
41 examination of that person or has previously established a doctor-patient
42 relationship. THE PHYSICAL OR MENTAL HEALTH STATUS EXAMINATION MAY BE
43 CONDUCTED DURING A REAL-TIME TELEMEDICINE ENCOUNTER WITH AUDIO AND VIDEO
44 CAPABILITY IF THE TELEMEDICINE AUDIO AND VIDEO CAPABILITY MEETS THE ELEMENTS
45 REQUIRED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, UNLESS THE

1 EXAMINATION IS FOR THE PURPOSE OF OBTAINING A WRITTEN CERTIFICATION FROM THE
2 PHYSICIAN FOR THE PURPOSES OF TITLE 36, CHAPTER 28.1. This subdivision does
3 not apply to:

4 (i) A physician who provides temporary patient supervision on behalf
5 of the patient's regular treating licensed health care professional OR
6 PROVIDES A CONSULTATION REQUESTED BY THE PATIENT'S REGULAR TREATING LICENSED
7 HEALTH CARE PROFESSIONAL.

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

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

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

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

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

26 (vii) Prescriptions for epinephrine auto-injectors written or
27 dispensed for a school district or charter school to be stocked for emergency
28 use pursuant to section 15-157.

29 (viii) PRESCRIPTIONS WRITTEN BY A LICENSEE THROUGH A TELEMEDICINE
30 PROGRAM THAT IS COVERED BY THE POLICIES AND PROCEDURES ADOPTED BY THE
31 ADMINISTRATOR OF A HOSPITAL OR OUTPATIENT TREATMENT CENTER.

32 (tt) Performing office based surgery using sedation in violation of
33 board rules.

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

35 Sec. 2. Section 32-1501, Arizona Revised Statutes, is amended to read:

36 32-1501. Definitions

37 In this chapter, unless the context otherwise requires:

38 1. "Accepted therapeutic purpose" means treatment of a disease,
39 injury, ailment or infirmity that is competent and generally recognized as
40 safe and effective.

41 2. "Active license" means a current valid license to practice
42 naturopathic medicine.

43 3. "Adequate medical records" means legible medical records
44 containing, at a minimum, sufficient information to identify the patient,
45 support the diagnosis, describe the treatment, accurately document the

1 results, indicate advice and cautionary warning provided to the patient and
2 provide sufficient information for a similarly qualified practitioner to
3 assume continuity of the patient's care at any point in the course of
4 treatment.

5 4. "Approved clinical training program" or "clinical training program"
6 means a program for naturopathic medical students in which the training
7 occurred or is being conducted by or in conjunction with an approved school
8 of naturopathic medicine.

9 5. "Approved internship program" or "internship" means that the
10 program in which the training occurred or is being conducted has been
11 approved for internship training for physicians or for graduates of a school
12 of naturopathic medicine by the board or was approved or accredited by an
13 educational or professional association recognized by the board or by another
14 state's or country's licensing agency recognized by the board.

15 6. "Approved postdoctoral training" or "postdoctoral training" means
16 that the program in which the training occurred or is being conducted has
17 been approved for specialty training or for graduate medical education in
18 naturopathic medicine by the board or approved or accredited by an
19 educational or professional association recognized by the board or by another
20 state's or country's licensing agency recognized by the board.

21 7. "Approved preceptorship program" or "preceptorship" means that the
22 program in which the training occurred or is being conducted has been
23 approved for preceptorship training for physicians or for graduates of a
24 school of naturopathic medicine by the board or was approved or accredited by
25 an educational or professional association recognized by the board or by
26 another state's or country's licensing agency recognized by the board.

27 8. "Approved school of naturopathic medicine" or "school of
28 naturopathic medicine" means a school or college determined by the board to
29 have an educational program that meets standards prescribed by the council on
30 naturopathic medical education, or its successor agency, and that offers a
31 course of study that, on successful completion, results in the awarding of
32 the degree of doctor of naturopathic medicine and whose course of study is
33 either of the following:

34 (a) Accredited or a candidate for accreditation by an accrediting
35 agency recognized by the United States secretary of education as a
36 specialized accrediting agency for schools of naturopathic medicine or its
37 successor.

38 (b) Accredited or a candidate for accreditation by an accrediting
39 agency recognized by the council for higher education accreditation or its
40 successor.

