

REFERENCE TITLE: telehealth; health care providers; requirements

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2454

Introduced by
Representatives Cobb: Osborne, Senator Barto

AN ACT

AMENDING SECTIONS 20-841.09, 20-1057.13, 20-1376.05, 20-1406.05, 23-1026, 32-1401, 32-1854, 32-1901.01, 32-2061, 32-3248.01, 32-3251, 36-2272, 36-3601, 36-3602, 36-3603 AND 36-3604, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 36, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-3605, 36-3606 AND 36-3607; AMENDING SECTIONS 38-672 AND 38-673, ARIZONA REVISED STATUTES; RELATING TO TELEMEDICINE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-841.09, Arizona Revised Statutes, is amended
3 to read:

4 20-841.09. Telehealth; coverage of health care services;
5 definition

6 A. All contracts issued, delivered or renewed on or after
7 January 1, ~~2018~~ 2021 must provide coverage for health care services that
8 are provided through ~~telemedicine~~ TELEHEALTH if the health care service
9 would be covered were it provided through AN in-person ~~consultation~~
10 ENCOUNTER between the subscriber and a health care provider and provided
11 to a subscriber receiving the service in this state. THE FOLLOWING
12 REQUIREMENTS APPLY TO COVERAGE OF TELEHEALTH SERVICES:

13 1. A corporation may not limit or deny the coverage of health care
14 services provided through ~~telemedicine~~ TELEHEALTH, INCLUDING ANCILLARY
15 SERVICES, and may apply only the same limits or exclusions on a health
16 care service provided through ~~telemedicine~~ TELEHEALTH that are applicable
17 to an in-person ~~consultation~~ ENCOUNTER for the same health care service,
18 EXCEPT FOR PROCEDURES OR SERVICES FOR WHICH THE WEIGHT OF EVIDENCE, BASED
19 ON PEER-REVIEWED CLINICAL PUBLICATIONS OR RESEARCH, RECOMMENDS NOT BE
20 PROVIDED THROUGH TELEHEALTH.

21 2. A CORPORATION SHALL REIMBURSE HEALTH CARE PROVIDERS AT THE SAME
22 LEVEL OF PAYMENT FOR EQUIVALENT SERVICES WHETHER PROVIDED THROUGH
23 TELEHEALTH OR IN-PERSON CARE.

24 3. A CORPORATION MAY ESTABLISH REASONABLE REQUIREMENTS AND
25 PARAMETERS FOR TELEHEALTH SERVICES, INCLUDING DOCUMENTATION AND
26 RECORDKEEPING, BUT SUCH REQUIREMENTS AND PARAMETERS MAY NOT BE MORE
27 RESTRICTIVE OR LESS FAVORABLE TO HEALTH CARE PROVIDERS OR SUBSCRIBERS THAN
28 ARE REQUIRED FOR HEALTH CARE SERVICES DELIVERED IN PERSON.

29 4. TELEHEALTH SERVICES MAY BE PROVIDED AND SHALL BE COVERED
30 REGARDLESS OF WHERE THE SUBSCRIBER IS LOCATED OR THE TYPE OF SITE.

31 5. EXCEPT IN AN EMERGENCY AS PRESCRIBED IN SECTION 20-2803, the
32 contract may limit the coverage to those health care providers who are
33 members of the corporation's provider network.

34 B. This section does not prevent a corporation from imposing
35 deductibles, ~~OR~~ copayment or coinsurance requirements for a health care
36 service provided through ~~telemedicine~~ TELEHEALTH if the deductible,
37 copayment or coinsurance does not exceed the deductible, copayment or
38 coinsurance applicable to an in-person ~~consultation~~ ENCOUNTER for the same
39 health care service.

40 C. Services provided through ~~telemedicine~~ TELEHEALTH or resulting
41 from a ~~telemedicine-consultation~~ TELEHEALTH ENCOUNTER are subject to all
42 of this state's laws and rules that govern prescribing, dispensing and
43 administering prescription pharmaceuticals and devices and shall comply
44 with Arizona licensure requirements and any practice guidelines of THE
45 TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES ESTABLISHED BY

1 SECTION 36-3607 OR, IF NECESSARY DUE TO LACK OF CLEAR GUIDANCE, THE
2 PRACTICE GUIDELINES OF a national association of medical professionals
3 promoting access to medical care for consumers via telecommunications
4 technology or other qualified medical professional societies to ensure
5 quality of care.

6 D. This section does not apply to limited benefit coverage as
7 defined in section 20-1137.

8 E. For the purposes of this section, "~~telemedicine~~ TELEHEALTH":

9 1. Means the interactive use of audio, video or other electronic
10 media, including asynchronous store-and-forward technologies and remote
11 patient monitoring technologies, for the purpose of diagnosis,
12 consultation or treatment.

13 2. INCLUDES THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN A
14 SUBSCRIBER AND A HEALTH CARE PROVIDER IF AN AUDIO-VISUAL TELEHEALTH
15 ENCOUNTER IS NOT REASONABLY AVAILABLE DUE TO THE SUBSCRIBER'S PREFERENCE,
16 THE SUBSCRIBER'S FUNCTIONAL STATUS, THE SUBSCRIBER'S LACK OF TECHNOLOGY OR
17 TELECOMMUNICATIONS INFRASTRUCTURE LIMITS, AS DETERMINED BY THE HEALTH CARE
18 PROVIDER.

19 ~~2.~~ 3. Does not include the ~~sole~~ use of ~~an audio-only telephone, a~~
20 ~~video-only system,~~ a ~~facsimile~~ FAX machine, instant messages THAT ARE NOT
21 COMPLIANT WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
22 1996, VOICE MAIL or ~~electronic mail~~ EMAIL.

23 Sec. 2. Section 20-1057.13, Arizona Revised Statutes, is amended to
24 read:

25 20-1057.13. Telehealth; coverage of health care services;
26 definition

27 A. An evidence of coverage issued, delivered or renewed by a health
28 care services organization on or after January 1, ~~2018~~ 2021 must provide
29 coverage for health care services that are provided through ~~telemedicine~~
30 TELEHEALTH if the health care service would be covered were it provided
31 through AN in-person ~~consultation~~ ENCOUNTER between the enrollee and a
32 health care provider and provided to an enrollee receiving the service in
33 this state. THE FOLLOWING REQUIREMENTS APPLY TO COVERAGE OF TELEHEALTH
34 SERVICES:

35 1. A health care services organization may not limit or deny the
36 coverage of health care services provided through ~~telemedicine~~ TELEHEALTH,
37 INCLUDING ANCILLARY SERVICES, and may apply only the same limits or
38 exclusions on a health care service provided through ~~telemedicine~~
39 TELEHEALTH that are applicable to an in-person ~~consultation~~ ENCOUNTER for
40 the same health care service, EXCEPT FOR PROCEDURES OR SERVICES FOR WHICH
41 THE WEIGHT OF EVIDENCE, BASED ON PEER-REVIEWED CLINICAL PUBLICATIONS OR
42 RESEARCH, RECOMMENDS NOT BE PROVIDED THROUGH TELEHEALTH.

43 2. A HEALTH CARE SERVICES ORGANIZATION SHALL REIMBURSE HEALTH CARE
44 PROVIDERS AT THE SAME LEVEL OF PAYMENT FOR EQUIVALENT SERVICES WHETHER
45 PROVIDED THROUGH TELEHEALTH OR IN-PERSON CARE.

