

REFERENCE TITLE: **infectious diseases; expedited therapy**

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# **SB 1078**

Introduced by  
Senator Allen

**AN ACT**

**AMENDING SECTIONS 32-1401 AND 32-1854, ARIZONA REVISED STATUTES; RELATING TO PROFESSIONS AND OCCUPATIONS.**

(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 containing, at a  
9 minimum, sufficient information to identify the patient, support the  
10 diagnosis, justify the treatment, accurately document the results, indicate  
11 advice and cautionary warnings provided to the patient and provide sufficient  
12 information for another practitioner to assume continuity of the patient's  
13 care at any point in the course of treatment.

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

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

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

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

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

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

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

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

43 8. "Direct supervision" means that a physician, physician assistant  
44 licensed pursuant to chapter 25 of this title or nurse practitioner certified  
45 pursuant to chapter 15 of this title is within the same room or office suite

1 as the medical assistant in order to be available for consultation regarding  
2 those tasks the medical assistant performs pursuant to section 32-1456.

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

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

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

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

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

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

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

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

38 17. "Medical peer review" means:

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

42 (b) Activities relating to a health care institution's decision to  
43 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 ~~holding of oneself out as being~~ CLAIM TO  
17 BE able to diagnose, treat or correct any and all human diseases, injuries,  
18 ailments, infirmities, deformities, physical or mental, real or imaginary, by  
19 any means, methods, devices or instrumentalities, except as the same may be  
20 among the acts or persons not affected by this chapter. The practice of  
21 medicine includes the practice of medicine alone or the practice of surgery  
22 alone, or both.

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

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

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

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

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

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

5           (b) Intentionally disclosing a professional secret or intentionally  
6 disclosing a privileged communication except as either act may otherwise be  
7 required by law.

8           (c) False, fraudulent, deceptive or misleading advertising by a doctor  
9 of medicine or the doctor's staff, employer or representative.

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

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

15           (f) Habitual intemperance in the use of alcohol or habitual substance  
16 abuse.

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

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

21           (i) Prescribing, dispensing or administering schedule II controlled  
22 substances as defined in section 36-2513 including amphetamines and similar  
23 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a  
24 period in excess of thirty days in any one year, or the non-therapeutic use  
25 of injectable amphetamines.

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

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

29           (l) Conduct that the board determines is gross malpractice, repeated  
30 malpractice or any malpractice resulting in the death of a patient.

31           (m) Representing that a manifestly incurable disease or infirmity can  
32 be permanently cured, or that any disease, ailment or infirmity can be cured  
33 by a secret method, procedure, treatment, medicine or device, if ~~such~~ THIS is  
34 not ~~the fact~~ TRUE.

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

38           (o) Action that is taken against a doctor of medicine by another  
39 licensing or regulatory jurisdiction due to that doctor's mental or physical  
40 inability to engage safely in the practice of medicine, ~~OR~~ OR the doctor's  
41 medical incompetence or for unprofessional conduct as defined by that  
42 jurisdiction and that corresponds directly or indirectly to an act of  
43 unprofessional conduct prescribed by this paragraph. The action taken may  
44 include refusing, denying, revoking or suspending a license by that  
45 jurisdiction or a surrendering of a license to that jurisdiction, otherwise

1 limiting, restricting or monitoring a licensee by that jurisdiction or  
2 placing a licensee on probation by that jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

1 relationship with the licensee. For the purposes of this subdivision,  
2 "sexual conduct" includes:

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

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

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

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

13 (bb) Representing or ~~holding oneself out as being~~ CLAIMING TO BE a  
14 medical specialist ~~when such~~ IF THIS is not ~~the fact~~ TRUE.

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

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

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

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

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

36 (i) Adequate informed patient consent.

37 (ii) Conforming to generally accepted experimental criteria, including  
38 protocols, detailed records, periodic analysis of results and periodic review  
39 by a medical peer review committee.

40 (iii) Approval by the federal food and drug administration or its  
41 successor agency.

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

1 (ii) Lack of or inappropriate direction, collaboration or direct  
2 supervision of a medical assistant or a licensed, certified or registered  
3 health care provider employed by, supervised by or assigned to the physician.

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

7 (kk) Failing to dispense drugs and devices in compliance with article  
8 6 of this chapter.

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

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

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

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

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

31 (qq) ~~Representing oneself~~ CLAIMING to be a current member of the  
32 board, its staff or a board medical consultant if this is not true.

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

41 (ss) Prescribing, dispensing or furnishing a prescription medication  
42 or a prescription-only device as defined in section 32-1901 to a person  
43 unless the licensee first conducts a physical examination of that person or  
44 has previously established a doctor-patient relationship. This subdivision  
45 does not apply to:



1 (i) A physician who provides temporary patient supervision on behalf  
2 of the patient's regular treating licensed health care professional.

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

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

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

12 (v) PRESCRIPTIONS WRITTEN OR ANTIMICROBIALS DISPENSED TO A PERSON WHO  
13 IS BELIEVED TO BE AT SUBSTANTIAL RISK BECAUSE OF THAT PERSON'S CONTACT WITH  
14 ANOTHER PERSON WHO HAS BEEN DIAGNOSED WITH A COMMUNICABLE DISEASE BY THE  
15 PRESCRIBING OR DISPENSING PHYSICIAN.