41 9. "Board" means the naturopathic physicians medical board.

42 10. "Chelation therapy" means an experimental medical therapy to
43 restore cellular homeostasis through the use of intravenous, metal-binding
44 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation

1 therapy does not include experimental therapy used to treat heavy metal
2 poisoning.

3 11. "Completed application" means that the applicant paid the required
4 fees and supplied all documents and information as requested by the board and
5 in a manner acceptable to the board.

6 12. "Controlled substance" means a drug, substance or immediate
7 precursor in schedules I through V of title 36, chapter 27, article 2.

8 13. "Direct supervision" means that a physician who is licensed
9 pursuant to this chapter or chapter 13, 17 or 29 of this title:

10 (a) Is physically present and within sight or sound of the person
11 supervised and is available for consultation regarding procedures that the
12 physician has authorized and for which the physician remains responsible.

13 (b) Has designated a person licensed pursuant to this chapter or
14 chapter 13, 17 or 29 of this title to provide direct supervision in the
15 physician's absence.

16 14. "Doctor of naturopathic medicine" or "doctor" means a natural
17 person licensed to practice naturopathic medicine under this chapter.

18 15. "Drug" has the same meaning prescribed in section 32-1901 but does
19 not include:

20 (a) Intravenous administration of legend drugs, except for:

21 (i) Vitamins, chelation therapy and drugs used in emergency
22 resuscitation and stabilization.

23 (ii) Minerals.

24 (iii) Nutrients. For the purposes of this item, "nutrient" means a
25 substance that provides nourishment for growth or metabolism and that is
26 manufactured and supplied for intravenous use by a manufacturer registered
27 with the United States food and drug administration or compounded by a
28 pharmacy licensed by the state board of pharmacy.

29 (b) Controlled substances listed as schedule I or II controlled
30 substances as defined in the federal controlled substances act of 1970 (21
31 United States Code section 802), except morphine and any homeopathic
32 preparations that are also controlled substances.

33 (c) Cancer chemotherapeutics classified as legend drugs.

34 (d) Antipsychotics.

35 16. "General supervision" means that the physician is available for
36 consultation regarding procedures that the physician has authorized and for
37 which the physician remains responsible.

38 17. "Legend drug" means any drug defined by section 503(b) of the
39 federal food, drug and cosmetic act and under which definition its label is
40 required to bear the statement "Rx only".

41 18. "Letter of concern" means a nondisciplinary advisory letter that is
42 issued by the board to a person who is regulated under this chapter and that
43 states that while there is insufficient evidence to support disciplinary
44 action the board believes that the person should modify or eliminate certain
45 practices and that continuation of the activities that led to the information

1 being submitted to the board may result in action against the person's
2 license, certificate or registration.

3 19. "Letter of reprimand" means a disciplinary letter that is issued by
4 the board and that informs a person who is regulated under this chapter that
5 the person's conduct violates state or federal law but does not require the
6 board to restrict the person's license, certificate or registration because
7 the person's conduct did not result in harm to a patient or to the public.

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

12 21. "Medical assistant" or "naturopathic medical assistant" means a
13 person who is certified by the board as a medical assistant, who assists a
14 doctor of naturopathic medicine and who may perform delegated procedures that
15 are commensurate with the assistant's education and training under the direct
16 supervision of a doctor of naturopathic medicine and that do not include
17 diagnosing, designing or modifying established treatment programs or those
18 procedures prohibited by the board or by this chapter.

19 22. "Medically incompetent" means a person who is licensed, certified
20 or registered pursuant to this chapter and who lacks sufficient naturopathic
21 medical knowledge or skills, or both, to a degree that is likely to endanger
22 the health of patients.

23 23. "Natural substance" means a homeopathic, botanical, nutritional or
24 other supplement that does not require a prescription pursuant to federal law
25 before it is prescribed, dispensed or otherwise furnished to a patient and
26 that is prescribed by a physician licensed pursuant to this chapter to
27 enhance health, prevent disease or treat a medical condition diagnosed by the
28 physician.

29 24. "Naturopathic medical student" means a person who is enrolled in a
30 course of study at an approved school of naturopathic medicine.