1 3. A HEALTH CARE SERVICES ORGANIZATION MAY ESTABLISH REASONABLE
2 REQUIREMENTS AND PARAMETERS FOR TELEHEALTH SERVICES, INCLUDING
3 DOCUMENTATION AND RECORDKEEPING, BUT SUCH REQUIREMENTS AND PARAMETERS MAY
4 NOT BE MORE RESTRICTIVE OR LESS FAVORABLE TO HEALTH CARE PROVIDERS OR
5 ENROLLEES THAN ARE REQUIRED FOR HEALTH CARE SERVICES DELIVERED IN PERSON.

6 4. TELEHEALTH SERVICES MAY BE PROVIDED AND SHALL BE COVERED
7 REGARDLESS OF WHERE THE ENROLLEE IS LOCATED OR THE TYPE OF SITE.

8 5. EXCEPT IN AN EMERGENCY AS PRESCRIBED IN SECTION 20-2803, the
9 evidence of coverage may limit the coverage to those health care providers
10 who are members of the health care services organization's provider
11 network.

12 B. This section does not prevent a health care services
13 organization from imposing deductibles, ~~OR~~ copayment or coinsurance
14 requirements for a health care service provided through ~~telemedicine~~
15 TELEHEALTH if the deductible, copayment or coinsurance does not exceed the
16 deductible, copayment or coinsurance applicable to an in-person
17 ~~consultation~~ ENCOUNTER for the same health care service.

18 C. Services provided through ~~telemedicine~~ TELEHEALTH or resulting
19 from a ~~telemedicine-consultation~~ TELEHEALTH ENCOUNTER are subject to all
20 of this state's laws and rules that govern prescribing, dispensing and
21 administering prescription pharmaceuticals and devices and shall comply
22 with Arizona licensure requirements and any practice guidelines of THE
23 TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES ESTABLISHED BY
24 SECTION 36-3607 OR, IF NECESSARY DUE TO LACK OF CLEAR GUIDANCE, THE
25 PRACTICE GUIDELINES OF a national association of medical professionals
26 promoting access to medical care for consumers via telecommunications
27 technology or other qualified medical professional societies to ensure
28 quality of care.

29 D. This section does not apply to limited benefit coverage as
30 defined in section 20-1137.

31 E. For the purposes of this section, "~~telemedicine~~ TELEHEALTH":

32 1. Means the interactive use of audio, video or other electronic
33 media, including asynchronous store-and-forward technologies and remote
34 patient monitoring technologies, for the purpose of diagnosis,
35 consultation or treatment.

36 2. INCLUDES THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN AN
37 ENROLLEE AND A HEALTH CARE PROVIDER IF AN AUDIO-VISUAL TELEHEALTH
38 ENCOUNTER IS NOT REASONABLY AVAILABLE DUE TO THE ENROLLEE'S PREFERENCE,
39 THE ENROLLEE'S FUNCTIONAL STATUS, THE ENROLLEE'S LACK OF TECHNOLOGY OR
40 TELECOMMUNICATIONS INFRASTRUCTURE LIMITS, AS DETERMINED BY THE HEALTH CARE
41 PROVIDER.

42 ~~2.~~ 3. Does not include the ~~sole~~ use of ~~an audio-only telephone, a~~
43 ~~video-only system,~~ a ~~facsimile~~ FAX machine, instant messages THAT ARE NOT
44 COMPLIANT WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
45 1996, VOICE MAIL or ~~electronic mail~~ EMAIL.

1 PRACTICE GUIDELINES OF a national association of medical professionals
2 promoting access to medical care for consumers via telecommunications
3 technology or other qualified medical professional societies to ensure
4 quality of care.

5 D. This section does not apply to limited benefit coverage as
6 defined in section 20-1137.

7 E. For the purposes of this section, "~~telemedicine~~ TELEHEALTH":

8 1. Means the interactive use of audio, video or other electronic
9 media, including asynchronous store-and-forward technologies and remote
10 patient monitoring technologies, for the purpose of diagnosis,
11 consultation or treatment.

12 2. INCLUDES THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN AN
13 INSURED AND A HEALTH CARE PROVIDER IF AN AUDIO-VISUAL TELEHEALTH ENCOUNTER
14 IS NOT REASONABLY AVAILABLE DUE TO THE INSURED'S PREFERENCE, THE INSURED'S
15 FUNCTIONAL STATUS, THE INSURED'S LACK OF TECHNOLOGY OR TELECOMMUNICATIONS
16 INFRASTRUCTURE LIMITS, AS DETERMINED BY THE HEALTH CARE PROVIDER.

17 ~~2.~~ 3. Does not include the ~~sole~~ use of ~~an audio-only telephone, a~~
18 ~~video-only system,~~ a ~~facsimile~~ FAX machine, instant messages THAT ARE NOT
19 COMPLIANT WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
20 1996, VOICE MAIL or ~~electronic mail~~ EMAIL.

21 Sec. 4. Section 20-1406.05, Arizona Revised Statutes, is amended to
22 read:

23 20-1406.05. Telehealth; coverage of health care services;
24 definition

25 A. All policies issued, delivered or renewed by a group disability
26 insurer or a blanket disability insurer on or after January 1, ~~2018~~ 2021
27 must provide coverage for health care services that are provided through
28 ~~telemedicine~~ TELEHEALTH if the health care service would be covered were
29 it provided through AN in-person ~~consultation~~ ENCOUNTER between the
30 insured and a health care provider and provided to an insured receiving
31 the service in this state. THE FOLLOWING REQUIREMENTS APPLY TO COVERAGE
32 OF TELEHEALTH SERVICES:

33 1. A GROUP OR blanket disability insurer may not limit or deny the
34 coverage of health care services provided through ~~telemedicine~~ TELEHEALTH,
35 INCLUDING ANCILLARY SERVICES, and may apply only the same limits or
36 exclusions on a health care service provided through ~~telemedicine~~
37 TELEHEALTH that are applicable to an in-person ~~consultation~~ ENCOUNTER for
38 the same health care service, EXCEPT FOR PROCEDURES OR SERVICES FOR WHICH
39 THE WEIGHT OF EVIDENCE, BASED ON PEER-REVIEWED CLINICAL PUBLICATIONS OR
40 RESEARCH, RECOMMENDS NOT BE PROVIDED THROUGH TELEHEALTH.

41 2. A GROUP OR BLANKET DISABILITY INSURER SHALL REIMBURSE HEALTH
42 CARE PROVIDERS AT THE SAME LEVEL OF PAYMENT FOR EQUIVALENT SERVICES
43 WHETHER PROVIDED THROUGH TELEHEALTH OR IN-PERSON CARE.

1 3. A GROUP OR BLANKET DISABILITY INSURER MAY ESTABLISH REASONABLE
2 REQUIREMENTS AND PARAMETERS FOR TELEHEALTH SERVICES, INCLUDING
3 DOCUMENTATION AND RECORDKEEPING, BUT SUCH REQUIREMENTS AND PARAMETERS MAY
4 NOT BE MORE RESTRICTIVE OR LESS FAVORABLE TO HEALTH CARE PROVIDERS OR
5 INSURED THAN ARE REQUIRED FOR HEALTH CARE SERVICES DELIVERED IN PERSON.

6 4. TELEHEALTH SERVICES MAY BE PROVIDED AND SHALL BE COVERED
7 REGARDLESS OF WHERE THE INSURED IS LOCATED OR THE TYPE OF SITE.

8 5. EXCEPT IN AN EMERGENCY AS PRESCRIBED IN SECTION 20-2803, the
9 policy may limit the coverage to those health care providers who are
10 members of the insurer's provider network.