16 (tt) Performing office based surgery using sedation in violation of  
17 board rules.

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

19 Sec. 2. Section 32-1854, Arizona Revised Statutes, is amended to read:  
20 32-1854. Definition of unprofessional conduct

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

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

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

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

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

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

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

45 7. Impersonating another physician.

- 1           8. Acting or assuming to act as a member of the board if this is not  
2 true.
- 3           9. Procuring, renewing or attempting to procure or renew a license to  
4 practice osteopathic medicine by fraud or misrepresentation.
- 5           10. Having professional connection with or lending one's name to an  
6 illegal practitioner of osteopathic medicine or any of the other healing  
7 arts.
- 8           11. Representing that a manifestly incurable disease, injury, ailment  
9 or infirmity can be permanently cured or that a curable disease, injury,  
10 ailment or infirmity can be cured within a stated time, if this is not true.
- 11           12. Failing to reasonably disclose and inform the patient or the  
12 patient's representative of the method, device or instrumentality the  
13 licensee uses to treat the patient's disease, injury, ailment or infirmity.
- 14           13. Refusing to divulge to the board on demand the means, method,  
15 device or instrumentality used in the treatment of a disease, injury, ailment  
16 or infirmity.
- 17           14. Charging a fee for services not rendered or dividing a professional  
18 fee for patient referrals. This paragraph does not apply to payments from a  
19 medical researcher to a physician in connection with identifying and  
20 monitoring patients for clinical trial regulated by the United States food  
21 and drug administration.
- 22           15. Knowingly making any false or fraudulent statement, written or  
23 oral, in connection with the practice of medicine or when applying for or  
24 renewing privileges at a health care institution or a health care program.
- 25           16. Advertising in a false, deceptive or misleading manner.
- 26           17. Representing or ~~holding oneself out as being~~ CLAIMING TO BE an  
27 osteopathic medical specialist if the physician has not satisfied the  
28 applicable requirements of this chapter or board rules.
- 29           18. The denial of or disciplinary action against a license by any other  
30 state, territory, district or country, unless it can be shown that this  
31 occurred for reasons that did not relate to the person's ability to safely  
32 and skillfully practice osteopathic medicine or to any act of unprofessional  
33 conduct as provided in this section.
- 34           19. Any conduct or practice contrary to recognized standards of ethics  
35 of the osteopathic medical profession.
- 36           20. Violating or attempting to violate, directly or indirectly, or  
37 assisting in or abetting the violation of or conspiring to violate any of the  
38 provisions of this chapter.
- 39           21. Failing or refusing to establish and maintain adequate records on a  
40 patient as follows:
- 41           (a) If the patient is an adult, for at least seven years after the  
42 last date the licensee provided the patient with medical or health care  
43 services.
- 44           (b) If the patient is a child, either for at least three years after  
45 the child's eighteenth birthday or for at least seven years after the last

1 date the licensee provided that patient with medical or health care services,  
2 whichever date occurs first.

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

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

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

12 24. Nontherapeutic use of injectable amphetamines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24           42. Engaging in sexual conduct with a current patient or with a former  
25 patient within six months after the last medical consultation unless the  
26 patient was the licensee's spouse at the time of the contact or, immediately  
27 preceding the physician-patient relationship, was in a dating or engagement  
28 relationship with the licensee. For the purposes of this paragraph, "sexual  
29 conduct" includes:

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

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

34           43. Fetal experiments conducted in violation of section 36-2302.

35           44. Conduct that the board determines constitutes gross negligence,  
36 repeated negligence or negligence that results in harm or death of a patient.

37           45. Conduct in the practice of medicine that evidences moral unfitness  
38 to practice medicine.

39           46. Engaging in disruptive or abusive behavior in a professional  
40 setting.

41           47. Failing to disclose to a patient that the licensee has a direct  
42 financial interest in a prescribed treatment, good or service if the  
43 treatment, good or service is available on a competitive basis. This  
44 paragraph does not apply to a referral by one licensee to another licensee

1 within a group of licensees who practice together. A licensee meets the  
2 disclosure requirements of this paragraph if all of the following are true:  
3 (a) The licensee makes the disclosure on a form prescribed by the  
4 board.  
5 (b) The patient or the patient's guardian or parent acknowledges by  
6 signing the form that the licensee has disclosed the licensee's direct  
7 financial interest.  
8 48. Prescribing, dispensing or furnishing a prescription medication or  
9 a prescription-only device to a person if the licensee has not conducted a  
10 physical examination of that person or has not previously established a  
11 physician-patient relationship. This paragraph does not apply to emergencies  
12 OR TO PRESCRIPTIONS THAT ARE WRITTEN OR ANTIMICROBIALS THAT ARE DISPENSED TO  
13 A PERSON WHO IS BELIEVED TO BE AT SUBSTANTIAL RISK BECAUSE OF THAT PERSON'S  
14 CONTACT WITH ANOTHER PERSON WHO HAS BEEN DIAGNOSED WITH A COMMUNICABLE  
15 DISEASE BY THE PRESCRIBING OR DISPENSING PHYSICIAN.  
16 49. If a licensee provides medical care by computer, failing to  
17 disclose the licensee's license number and the board's address and telephone  
18 number.