31 25. "Naturopathic medicine" means medicine as taught in approved
32 schools of naturopathic medicine and in clinical, internship, preceptorship
33 and postdoctoral training programs approved by the board and practiced by a
34 recipient of a degree of doctor of naturopathic medicine licensed pursuant to
35 this chapter.

36 26. "Nurse" means a person licensed pursuant to chapter 15 of this
37 title.

38 27. "Physician" means a doctor of naturopathic medicine licensed
39 pursuant to this chapter.

40 28. "Practice of naturopathic medicine" means a medical system of
41 diagnosing and treating diseases, injuries, ailments, infirmities and other
42 conditions of the human mind and body including by natural means, drugless
43 methods, drugs, nonsurgical methods, devices, physical, electrical, hygienic
44 and sanitary measures and all forms of physical agents and modalities.

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

5 30. "Specialist" means a physician who has successfully completed
6 approved postdoctoral training, who is certified by a specialty board of
7 examiners recognized by the board and who is certified by the board to
8 practice the specialty pursuant to this chapter.

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

11 (a) Intentionally disclosing a professional secret or intentionally
12 disclosing a privileged communication except as either of these may otherwise
13 be required by law.

14 (b) Any dishonorable conduct reflecting unfavorably on the profession.

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

19 (d) Habitual intemperance in the use of alcohol or any substance
20 abuse.

21 (e) The illegal use of any narcotic or hypnotic drugs, or illegal
22 substances.

23 (f) Conduct that the board determines is gross malpractice, repeated
24 malpractice or any malpractice resulting in the death of a patient.

25 (g) Impersonating another doctor of naturopathic medicine or any other
26 practitioner of the healing arts.

27 (h) Falsely acting or assuming to act as a member, an employee or an
28 authorized agent of the board.

29 (i) Procuring or attempting to procure a license or a certificate
30 pursuant to this chapter by fraud, by misrepresentation or by knowingly
31 taking advantage of the mistake of another person or agency.

32 (j) Having professional connection with or lending one's name to
33 enhance or continue the activities of an illegal physician or an illegal
34 practitioner of any healing art.

35 (k) Representing that a manifestly incurable disease, injury, ailment
36 or infirmity can be permanently cured, or falsely or fraudulently
37 representing that a curable disease, injury, ailment or infirmity can be
38 cured within a stated time.

39 (l) Offering, undertaking or agreeing to cure or treat a disease,
40 injury, ailment or infirmity by a secret means, method, treatment, medicine,
41 substance, device or instrumentality.

42 (m) Refusing to divulge to the board on demand the means, method,
43 treatment, medicine, substance, device or instrumentality used in the
44 treatment of a disease, injury, ailment or infirmity.

1 (n) Giving or receiving, or aiding or abetting the giving or receiving
2 of, rebates, either directly or indirectly.

3 (o) Knowingly making any false or fraudulent statement, written or
4 oral, in connection with the practice of naturopathic medicine or any
5 naturopathic treatment method.

6 (p) Immorality or misconduct that tends to discredit the naturopathic
7 profession.

8 (q) Refusal, revocation or suspension of a license by any other state,
9 district or territory of the United States or any other country, unless it
10 can be shown that this action was not due to reasons that relate to the
11 ability to safely and skillfully practice as a doctor of naturopathic
12 medicine or to any act of unprofessional conduct in this paragraph.

13 (r) Any conduct or practice that is contrary to recognized standards
14 of ethics of the naturopathic profession, any conduct or practice that does
15 or might constitute a danger to the health, welfare or safety of the patient
16 or the public, or any conduct, practice or condition that does or might
17 impair the ability to safely and skillfully practice as a doctor of
18 naturopathic medicine.

19 (s) Failure to observe any federal, state, county or municipal law
20 relating to public health as a physician in this state.

21 (t) Violating or attempting to violate, directly or indirectly, or
22 assisting in or abetting the violation of, or conspiring to violate this
23 chapter or board rules.

24 (u) False, fraudulent, deceptive or misleading advertising or
25 advertising the quality of a medical or health care service by a physician or
26 by the physician's staff, employer or representative.