11 B. This section does not prevent a group or blanket disability
12 insurer from imposing deductibles, ~~OR~~ copayment or coinsurance
13 requirements for a health care service provided through ~~telemedicine~~
14 TELEHEALTH if the deductible, copayment or coinsurance does not exceed the
15 deductible, copayment or coinsurance applicable to an in-person
16 ~~consultation~~ ENCOUNTER for the same health care service.

17 C. Services provided through ~~telemedicine~~ TELEHEALTH or resulting
18 from a ~~telemedicine-consultation~~ TELEHEALTH ENCOUNTER are subject to all
19 of this state's laws and rules that govern prescribing, dispensing and
20 administering prescription pharmaceuticals and devices and shall comply
21 with Arizona licensure requirements and any practice guidelines of THE
22 TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES ESTABLISHED BY
23 SECTION 36-3607 OR, IF NECESSARY DUE TO LACK OF CLEAR GUIDANCE, THE
24 PRACTICE GUIDELINES OF a national association of medical professionals
25 promoting access to medical care for consumers via telecommunications
26 technology or other qualified medical professional societies to ensure
27 quality of care.

28 D. This section does not apply to limited benefit coverage as
29 defined in section 20-1137.

30 E. For the purposes of this section, "~~telemedicine~~ TELEHEALTH":

31 1. Means the interactive use of audio, video or other electronic
32 media, including asynchronous store-and-forward technologies and remote
33 patient monitoring technologies, for the purpose of diagnosis,
34 consultation or treatment.

35 2. INCLUDES THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN AN
36 INSURED AND A HEALTH CARE PROVIDER IF AN AUDIO-VISUAL TELEHEALTH ENCOUNTER
37 IS NOT REASONABLY AVAILABLE DUE TO THE INSURED'S PREFERENCE, THE INSURED'S
38 FUNCTIONAL STATUS, THE INSURED'S LACK OF TECHNOLOGY OR TELECOMMUNICATIONS
39 INFRASTRUCTURE LIMITS, AS DETERMINED BY THE HEALTH CARE PROVIDER.

40 ~~2.~~ 3. Does not include the ~~sole~~ use of ~~an audio-only telephone, a~~
41 ~~video-only system,~~ a ~~facsimile~~ FAX machine, instant messages THAT ARE NOT
42 COMPLIANT WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
43 1996, VOICE MAIL or ~~electronic mail~~ EMAIL.

1 Sec. 5. Section 23-1026, Arizona Revised Statutes, is amended to
2 read:

3 23-1026. Periodic medical examination of employee; effect of
4 refusal or obstruction of examination or treatment

5 A. An employee who may be entitled to compensation under this
6 chapter shall submit ~~himself~~ THE EMPLOYEE for medical examination from
7 time to time at a place reasonably convenient for the employee, if and
8 when requested by the commission, ~~his~~ THE EMPLOYEE'S employer or the
9 insurance carrier. A place is reasonably convenient even if it is not
10 where the employee resides if it is the place where the employee was
11 injured and the employer or the insurance carrier pays in advance the
12 employee's reasonable travel expenses, including the cost of
13 transportation, food, lodging and loss of pay, if applicable.

14 B. The request for the medical examination shall fix a time and
15 place having regard to the convenience of the employee, ~~his~~ THE EMPLOYEE'S
16 physical condition and ~~his~~ EMPLOYEE'S ability to attend, AND WHETHER THE
17 MEDICAL EXAMINATION COULD BE CONDUCTED THROUGH TELEHEALTH AS DEFINED IN
18 SECTION 36-3601. A MEDICAL EXAMINATION MAY BE CONDUCTED VIA TELEHEALTH
19 WITH THE CONSENT OF BOTH THE EMPLOYEE AND THE REQUESTING PARTY. The
20 employee may have a physician present at the examination if procured and
21 paid for by the employee.

22 C. If the employee refuses to submit to the medical examination or
23 obstructs the examination, ~~his~~ THE EMPLOYEE'S right to compensation shall
24 be suspended until the examination has been made, and no compensation
25 shall be payable during or for such period.

26 D. A physician who makes or is present at the medical examination
27 provided by this section may be required to testify as to the result of
28 the examination. The physician is not subject to a complaint for
29 unprofessional conduct to the physician's licensing board if the complaint
30 is based on a disagreement with the findings and opinions expressed by the
31 physician as a result of the examination.

32 E. On appropriate application and hearing, the commission may
33 reduce or suspend the compensation of an employee who persists in
34 unsanitary or injurious practices tending to imperil or retard ~~his~~ THE
35 EMPLOYEE'S recovery, or who refuses to submit to medical or surgical
36 treatment reasonably necessary to promote ~~his~~ THE EMPLOYEE'S recovery.

37 F. An employee shall be excused from attending a scheduled medical
38 examination if the employee requests a protective order and the
39 administrative law judge finds that the scheduled examination is
40 unnecessary, would be cumulative or could reasonably be timely scheduled
41 with an appropriate physician where the employee resides. If a protective
42 order is requested, the burden is on the employer or insurance carrier to
43 establish that a medical examination should be scheduled at a place other
44 than where the employee resides. If an employee has left this state and
45 the employer or insurance carrier pays in advance the employee's

1 reasonable travel expenses, including the cost of transportation, food,
2 lodging and loss of pay, if applicable, the employer or insurance carrier
3 is entitled to have the employee return to this state one time a year for
4 examination or one time following the filing of a petition to reopen.

5 G. If a physician performs an examination under this section and is
6 provided data from the Arizona state board of pharmacy pursuant to title
7 36, chapter 28, the physician may disclose that data to the employee,
8 employer, insurance carrier and commission.

9 Sec. 6. Section 32-1401, Arizona Revised Statutes, is amended to
10 read:

11 32-1401. Definitions

12 In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

43 5. "Approved school of medicine" means any school or college
44 offering a course of study that, on successful completion, results in the
45 degree of doctor of medicine and whose course of study has been approved

1 or accredited by an educational or professional association, recognized by
2 the board, including the association of American medical colleges, the
3 association of Canadian medical colleges or the American medical
4 association.

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

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

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

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

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

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

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

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

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

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

44 16. "Medical assistant" means an unlicensed person who meets the
45 requirements of section 32-1456, has completed an education program

1 approved by the board, assists in a medical practice under the supervision
2 of a doctor of medicine, physician assistant or nurse practitioner and
3 performs delegated procedures commensurate with the assistant's education
4 and training but does not diagnose, interpret, design or modify
5 established treatment programs or perform any functions that would violate
6 any statute applicable to the practice of medicine.

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

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

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

14 18. "Medical peer review" means:

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

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

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

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

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

27 22. "Practice of medicine" means the diagnosis, the treatment or
28 the correction of or the attempt or the claim to be able to diagnose,
29 treat or correct any and all human diseases, injuries, ailments,
30 infirmities or deformities, physical or mental, real or imaginary, by any
31 means, methods, devices or instrumentalities, except as the same may be
32 among the acts or persons not affected by this chapter. The practice of
33 medicine includes the practice of medicine alone or the practice of
34 surgery alone, or both.

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

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

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

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

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

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

17 (b) Intentionally disclosing a professional secret or intentionally
18 disclosing a privileged communication except as either act may otherwise
19 be required by law.

20 (c) Committing false, fraudulent, deceptive or misleading
21 advertising by a doctor of medicine or the doctor's staff, employer or
22 representative.

