

REFERENCE TITLE: doctors; prescriptions; nonindicated use

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

SB 1399

Introduced by
Senator Johnson

AN ACT

AMENDING SECTIONS 32-1401 AND 32-1854, ARIZONA REVISED STATUTES; RELATING TO
PHYSICIANS.

(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 the
18 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.

44 18. "Medically incompetent" means a person who the board determines is
45 incompetent based on a variety of factors including:

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

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

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

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

11 21. "Physician" means a doctor of medicine licensed pursuant to this
12 chapter.

13 22. "Practice of medicine" means the diagnosis, the treatment or the
14 correction of or the attempt or the holding of oneself out as being able to
15 diagnose, treat or correct any and all human diseases, injuries, ailments,
16 infirmities, deformities, physical or mental, real or imaginary, by any
17 means, methods, devices or instrumentalities, except as the same may be among
18 the acts or persons not affected by this chapter. The practice of medicine
19 includes the practice of medicine alone or the practice of surgery alone, or
20 both.

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

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

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

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

43 27. "Unprofessional conduct" includes the following, whether occurring
44 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 ~~such~~ THIS is
32 not ~~the fact~~ 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, DUE TO 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 holding oneself out as being a medical specialist
12 ~~when such~~ IF THIS is not ~~the fact~~ 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) Representing oneself to be a current member of the board, its
29 staff or a 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 examination of that person or
41 has previously established a doctor-patient relationship. This subdivision
42 does not apply to:

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

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

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

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

9 (tt) Performing office based surgery using sedation in violation of
10 board rules.

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

12 (vv) **PRESCRIBING, DISPENSING OR FURNISHING A PRESCRIPTION MEDICATION**
13 **TO A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE FOR A USE THAT IS NOT**
14 **INDICATED FOR THAT MEDICATION BY THE UNITED STATES FOOD AND DRUG**
15 **ADMINISTRATION UNLESS THE LICENSEE'S NONINDICATED USE OF THE MEDICATION HAS**
16 **BEEN CONFIRMED IN WRITING BY A CONSULTING PHYSICIAN WHO HAS EXAMINED THE**
17 **PATIENT AND THE PATIENT'S RELEVANT MEDICAL RECORDS.**

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

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

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

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

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

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

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

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

44 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 an osteopathic medical
27 specialist if the physician has not satisfied the applicable requirements of
28 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
12 emergencies.

13 49. If a licensee provides medical care by computer, failing to
14 disclose the licensee's license number and the board's address and telephone
15 number.

16 50. PRESCRIBING, DISPENSING OR FURNISHING A PRESCRIPTION MEDICATION TO
17 A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE FOR A USE THAT IS NOT INDICATED
18 FOR THAT MEDICATION BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION UNLESS
19 THE LICENSEE'S NONINDICATED USE OF THE MEDICATION HAS BEEN CONFIRMED IN
20 WRITING BY A CONSULTING PHYSICIAN WHO HAS EXAMINED THE PATIENT AND THE
21 PATIENT'S RELEVANT MEDICAL RECORDS.