27 (v) Failing or refusing to maintain adequate medical records on a
28 patient or failing or refusing to make medical records in the physician's
29 possession promptly available to another physician or health care provider
30 who is licensed pursuant to chapter 7, 8, 13, 15, 17 or 29 of this title on
31 request and receipt of proper authorization to do so from the patient, a
32 minor patient's parent, the patient's legal guardian or the patient's
33 authorized representative or failing to comply with title 12, chapter 13,
34 article 7.1.

35 (w) Referring a patient to a diagnostic or treatment facility or
36 prescribing goods and services without disclosing in writing to the patient
37 that the physician has a pecuniary interest in the facility, goods or
38 services to which the patient is referred or prescribed. This subdivision
39 does not apply to a referral by one physician or practitioner to another
40 physician or practitioner within a group of physicians or practitioners
41 practicing together.

42 (x) Sexual intimacies with a patient in the course of direct
43 treatment.

44 (y) Failing to dispense drugs and devices in compliance with article 4
45 of this chapter.

- 1 (z) Administering, dispensing or prescribing any drug or a device for
2 other than an accepted therapeutic purpose.
- 3 (aa) Falsely representing or holding oneself out as being a specialist
4 or representation by a doctor of naturopathic medicine or the doctor's staff,
5 employer or representative that the doctor is boarded or board certified if
6 this is not true or that standing is not current.
- 7 (bb) Delegating professional duties and responsibilities to a person
8 if the person has not been approved or qualified by licensure or by
9 certification to perform these duties or responsibilities.
- 10 (cc) Failing to appropriately supervise a naturopathic medical
11 student, a nurse, a medical assistant, a health care provider or a technician
12 employed by or assigned to the physician during the performance of delegated
13 professional duties and responsibilities.
- 14 (dd) Using experimental forms of diagnosis or treatment without
15 adequate informed consent of the patient or the patient's legal guardian and
16 without conforming to experimental criteria including protocols, detailed
17 records, periodic analysis of results and periodic review by a medical peer
18 review committee as approved by the federal food and drug administration or
19 its successor agency.
- 20 (ee) Failing to furnish information in a timely manner to the board or
21 investigators or representatives of the board if this information is legally
22 requested by the board and failing to allow properly authorized board
23 personnel on demand to examine and have access to documents, reports and
24 records maintained by the physician that relate to the physician's medical
25 practice or medically related activities.
- 26 (ff) Failing to report in writing to the board evidence that a person
27 licensed, certified or registered pursuant to this chapter is or may be
28 medically incompetent, guilty of unprofessional conduct or mentally or
29 physically unable to safely practice or assist in the practice of
30 naturopathic medicine.
- 31 (gg) Conducting or engaging in an internship, preceptorship or
32 clinical training program in naturopathic medicine without being approved and
33 registered by the board for that internship, preceptorship or clinical
34 training program.
- 35 (hh) Signing a blank, undated or predated prescription form.
- 36 (ii) Conduct that the board determines is gross negligence, repeated
37 negligence or negligence resulting in harm or death to a patient.
- 38 (jj) Knowingly making a false or misleading statement in oral
39 testimony to the board on a form required by the board or in written
40 correspondence to the board, including attachments to that correspondence.
- 41 (kk) The failure of a physician who is the chief medical officer, the
42 executive officer or the chief of staff of an internship, a preceptorship or
43 a clinical training program to report in writing to the board that the
44 privileges of a doctor of naturopathic medicine, a naturopathic medical
45 student or a medical assistant have been denied, limited, revoked or

1 suspended because that doctor's, student's or assistant's actions appear to
2 indicate that the person is or may be medically incompetent, is or may be
3 guilty of unprofessional conduct or is or may be unable to safely engage or
4 assist in the practice of naturopathic medicine.

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

15 (mm) Sanctions imposed by an agency of the federal government,
16 including restricting, suspending, limiting or removing a person from the
17 practice of naturopathic medicine or restricting that person's ability to
18 obtain financial remuneration.

19 (nn) Violating any formal order, probation, consent agreement or
20 stipulation issued or entered into by the board pursuant to this chapter.

21 (oo) Refusing to submit to a body fluid examination pursuant to a
22 board investigation of alleged substance abuse by a doctor of naturopathic
23 medicine.