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

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

28 (f) Exhibiting a pattern of using or being under the influence of
29 alcohol or drugs or a similar substance while practicing medicine or to
30 the extent that judgment may be impaired and the practice of medicine
31 detrimentally affected.

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

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

36 (i) Prescribing, dispensing or administering schedule II controlled
37 substances as defined in section 36-2513, including amphetamines and
38 similar schedule II sympathomimetic drugs in the treatment of exogenous
39 obesity for a period in excess of thirty days in any one year, or the
40 nontherapeutic use of injectable amphetamines.

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

44 (k) Dispensing a schedule II controlled substance that is an
45 opioid, except as provided in section 32-1491.

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

2 (m) Committing conduct that the board determines is gross
3 malpractice, repeated malpractice or any malpractice resulting in the
4 death of a patient.

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

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

12 (p) Having action taken against a doctor of medicine by another
13 licensing or regulatory jurisdiction due to that doctor's mental or
14 physical inability to engage safely in the practice of medicine or the
15 doctor's medical incompetence or for unprofessional conduct as defined by
16 that jurisdiction and that corresponds directly or indirectly to an act of
17 unprofessional conduct prescribed by this paragraph. The action taken may
18 include refusing, denying, revoking or suspending a license by that
19 jurisdiction or a surrendering of a license to that jurisdiction,
20 otherwise limiting, restricting or monitoring a licensee by that
21 jurisdiction or placing a licensee on probation by that jurisdiction.

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

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

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

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

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

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

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

1 (x) Charging or collecting a clearly excessive fee. In determining
2 whether a fee is clearly excessive, the board shall consider the fee or
3 range of fees customarily charged in this state for similar services in
4 light of modifying factors such as the time required, the complexity of
5 the service and the skill requisite to perform the service properly. This
6 subdivision does not apply if there is a clear written contract for a
7 fixed fee between the physician and the patient that has been entered into
8 before the provision of the service.

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

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

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

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

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

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

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

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

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

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

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

44 (gg) Knowingly failing to disclose to a patient on a form that is
45 prescribed by the board and that is dated and signed by the patient or

1 guardian acknowledging that the patient or guardian has read and
2 understands that the doctor has a direct financial interest in a separate
3 diagnostic or treatment agency or in nonroutine goods or services that the
4 patient is being prescribed if the prescribed treatment, goods or services
5 are available on a competitive basis. This subdivision does not apply to
6 a referral by one doctor of medicine to another doctor of medicine within
7 a group of doctors of medicine practicing together.

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

11 (i) Adequate informed patient consent.

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

15 (iii) Approval by the United States food and drug administration or
16 its successor agency.

17 (ii) Prescribing, dispensing or administering anabolic-androgenic
18 steroids to a person for other than therapeutic purposes.

19 (jj) Exhibiting a lack of or inappropriate direction, collaboration
20 or direct supervision of a medical assistant or a licensed, certified or
21 registered health care provider employed by, supervised by or assigned to
22 the physician.

23 (kk) Knowingly making a false or misleading statement to the board
24 or on a form required by the board or in a written correspondence,
25 including attachments, with the board.

26 (ll) Failing to dispense drugs and devices in compliance with
27 article 6 of this chapter.

28 (mm) Committing conduct that the board determines is gross
29 negligence, repeated negligence or negligence resulting in harm to or the
30 death of a patient.

31 (nn) Making a representation by a doctor of medicine or the
32 doctor's staff, employer or representative that the doctor is boarded or
33 board certified if this is not true or the standing is not current or
34 without supplying the full name of the specific agency, organization or
35 entity granting this standing.

36 (oo) Refusing to submit to a body fluid examination or any other
37 examination known to detect the presence of alcohol or other drugs as
38 required by the board pursuant to section 32-1452 or pursuant to a board
39 investigation into a doctor of medicine's alleged substance abuse.

40 (pp) Failing to report in writing to the Arizona medical board or
41 the Arizona regulatory board of physician assistants any evidence that a
42 doctor of medicine or a physician assistant is or may be medically
43 incompetent, guilty of unprofessional conduct or mentally or physically
44 unable to safely practice medicine or to perform as a physician assistant.

1 (qq) As a physician who is the chief executive officer, the medical
2 director or the medical chief of staff of a health care institution,
3 failing to report in writing to the board that the hospital privileges of
4 a doctor of medicine have been denied, revoked, suspended, supervised or
5 limited because of actions by the doctor that appear to show that the
6 doctor is or may be medically incompetent, is or may be guilty of
7 unprofessional conduct or is or may be unable to engage safely in the
8 practice of medicine.

9 (rr) Claiming to be a current member of the board or its staff or a
10 board medical consultant if this is not true.

11 (ss) Failing to make patient medical records in the physician's
12 possession promptly available to a physician assistant, a nurse
13 practitioner, a person licensed pursuant to this chapter or a podiatrist,
14 chiropractor, naturopathic physician, osteopathic physician or homeopathic
15 physician licensed under chapter 7, 8, 14, 17 or 29 of this title on
16 receipt of proper authorization to do so from the patient, a minor
17 patient's parent, the patient's legal guardian or the patient's authorized
18 representative or failing to comply with title 12, chapter 13, article
19 7.1.

20 (tt) Prescribing, dispensing or furnishing a prescription
21 medication or a prescription-only device as defined in section 32-1901 to
22 a person unless the licensee first conducts a physical or mental health
23 status examination of that person or has previously established a
24 doctor-patient relationship. The physical or mental health status
25 examination may be conducted ~~during a real-time telemedicine encounter~~
26 ~~with audio and video capability~~ THROUGH TELEHEALTH AS DEFINED IN SECTION
27 36-3601 WITH CLINICAL EVALUATION THAT IS APPROPRIATE FOR THE PATIENT AND
28 THE CONDITION WITH WHICH THE PATIENT PRESENTS, unless the examination is
29 for the purpose of obtaining a written certification from the physician
30 for the purposes of title 36, chapter 28.1. This subdivision does not
31 apply to:

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

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

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

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

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

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

10 (vii) Prescriptions for epinephrine auto-injectors written or
11 dispensed for a school district or charter school to be stocked for
12 emergency use pursuant to section 15-157 or for an authorized entity to be
13 stocked pursuant to section 36-2226.01.

14 (viii) Prescriptions written by a licensee through a **telemedicine**
15 **TELEHEALTH** program that is covered by the policies and procedures adopted
16 by the administrator of a hospital or outpatient treatment center.

17 (ix) Prescriptions for naloxone hydrochloride or any other opioid
18 antagonist approved by the United States food and drug administration that
19 are written or dispensed for use pursuant to section 36-2228 or 36-2266.