24 (pp) Charging a fee for services not rendered or dividing a
25 professional fee for patient referrals among health care providers or health
26 care institutions or between these providers and institutions or a
27 contractual arrangement that has this effect.

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

29 (rr) Charging or collecting a clearly excessive fee. In determining
30 if a fee is clearly excessive, the board shall consider the fee or range of
31 fees customarily charged in this state for similar services, in light of
32 modifying factors such as the time required, the complexity of the service
33 and the skill required to perform the service properly. This subdivision
34 does not apply if there is a clear written contract for a fixed fee between
35 the physician and the patient that was entered into before the service was
36 provided.

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

43 (tt) Using a controlled substance unless it is prescribed by another
44 physician for use during a prescribed course of treatment.

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

3 (vv) Except in an emergency or urgent care situation, prescribing or
4 dispensing a controlled substance to a member of the naturopathic physician's
5 immediate family.

6 (ww) Prescribing, dispensing or furnishing a prescription medication
7 or a prescription-only device as defined in section 32-1901 to a person
8 unless the licensee first conducts a physical examination of that person or
9 has previously established a doctor-patient relationship. THE PHYSICAL
10 EXAMINATION MAY BE CONDUCTED DURING A REAL-TIME TELEMEDICINE ENCOUNTER WITH
11 AUDIO AND VIDEO CAPABILITY IF THE TELEMEDICINE AUDIO AND VIDEO CAPABILITY
12 MEETS THE ELEMENTS REQUIRED BY THE CENTERS FOR MEDICARE AND MEDICAID
13 SERVICES, UNLESS THE EXAMINATION IS FOR THE PURPOSE OF OBTAINING A WRITTEN
14 CERTIFICATION FROM THE PHYSICIAN FOR THE PURPOSES OF TITLE 36, CHAPTER 28.1.
15 This subdivision does not apply to:

16 (i) A licensee who provides temporary patient supervision on behalf of
17 the patient's regular treating licensed health care professional.

18 (ii) An emergency medical situation as defined in section 41-1831.

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

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

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

32 (vi) PRESCRIPTIONS WRITTEN BY A LICENSEE THROUGH A TELEMEDICINE
33 PROGRAM THAT IS COVERED BY THE POLICIES AND PROCEDURES ADOPTED BY THE
34 ADMINISTRATOR OF A HOSPITAL OR OUTPATIENT TREATMENT CENTER.

35 (xx) If medical treatment is considered experimental or
36 investigational, failing to include in a patient's record a consent to
37 treatment document that is signed by the patient or the patient's parent or
38 legal guardian and that indicates that the patient or the patient's parent or
39 legal guardian has been informed of the risk of any treatment to be provided
40 and the expected cost of that treatment.

41 Sec. 3. Section 32-1854, Arizona Revised Statutes, is amended to read:

42 32-1854. Definition of unprofessional conduct

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

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

8 2. Committing a felony, whether or not involving moral turpitude, or a
9 misdemeanor involving moral turpitude. In either case conviction by any
10 court of competent jurisdiction is conclusive evidence of the commission.

11 3. Practicing medicine while under the influence of alcohol, narcotic
12 or hypnotic drugs or any substance that impairs or may impair the licensee's
13 ability to safely and skillfully practice medicine.

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

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

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

23 7. Impersonating another physician.

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

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

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

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

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

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

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

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

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

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

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

13 19. Any conduct or practice contrary to recognized standards of ethics
14 of the osteopathic medical profession.

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

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

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

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

27 (c) If the patient dies before the expiration of the dates prescribed
28 in subdivision (a) or (b) of this paragraph, for at least three years after
29 the patient's death.

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

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

36 24. Nontherapeutic use of injectable amphetamines.

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

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

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

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

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

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

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

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

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

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

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

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

32 37. Failing to dispense drugs and devices in compliance with article 4
33 of this chapter.

34 38. Any conduct or practice that endangers a patient's or the public's
35 health or may reasonably be expected to do so.

36 39. Any conduct or practice that impairs the licensee's ability to
37 safely and skillfully practice medicine or that may reasonably be expected to
38 do so.