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

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

24 Sec. 7. Section 32-1854, Arizona Revised Statutes, is amended to
25 read:

26 **32-1854. Definition of unprofessional conduct**

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

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

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

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

44 4. Being diagnosed by a physician licensed under this chapter or
45 chapter 13 of this title or a psychologist licensed under chapter 19.1 of

- 1 this title as excessively or illegally using alcohol or a controlled
2 substance.
- 3 5. Prescribing, dispensing or administering controlled substances
4 or prescription-only drugs for other than accepted therapeutic purposes.
- 5 6. Engaging in the practice of medicine in a manner that harms or
6 may harm a patient or that the board determines falls below the community
7 standard.
- 8 7. Impersonating another physician.
- 9 8. Acting or assuming to act as a member of the board if this is
10 not true.
- 11 9. Procuring, renewing or attempting to procure or renew a license
12 to practice osteopathic medicine by fraud or misrepresentation.
- 13 10. Having professional connection with or lending one's name to an
14 illegal practitioner of osteopathic medicine or any of the other healing
15 arts.
- 16 11. Representing that a manifestly incurable disease, injury,
17 ailment or infirmity can be permanently cured or that a curable disease,
18 injury, ailment or infirmity can be cured within a stated time, if this is
19 not true.
- 20 12. Failing to reasonably disclose and inform the patient or the
21 patient's representative of the method, device or instrumentality the
22 licensee uses to treat the patient's disease, injury, ailment or
23 infirmity.
- 24 13. Refusing to divulge to the board on demand the means, method,
25 device or instrumentality used in the treatment of a disease, injury,
26 ailment or infirmity.
- 27 14. Charging a fee for services not rendered or dividing a
28 professional fee for patient referrals. This paragraph does not apply to
29 payments from a medical researcher to a physician in connection with
30 identifying and monitoring patients for clinical trial regulated by the
31 United States food and drug administration.
- 32 15. Knowingly making any false or fraudulent statement, written or
33 oral, in connection with the practice of medicine or when applying for or
34 renewing privileges at a health care institution or a health care program.
- 35 16. Advertising in a false, deceptive or misleading manner.
- 36 17. Representing or claiming to be an osteopathic medical
37 specialist if the physician has not satisfied the applicable requirements
38 of this chapter or board rules.
- 39 18. Having a license denied or disciplinary action taken against a
40 license by any other state, territory, district or country, unless it can
41 be shown that this occurred for reasons that did not relate to the
42 person's ability to safely and skillfully practice osteopathic medicine or
43 to any act of unprofessional conduct as provided in this section.
- 44 19. Committing any conduct or practice contrary to recognized
45 standards of ethics of the osteopathic medical profession.

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

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

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

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

13 22. Using controlled substances or prescription-only drugs unless
14 they are provided by a medical practitioner, as defined in section
15 32-1901, as part of a lawful course of treatment.

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

19 24. Committing nontherapeutic use of injectable amphetamines.

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

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

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

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

37 29. Failing to allow properly authorized board personnel to have,
38 on presentation of a subpoena, access to any documents, reports or records
39 that are maintained by the physician and that relate to the physician's
40 medical practice or medically related activities pursuant to section
41 32-1855.01.

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

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

44 32. Failing to report to the board an osteopathic physician and
45 surgeon who is or may be guilty of unprofessional conduct or is or may be

1 mentally or physically unable safely to engage in the practice of
2 medicine.

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

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

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

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

18 37. Dispensing a schedule II controlled substance that is an
19 opioid, except as provided in section 32-1871.

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

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

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

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

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

35 43. Engaging in sexual conduct with a current patient or with a
36 former patient within six months after the last medical consultation
37 unless the patient was the licensee's spouse at the time of the contact
38 or, immediately preceding the physician-patient relationship, was in a
39 dating or engagement relationship with the licensee. For the purposes of
40 this paragraph, "sexual conduct" includes:

41 (a) Engaging in or soliciting sexual relationships, whether
42 consensual or nonconsensual.

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

45 44. Committing conduct that is in violation of section 36-2302.

1 45. Committing conduct that the board determines constitutes gross
2 negligence, repeated negligence or negligence that results in harm or
3 death of a patient.

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

6 47. Engaging in disruptive or abusive behavior in a professional
7 setting.

8 48. Failing to disclose to a patient that the licensee has a direct
9 financial interest in a prescribed treatment, good or service if the
10 treatment, good or service is available on a competitive basis. This
11 paragraph does not apply to a referral by one licensee to another licensee
12 within a group of licensees who practice together. A licensee meets the
13 disclosure requirements of this paragraph if both of the following are
14 true:

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

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

20 49. Prescribing, dispensing or furnishing a prescription medication
21 or a prescription-only device to a person if the licensee has not
22 conducted a physical or mental health status examination of that person or
23 has not previously established a physician-patient relationship. The
24 physical or mental health status examination may be conducted ~~during a~~
25 ~~real-time telemedicine encounter with audio and video capability~~ THROUGH
26 TELEHEALTH AS DEFINED IN SECTION 36-3601 WITH A CLINICAL EVALUATION THAT
27 IS APPROPRIATE FOR THE PATIENT AND THE CONDITION WITH WHICH THE PATIENT
28 PRESENTS, unless the examination is for the purpose of obtaining a written
29 certification from the physician for the purposes of title 36, chapter
30 28.1. This paragraph does not apply to:

31 (a) Emergencies.

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

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

41 (d) Prescriptions for epinephrine auto-injectors written or
42 dispensed for a school district or charter school to be stocked for
43 emergency use pursuant to section 15-157 or for an authorized entity to be
44 stocked pursuant to section 36-2226.01.

1 (e) Prescriptions written by a licensee through a ~~telemedicine~~
2 TELEHEALTH program that is covered by the policies and procedures adopted
3 by the administrator of a hospital or outpatient treatment center.

4 (f) Prescriptions for naloxone hydrochloride or any other opioid
5 antagonist approved by the United States food and drug administration that
6 are written or dispensed for use pursuant to section 36-2228 or 36-2266.

7 50. If a licensee provides medical care by computer, failing to
8 disclose the licensee's license number and the board's address and
9 telephone number.

10 Sec. 8. Section 32-1901.01, Arizona Revised Statutes, is amended to
11 read:

12 32-1901.01. Definition of unethical and unprofessional
13 conduct; permittees; licensees

14 A. In this chapter, unless the context otherwise requires, for the
15 purposes of disciplining a permittee, "unethical conduct" means the
16 following, whether occurring in this state or elsewhere:

17 1. Committing a felony, whether or not involving moral turpitude,
18 or a misdemeanor involving moral turpitude or any drug-related offense.
19 In either case, conviction by a court of competent jurisdiction or a plea
20 of no contest is conclusive evidence of the commission.

21 2. Committing an act that is substantially related to the
22 qualifications, functions or duties of a permittee and that demonstrates
23 either a lack of good moral character or an actual or potential unfitness
24 to hold a permit in light of the public's safety.

25 3. Working under the influence of alcohol or other drugs.

26 4. Being addicted to the use of alcohol or other drugs to such a
27 degree as to render the permittee unfit to perform the permittee's
28 employment duties.

29 5. Violating a federal or state law or administrative rule relating
30 to the manufacture, sale or distribution of drugs, devices, poisons,
31 hazardous substances or precursor chemicals.

32 6. Violating a federal or state law or administrative rule relating
33 to marijuana, prescription-only drugs, narcotics, dangerous drugs,
34 controlled substances or precursor chemicals.

35 7. Violating state or federal reporting or recordkeeping
36 requirements on transactions relating to precursor chemicals.

37 8. Failing to report in writing to the board any evidence that a
38 pharmacist or pharmacy intern is or may be professionally incompetent, is
39 or may be guilty of unprofessional conduct or is or may be mentally or
40 physically unable safely to engage in the practice of pharmacy.

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

1 permissible activities of a pharmacy technician or pharmacy technician
2 trainee.

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

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

15 12. Having the permittee's permit to manufacture, sell, distribute
16 or dispense drugs, devices, poisons, hazardous substances or precursor
17 chemicals denied or disciplined in another jurisdiction.

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

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

23 15. Wilfully making a false report or record required by this
24 chapter, required by federal or state laws pertaining to drugs, devices,
25 poisons, hazardous substances or precursor chemicals or required for the
26 payment for drugs, devices, poisons or hazardous substances or precursor
27 chemicals or for services pertaining to such drugs or substances.

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

30 17. Providing false or misleading information or omitting material
31 information in any communication to the board or the board's employees or
32 agents.

33 18. Violating or attempting to violate, directly or indirectly, or
34 assisting in or abetting the violation of, or conspiring to violate, this
35 chapter.

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

39 20. Failing to comply with a board subpoena or failing to comply in
40 a timely manner with a board subpoena without providing any explanation to
41 the board for not complying with the subpoena.

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

- 1 22. Failing to notify the board of a change of ownership,
2 management or pharmacist in charge.
- 3 23. Failing to promptly produce on the request of the official
4 conducting a site investigation, inspection or audit any book, record or
5 document.
- 6 24. Overruling or attempting to overrule a pharmacist in matters of
7 pharmacy ethics or interpreting laws pertaining to the practice of
8 pharmacy or the distribution of drugs or devices.
- 9 25. Distributing premiums or rebates of any kind in connection with
10 the sale of prescription medication, other than to the prescription
11 medication recipient.
- 12 26. Failing to maintain effective controls against the diversion of
13 controlled substances or precursor chemicals to unauthorized persons or
14 entities.
- 15 27. Fraudulently claiming to have performed a service.
- 16 28. Fraudulently charging a fee for a service.
- 17 29. Advertising drugs or devices, or services pertaining to drugs
18 or devices, in a manner that is untrue or misleading in any particular,
19 and that is known, or that by the exercise of reasonable care should be
20 known, to be untrue or misleading.
- 21 B. In this chapter, unless the context otherwise requires, for the
22 purposes of disciplining a pharmacist or pharmacy intern, "unprofessional
23 conduct" means the following, whether occurring in this state or
24 elsewhere:
- 25 1. Being addicted to the use of alcohol or other drugs to such a
26 degree as to render the licensee unfit to practice the profession of
27 pharmacy.
- 28 2. Violating any federal or state law, rule or regulation relating
29 to the manufacture or distribution of drugs and devices or the practice of
30 pharmacy.
- 31 3. Dispensing a different drug or brand of drug in place of the
32 drug or brand of drug ordered or prescribed without the express permission
33 in each case of the orderer, or in the case of a prescription order, the
34 medical practitioner. The conduct prohibited by this paragraph does not
35 apply to substitutions authorized pursuant to section 32-1963.01.
- 36 4. Obtaining or attempting to obtain a license to practice pharmacy
37 or a license renewal by fraud, by misrepresentation or by knowingly taking
38 advantage of the mistake of another person or an agency.
- 39 5. Having the licensee's license to practice pharmacy denied or
40 disciplined in another jurisdiction.
- 41 6. Claiming professional superiority in compounding or dispensing
42 prescription orders.
- 43 7. Failing to comply with the mandatory continuing professional
44 pharmacy education requirements of sections 32-1936 and 32-1937 and rules
45 adopted by the board.

1 8. Committing a felony, whether or not involving moral turpitude,
2 or a misdemeanor involving moral turpitude or any drug-related offense.
3 In either case, conviction by a court of competent jurisdiction or a plea
4 of no contest is conclusive evidence of the commission.

5 9. Working under the influence of alcohol or other drugs.

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

10 11. Knowingly dispensing a drug without a valid prescription order
11 as required pursuant to section 32-1968, subsection A.

12 12. Knowingly dispensing a drug on a prescription order that was
13 issued in the course of the conduct of business of dispensing drugs
14 pursuant to diagnosis by mail or the internet, unless the order was any of
15 the following:

16 (a) Made by a physician who provides temporary patient supervision
17 on behalf of the patient's regular treating licensed health care
18 professional or provides a consultation requested by the patient's regular
19 treating licensed health care professional.

20 (b) Made in an emergency medical situation as defined in section
21 41-1831.

22 (c) Written to prepare a patient for a medical examination.

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

29 (e) Written or antimicrobials were dispensed by the prescribing or
30 dispensing physician to a contact as defined in section 36-661 who is
31 believed to have had significant exposure risk as defined in section
32 36-661 with another person who has been diagnosed with a communicable
33 disease as defined in section 36-661.

34 (f) Written or the prescription medications were issued for
35 administration of immunizations or vaccines listed in the United States
36 centers for disease control and prevention's recommended immunization
37 schedule to a household member of a patient.

38 (g) For epinephrine auto-injectors that are written or dispensed
39 for a school district or charter school and that are to be stocked for
40 emergency use pursuant to section 15-157 or for an authorized entity to be
41 stocked pursuant to section 36-2226.01.

42 (h) Written by a licensee through a ~~telemedicine~~ TELEHEALTH program
43 that is covered by the policies and procedures adopted by the
44 administrator of a hospital or outpatient treatment center.

1 (i) Written pursuant to a physical or mental health status
2 examination that was conducted ~~during a real-time telemedicine encounter~~
3 ~~with audio and video capability~~ THROUGH TELEHEALTH AS DEFINED IN SECTION
4 36-3601 AND CONSISTENT WITH FEDERAL LAW.

5 (j) For naloxone hydrochloride or any other opioid antagonist
6 approved by the United States food and drug administration and written or
7 dispensed for use pursuant to section 36-2228 or 36-2266.

8 13. Failing to report in writing to the board any evidence that a
9 pharmacist or pharmacy intern is or may be professionally incompetent, is
10 or may be guilty of unprofessional conduct or is or may be mentally or
11 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
15 or 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
20 conduct or is or may be in violation of this chapter or a rule adopted
21 under this chapter.

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

24 17. Knowingly filing with the board any application, renewal or
25 other 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,
31 this chapter.

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

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

38 22. Refusing without just cause to allow authorized agents of the
39 board to examine documents that are required to be kept pursuant to this
40 chapter or 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
44 pharmacy. This paragraph does not prohibit a pharmacist or a pharmacy from
45 using an employee or a common carrier to pick up prescription orders at or

1 deliver prescription medications to the office or home of a medical
2 practitioner, the 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,
12 contact information, employer or employer's address as required by section
13 32-1926.

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

16 30. Failing to maintain effective controls against the diversion of
17 controlled substances or precursor chemicals to unauthorized persons or
18 entities.

19 C. In this chapter, unless the context otherwise requires, for the
20 purposes of disciplining a pharmacy technician or pharmacy technician
21 trainee, "unprofessional conduct" means the following, whether occurring
22 in this state or elsewhere:

23 1. Being addicted to the use of alcohol or other drugs to such a
24 degree as to render the licensee unfit to perform the licensee's
25 employment duties.

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

28 3. Obtaining or attempting to obtain a pharmacy technician or
29 pharmacy technician trainee license or a pharmacy technician license
30 renewal by fraud, by misrepresentation or by knowingly taking advantage of
31 the mistake of another person or an agency.

32 4. Having the licensee's license to practice as a pharmacy
33 technician denied or disciplined in another jurisdiction.

34 5. Failing to comply with the mandatory continuing professional
35 education requirements of section 32-1925, subsection H and rules adopted
36 by the board.

37 6. Committing a felony, whether or not involving moral turpitude,
38 or a misdemeanor involving moral turpitude or any drug-related offense.
39 In either case, conviction by a court of competent jurisdiction or a plea
40 of no contest is conclusive evidence of the commission.

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

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

1 9. Failing to report in writing to the board any evidence that a
2 pharmacist or pharmacy intern is or may be professionally incompetent, is
3 or may be guilty of unprofessional conduct or is or may be mentally or
4 physically unable to safely engage in the practice of pharmacy.