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

- 1 41. Prescribing, dispensing or administering anabolic-androgenic
2 steroids to a person for other than therapeutic purposes.
- 3 42. Engaging in sexual conduct with a current patient or with a former
4 patient within six months after the last medical consultation unless the
5 patient was the licensee's spouse at the time of the contact or, immediately
6 preceding the physician-patient relationship, was in a dating or engagement
7 relationship with the licensee. For the purposes of this paragraph, "sexual
8 conduct" includes:
- 9 (a) Engaging in or soliciting sexual relationships, whether consensual
10 or nonconsensual.
- 11 (b) Making sexual advances, requesting sexual favors or engaging in
12 any other verbal conduct or physical conduct of a sexual nature.
- 13 43. Fetal experiments conducted in violation of section 36-2302.
- 14 44. Conduct that the board determines constitutes gross negligence,
15 repeated negligence or negligence that results in harm or death of a patient.
- 16 45. Conduct in the practice of medicine that evidences moral unfitness
17 to practice medicine.
- 18 46. Engaging in disruptive or abusive behavior in a professional
19 setting.
- 20 47. Failing to disclose to a patient that the licensee has a direct
21 financial interest in a prescribed treatment, good or service if the
22 treatment, good or service is available on a competitive basis. This
23 paragraph does not apply to a referral by one licensee to another licensee
24 within a group of licensees who practice together. A licensee meets the
25 disclosure requirements of this paragraph if all of the following are true:
- 26 (a) The licensee makes the disclosure on a form prescribed by the
27 board.
- 28 (b) The patient or the patient's guardian or parent acknowledges by
29 signing the form that the licensee has disclosed the licensee's direct
30 financial interest.
- 31 48. Prescribing, dispensing or furnishing a prescription medication or
32 a prescription-only device to a person if the licensee has not conducted a
33 physical OR MENTAL HEALTH STATUS examination of that person or has not
34 previously established a physician-patient relationship. THE PHYSICAL OR
35 MENTAL HEALTH STATUS EXAMINATION MAY BE CONDUCTED DURING A REAL-TIME
36 TELEMEDICINE ENCOUNTER WITH AUDIO AND VIDEO CAPABILITY IF THE TELEMEDICINE
37 AUDIO AND VIDEO CAPABILITY MEETS THE ELEMENTS REQUIRED BY THE CENTERS FOR
38 MEDICARE AND MEDICAID SERVICES, UNLESS THE EXAMINATION IS FOR THE PURPOSE OF
39 OBTAINING A WRITTEN CERTIFICATION FROM THE PHYSICIAN FOR THE PURPOSES OF
40 TITLE 36, CHAPTER 28.1. This paragraph does not apply to:
- 41 (a) Emergencies.
- 42 (b) A LICENSEE WHO PROVIDES PATIENT CARE ON BEHALF OF THE PATIENT'S
43 REGULAR TREATING LICENSED HEALTH CARE PROFESSIONAL OR PROVIDES A CONSULTATION
44 REQUESTED BY THE PATIENT'S REGULAR TREATING LICENSED HEALTH CARE
45 PROFESSIONAL.

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

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

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

19 12. Denial or discipline of a permittee's permit to manufacture, sell,
20 distribute or dispense drugs, devices, poisons, hazardous substances or
21 precursor chemicals in another jurisdiction and the permit was not
22 reinstated.

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

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

28 15. Wilfully making a false report or record required by this chapter,
29 required by federal or state laws pertaining to drugs, devices, poisons,
30 hazardous substances or precursor chemicals or required for the payment for
31 drugs, devices, poisons or hazardous substances or precursor chemicals or for
32 services pertaining to such drugs or substances.

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

35 17. Providing false or misleading information or omitting material
36 information in any communication to the board or the board's employees or
37 agents.

38 18. Violating or attempting to violate, directly or indirectly, or
39 assisting in or abetting the violation of, or conspiring to violate, this
40 chapter.

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

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

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

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

10 23. Failing to promptly produce on the request of the official
11 conducting the A site investigation, inspection or audit any book, record or
12 document.

13 24. Overruling or attempting to overrule a pharmacist in matters of
14 pharmacy ethics or interpreting laws pertaining to the practice of pharmacy
15 or the distribution of drugs or devices.

16 25. Distributing premiums or rebates of any kind in connection with the
17 sale of prescription medication, other than to the prescription medication
18 recipient.