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

11 11. Failing to report in writing to the board any evidence that a
12 permittee or a permittee's employee is or may be guilty of unethical
13 conduct or is or may be in violation of this chapter or a rule adopted
14 under this chapter.

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

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

19 14. Providing false or misleading information or omitting material
20 information in any communication to the board or the board's employees or
21 agents.

22 15. Violating or attempting to violate, directly or indirectly, or
23 assisting in or abetting in the violation of, or conspiring to violate,
24 this chapter.

25 16. Violating a formal order, terms of probation, a consent
26 agreement or a stipulation issued or entered into by the board or its
27 executive director pursuant to this chapter.

28 17. Failing to comply with a board subpoena or failing to comply in
29 a timely manner with a board subpoena without providing any explanation to
30 the board for not complying with the subpoena.

31 18. Failing to report a change of the licensee's home address,
32 contact information, employer or employer's address as required by section
33 32-1926.

34 19. Failing to report a change in the licensee's residency status
35 as required by section 32-1926.01.

36 Sec. 9. Section 32-2061, Arizona Revised Statutes, is amended to
37 read:

38 32-2061. Definitions

39 In this chapter, unless the context otherwise requires:

40 1. "Active license" means a valid and existing license to practice
41 psychology.

42 2. "Adequate records" means records containing, at a minimum,
43 sufficient information to identify the client or patient, the dates of
44 service, the fee for service, the payments for service, the type of
45 service given and copies of any reports that may have been made.

- 1 3. "Board" means the state board of psychologist examiners.
- 2 4. "Client" means a person or an entity that receives psychological
3 services. A corporate entity, a governmental entity or any other
4 organization may be a client if there is a professional contract to
5 provide services or benefits primarily to an organization rather than to
6 an individual. If an individual has a legal guardian, the legal guardian
7 is the client for decision-making purposes, except that the individual
8 receiving services is the client or patient for:
- 9 (a) Issues that directly affect the physical or emotional safety of
10 the individual, such as sexual or other exploitative relationships.
- 11 (b) Issues that the guardian agrees to specifically reserve to the
12 individual.
- 13 5. "Committee on behavior analysts" means the committee established
14 by section 32-2091.15.
- 15 6. "Exploit" means actions by a psychologist who takes undue
16 advantage of the professional association with a client or patient, a
17 student or a supervisee for the advantage or profit of the psychologist.
- 18 7. "Health care institution" means a facility as defined in section
19 36-401.
- 20 8. "Letter of concern" means an advisory letter to notify a
21 psychologist that while there is insufficient evidence to support
22 disciplinary action the board believes the psychologist should modify or
23 eliminate certain practices and that continuation of the activities that
24 led to the information being submitted to the board may result in action
25 against the psychologist's license.
- 26 9. "Patient" means a person who receives psychological services.
27 If an individual has a legal guardian, the legal guardian is the client or
28 patient for decision-making purposes, except that the individual receiving
29 services is the client or patient for:
- 30 (a) Issues that directly affect the physical or emotional safety of
31 the individual, such as sexual or other exploitative relationships.
- 32 (b) Issues that the guardian agrees to specifically reserve to the
33 individual.
- 34 10. "Practice of psychology" means the psychological assessment,
35 diagnosis, treatment or correction of mental, emotional, behavioral or
36 psychological abilities, illnesses or disorders or purporting or
37 attempting to do this consistent with section 32-2076.
- 38 11. "Psychologically incompetent" means a person lacking in
39 sufficient psychological knowledge or skills to a degree likely to
40 endanger the health of clients or patients.
- 41 12. "Psychological service" means all actions of the psychologist
42 in the practice of psychology.
- 43 13. "Psychologist" means a natural person holding a license to
44 practice psychology pursuant to this chapter.

1 14. "Supervisee" means any person who functions under the extended
2 authority of the psychologist to provide, or while in training to provide,
3 psychological services.

4 15. "Telepractice" means providing psychological services through
5 interactive audio, video or electronic communication that occurs between
6 the psychologist and the patient or client, including any electronic
7 communication for diagnostic, treatment or consultation purposes in a
8 secure platform, and that meets the requirements of ~~telemedicine~~
9 TELEHEALTH pursuant to section 36-3602. Telepractice includes
10 supervision.

11 16. "Unprofessional conduct" includes the following activities
12 whether occurring in this state or elsewhere:

13 (a) Obtaining a fee by fraud or misrepresentation.

14 (b) Betraying professional confidences.

15 (c) Making or using statements of a character tending to deceive or
16 mislead.

17 (d) Aiding or abetting a person who is not licensed pursuant to
18 this chapter in representing that person as a psychologist.

19 (e) Gross negligence in the practice of a psychologist.

20 (f) Sexual intimacies or sexual intercourse with a current client
21 or patient or a supervisee or with a former client or patient within two
22 years after the cessation or termination of treatment. For the purposes
23 of this subdivision, "sexual intercourse" has the same meaning prescribed
24 in section 13-1401.

25 (g) Engaging or offering to engage as a psychologist in activities
26 that are not congruent with the psychologist's professional education,
27 training and experience.

28 (h) Failing or refusing to maintain and retain adequate business,
29 financial or professional records pertaining to the psychological services
30 provided to a client or patient.

31 (i) Commission of a felony, whether or not involving moral
32 turpitude, or a misdemeanor involving moral turpitude. In either case,
33 conviction by a court of competent jurisdiction or a plea of no contest is
34 conclusive evidence of the commission.

35 (j) Making a fraudulent or untrue statement to the board or its
36 investigators, staff or consultants.

37 (k) Violating any federal or state laws or rules that relate to the
38 practice of psychology or to obtaining a license to practice psychology.

39 (l) Practicing psychology while impaired or incapacitated to the
40 extent and in a manner that jeopardizes the welfare of the client or
41 patient or renders the psychological services provided ineffective.

42 (m) Using fraud, misrepresentation or deception to obtain or
43 attempt to obtain a psychology license or to pass or attempt to pass a
44 psychology licensing examination or in assisting another person to do so.

1 (n) Unprofessional conduct in another jurisdiction that resulted in
2 censure, probation or a civil penalty or in the denial, suspension,
3 restriction or revocation of a certificate or license to practice as a
4 psychologist.

5 (o) Providing services that are unnecessary or unsafe or otherwise
6 engaging in activities as a psychologist that are unprofessional by
7 current standards of practice.

8 (p) Falsely or fraudulently claiming to have performed a
9 professional service, charging for a service or representing a service as
10 the licensee's own when the licensee has not rendered the service or
11 assumed supervisory responsibility for the service.

12 (q) Representing activities or services as being performed under
13 the licensee's supervision if the psychologist has not assumed
14 responsibility for them and has not exercised control, oversight and
15 review.

16 (r) Failing to obtain a client's or patient's informed and written
17 consent to release personal or otherwise confidential information to
18 another party unless the release is otherwise authorized by law.

19 (s) Failing to make client or patient records in the psychologist's
20 possession promptly available to another psychologist who is licensed
21 pursuant to this chapter on receipt of proper authorization to do so from
22 the client or patient, a minor client's or patient's parent, the client's
23 or patient's legal guardian or the client's or patient's authorized
24 representative or failing to comply with title 12, chapter 13, article
25 7.1.

26 (t) Failing to take reasonable steps to inform or protect a
27 client's or patient's intended victim and inform the proper law
28 enforcement officials in circumstances in which the psychologist becomes
29 aware during the course of providing or supervising psychological services
30 that a client or patient intends or plans to inflict serious bodily harm
31 on another person.