19 26. Failing to maintain effective controls against the diversion of
20 precursor chemicals to unauthorized persons or entities.

21 27. Fraudulently claiming to have performed a service.

22 28. Fraudulently charging a fee for a service.

23 29. Advertising drugs or devices, or services pertaining to drugs or
24 devices, IN A MANNER that is untrue or misleading in any particular, and that
25 is known, or that by the exercise of reasonable care should be known, to be
26 untrue or misleading.

27 B. In this chapter, unless the context otherwise requires, for the
28 purposes of disciplining a pharmacist, pharmacy intern or graduate intern,
29 "unprofessional conduct" means the following, whether occurring in this state
30 or elsewhere:

31 1. Addiction to the use of alcohol or other drugs to such a degree as
32 to render the licensee unfit to practice the profession of pharmacy.

33 2. Violating any federal or state law, rule or regulation relating to
34 the manufacture or distribution of drugs and devices or the practice of
35 pharmacy.

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

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

44 5. Denial or discipline of a licensee's license to practice pharmacy
45 in another jurisdiction and the license was not reinstated.

- 1 6. Claiming professional superiority in compounding or dispensing
2 prescription orders.
- 3 7. Failing to comply with the mandatory continuing professional
4 pharmacy education requirements of sections 32-1936 and 32-1937 and rules
5 adopted by the board.
- 6 8. Committing a felony, whether or not involving moral turpitude, or a
7 misdemeanor involving moral turpitude or any drug related offense. In either
8 case, conviction by a court of competent jurisdiction or a plea of no contest
9 is conclusive evidence of the commission.
- 10 9. Working under the influence of alcohol or other drugs.
- 11 10. Violating a federal or state law or administrative rule relating to
12 marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled
13 substances or precursor chemicals when determined by the board or by
14 conviction in a federal or state court.
- 15 11. Knowingly dispensing a drug without a valid prescription order as
16 required pursuant to section 32-1968, subsection A.
- 17 12. Knowingly dispensing a drug on a prescription order that was issued
18 in the course of the conduct of business of dispensing drugs pursuant to
19 diagnosis by mail or the internet, — UNLESS THE ORDER WAS ANY OF THE
20 FOLLOWING:
 - 21 (a) MADE BY A PHYSICIAN WHO PROVIDES TEMPORARY PATIENT SUPERVISION ON
22 BEHALF OF THE PATIENT'S REGULAR TREATING LICENSED HEALTH CARE PROFESSIONAL OR
23 PROVIDES A CONSULTATION REQUESTED BY THE PATIENT'S REGULAR TREATING LICENSED
24 HEALTH CARE PROFESSIONAL.
 - 25 (b) MADE IN AN EMERGENCY MEDICAL SITUATION AS DEFINED IN SECTION
26 41-1831.
 - 27 (c) WRITTEN TO PREPARE A PATIENT FOR A MEDICAL EXAMINATION.
 - 28 (d) WRITTEN OR THE PRESCRIPTION MEDICATIONS WERE ISSUED FOR USE BY A
29 COUNTY OR TRIBAL PUBLIC HEALTH DEPARTMENT FOR IMMUNIZATION PROGRAMS OR
30 EMERGENCY TREATMENT OR IN RESPONSE TO AN INFECTIOUS DISEASE INVESTIGATION, A
31 PUBLIC HEALTH EMERGENCY, AN INFECTIOUS DISEASE OUTBREAK OR AN ACT OF
32 BIOTERRORISM. FOR THE PURPOSES OF THIS SUBDIVISION, "BIOTERRORISM" HAS THE
33 SAME MEANING PRESCRIBED IN SECTION 36-781.
 - 34 (e) WRITTEN OR ANTIMICROBIALS WERE DISPENSED BY THE PRESCRIBING OR
35 DISPENSING PHYSICIAN TO A CONTACT AS DEFINED IN SECTION 36-661 WHO IS
36 BELIEVED TO HAVE HAD SIGNIFICANT EXPOSURE RISK AS DEFINED IN SECTION 36-661
37 WITH ANOTHER PERSON WHO HAS BEEN DIAGNOSED WITH A COMMUNICABLE DISEASE AS
38 DEFINED IN SECTION 36-661.
 - 39 (f) WRITTEN OR THE PRESCRIPTION MEDICATIONS WERE ISSUED FOR
40 ADMINISTRATION OF IMMUNIZATIONS OR VACCINES LISTED IN THE UNITED STATES
41 CENTERS FOR DISEASE CONTROL AND PREVENTION'S RECOMMENDED IMMUNIZATION
42 SCHEDULE TO A HOUSEHOLD MEMBER OF A PATIENT.
 - 43 (g) FOR EPINEPHRINE AUTO-INJECTORS THAT ARE WRITTEN OR DISPENSED FOR A
44 SCHOOL DISTRICT OR CHARTER SCHOOL AND THAT ARE TO BE STOCKED FOR EMERGENCY
45 USE PURSUANT TO SECTION 15-157.

1 (h) WRITTEN BY A LICENSEE THROUGH A TELEMEDICINE PROGRAM THAT IS
2 COVERED BY THE POLICIES AND PROCEDURES ADOPTED BY THE ADMINISTRATOR OF A
3 HOSPITAL OR OUTPATIENT TREATMENT CENTER.

4 (i) WRITTEN PURSUANT TO A PHYSICAL OR MENTAL HEALTH STATUS EXAMINATION
5 THAT WAS CONDUCTED DURING A REAL-TIME TELEMEDICINE ENCOUNTER WITH AUDIO AND
6 VIDEO CAPABILITY THAT MEETS THE ELEMENTS REQUIRED BY THE CENTERS FOR MEDICARE
7 AND MEDICAID SERVICES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 C. In this chapter, unless the context otherwise requires, for the
16 purposes of disciplining a pharmacy technician or pharmacy technician
17 trainee, "unprofessional conduct" means the following, whether occurring in
18 this state or elsewhere:

19 1. Addiction to the use of alcohol or other drugs to such a degree as
20 to render the licensee unfit to perform the licensee's employment duties.

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

23 3. Obtaining or attempting to obtain a pharmacy technician or pharmacy
24 technician trainee license or a pharmacy technician license renewal by fraud,
25 by misrepresentation or by knowingly taking advantage of the mistake of
26 another person or an agency.

27 4. Denial or discipline of a licensee's license to practice as a
28 pharmacy technician in another jurisdiction and the license was not
29 reinstated.

30 5. Failing to comply with the mandatory continuing professional
31 education requirements of section 32-1925, subsection I and rules adopted by
32 the board.

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

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

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

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

- 1 10. Failing to report in writing to the board any evidence that a
2 pharmacy technician or pharmacy technician trainee is or may be
3 professionally incompetent, is or may be guilty of unprofessional conduct or
4 is or may be mentally or physically unable to safely engage in the
5 permissible activities of a pharmacy technician or pharmacy technician
6 trainee.
- 7 11. Failing to report in writing to the board any evidence that a
8 permittee or a permittee's employee is or may be guilty of unethical conduct
9 or is or may be in violation of this chapter or a rule adopted under this
10 chapter.
- 11 12. Committing an offense in another jurisdiction that if committed in
12 this state would be grounds for discipline.
- 13 13. Knowingly filing with the board any application, renewal or other
14 document that contains false or misleading information.
- 15 14. Providing false or misleading information or omitting material
16 information in any communication to the board or the board's employees or
17 agents.
- 18 15. Violating or attempting to violate, directly or indirectly, or
19 assisting in or abetting in the violation of, or conspiring to violate, this
20 chapter.
- 21 16. Violating a formal order, terms of probation, a consent agreement
22 or a stipulation issued or entered into by the board or its executive
23 director pursuant to this chapter.
- 24 17. Failing to comply with a board subpoena or failing to comply in a
25 timely manner with a board subpoena without providing any explanation to the
26 board for not complying with the subpoena.
- 27 18. Failing to report a change of the licensee's home address or
28 employer as required pursuant to section 32-1926.
- 29 19. Failing to report a change in the licensee's residency status as
30 required pursuant to section 32-1926.01.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.

Passed the House April 15, 2014,

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate February 24, 2014,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1339

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 16, 2014

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

17 day of April, 2014

at 8:20 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 22nd day of

April

at 3:47 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 23rd day of April, 2014

at 9:40 o'clock a M.

[Signature]
Secretary of State

S.B. 1339