32 (u) Failing to take reasonable steps to protect a client or patient
33 in circumstances in which the psychologist becomes aware during the course
34 of providing or supervising psychological services that a client or
35 patient intends or plans to inflict serious bodily harm on self.

36 (v) Abandoning or neglecting a client or patient in need of
37 immediate care without making suitable arrangements for continuation of
38 the care.

39 (w) Engaging in direct or indirect personal solicitation of clients
40 or patients through the use of coercion, duress, undue influence,
41 compulsion or intimidation practices.

42 (x) Engaging in false, deceptive or misleading advertising.

43 (y) Exploiting a client or patient, a student or a supervisee.

44 (z) Failing to report information to the board regarding a possible
45 act of unprofessional conduct committed by another psychologist who is

1 licensed pursuant to this chapter unless this reporting violates the
2 psychologist's confidential relationship with the client or patient
3 pursuant to section 32-2085. Any psychologist who reports or provides
4 information to the board in good faith is not subject to an action for
5 civil damages. For the purposes of this subdivision, it is not an act of
6 unprofessional conduct if a licensee addresses an ethical conflict in a
7 manner that is consistent with the ethical standards contained in the
8 document entitled "ethical principles of psychologists and code of
9 conduct" as adopted by the American psychological association and in
10 effect at the time the licensee makes the report.

11 (aa) Violating a formal board order, consent agreement, term of
12 probation or stipulated agreement issued under this chapter.

13 (bb) Failing to furnish information in a timely manner to the board
14 or its investigators or representatives if requested or subpoenaed by the
15 board as prescribed by this chapter.

16 (cc) Failing to make available to a client or patient or to the
17 client's or patient's designated representative, on written request, a
18 copy of the client's or patient's record, including raw test data,
19 psychometric testing materials and other information as provided by law.

20 (dd) Violating an ethical standard adopted by the board.

21 Sec. 10. Section 32-3248.01, Arizona Revised Statutes, is amended
22 to read:

23 32-3248.01. Schedule II controlled substances; dosage limit;
24 exceptions; morphine; opioid antagonist

25 A. A health professional who is authorized under this title to
26 prescribe controlled substances may not issue a new prescription to be
27 filled or dispensed for a patient outside of a health care institution for
28 a schedule II controlled substance that is an opioid that exceeds ninety
29 morphine milligram equivalents per day.

30 B. The limit prescribed by subsection A of this section does not
31 apply to:

32 1. A continuation of a prior prescription that was issued within
33 the previous sixty days.

34 2. An opioid with a maximum approved total daily dose in the
35 labeling as approved by the United States food and drug administration.

36 3. A prescription that is issued following a surgical procedure and
37 that is limited to not more than a fourteen-day supply.

38 4. A patient who:

39 (a) Has an active oncology diagnosis.

40 (b) Has a traumatic injury, not including a surgical procedure.

41 (c) Is receiving hospice care.

42 (d) Is receiving end-of-life care.

43 (e) Is receiving palliative care.

44 (f) Is receiving skilled nursing facility care.

45 (g) Is receiving treatment for burns.

1 (h) Is receiving medication-assisted treatment for a substance use
2 disorder.

3 (i) Is hospitalized.

4 C. If a health professional believes that a patient requires more
5 than ninety morphine milligram equivalents per day and the patient is not
6 exempt from the limit pursuant to subsection B of this section, the health
7 professional shall first consult with a physician who is licensed pursuant
8 to chapter 13 or 17 of this title and who is board-certified in pain, or
9 an opioid assistance and referral call service, if available, that is
10 designated by the department of health services. The consultation may be
11 done by telephone or through ~~telemedicine~~ TELEHEALTH. If the opioid
12 ASSISTANCE AND REFERRAL call service agrees with the higher dose, the
13 health professional may issue a prescription for more than ninety morphine
14 milligram equivalents per day. If the consulting physician agrees with
15 the higher dose, the health professional may issue a prescription for more
16 than ninety morphine milligram equivalents per day. If the consulting
17 physician is not available to consult within forty-eight hours after the
18 request, the health professional may prescribe the amount that the health
19 professional believes the patient requires and subsequently have the
20 consultation. If the health professional is a physician who is licensed
21 pursuant to chapter 13 or 17 of this title and is board-certified in pain,
22 the health professional may issue a prescription for more than ninety
23 morphine milligram equivalents per day without a consultation under this
24 subsection.

25 D. If a patient is prescribed more than ninety morphine milligram
26 equivalents per day pursuant to subsection B or C of this section, the
27 prescribing health professional shall also prescribe for the patient
28 naloxone hydrochloride or any other opioid antagonist that is approved by
29 the United States food and drug administration for the treatment of
30 opioid-related overdoses.

31 E. A prescription ~~order~~ for a schedule II controlled substance that
32 is an opioid that is written for more than ninety morphine milligram
33 equivalents per day is deemed to meet the requirements of an exemption
34 under this section when the prescription ~~order~~ is presented to the
35 dispenser. A pharmacist is not required to verify with the prescriber
36 whether the prescription ~~order~~ complies with this section.

37 Sec. 11. Section 32-3251, Arizona Revised Statutes, is amended to
38 read:

39 32-3251. Definitions

40 In this chapter, unless the context otherwise requires:

- 41 1. "Board" means the board of behavioral health examiners.
- 42 2. "Client" means a patient who receives behavioral health services
43 from a person licensed pursuant to this chapter.
- 44 3. "Direct client contact" means the performance of therapeutic or
45 clinical functions related to the applicant's professional practice level

1 of psychotherapy that includes diagnosis, assessment and treatment and
2 that may include psychoeducation for mental, emotional and behavioral
3 disorders based primarily on verbal or nonverbal communications and
4 intervention with, and in the presence of, one or more clients, **INCLUDING**
5 **THROUGH THE USE OF TELEHEALTH PURSUANT TO TITLE 36, CHAPTER 36, ARTICLE 1.**

6 4. "Equivalent" means comparable in content and quality but not
7 identical.

8 5. "Indirect client service" means training for, and the
9 performance of, functions of an applicant's professional practice level in
10 preparation for or on behalf of a client for whom direct client contact
11 functions are also performed, including case consultation and receipt of
12 clinical supervision. Indirect client service does not include the
13 provision of psychoeducation.

14 6. "Letter of concern" means a nondisciplinary written document
15 sent by the board to notify a licensee that, while there is insufficient
16 evidence to support disciplinary action, the board believes that
17 continuation of the activities that led to the investigation may result in
18 further board action against the licensee.

19 7. "Licensee" means a person who is licensed pursuant to this
20 chapter.

21 8. "Practice of behavioral health" means the practice of marriage
22 and family therapy, professional counseling, social work and substance
23 abuse counseling pursuant to this chapter.

24 9. "Practice of marriage and family therapy" means the professional
25 application of family systems theories, principles and techniques to treat
26 interpersonal relationship issues and nervous, mental and emotional
27 disorders that are cognitive, affective or behavioral. The practice of
28 marriage and family therapy includes:

29 (a) Assessment, appraisal and diagnosis.

30 (b) The use of psychotherapy for the purpose of evaluation,
31 diagnosis and treatment of individuals, couples, families and groups.

32 10. "Practice of professional counseling" means the professional
33 application of mental health, psychological and human development
34 theories, principles and techniques to:

35 (a) Facilitate human development and adjustment throughout the
36 human life span.

37 (b) Assess and facilitate career development.

38 (c) Treat interpersonal relationship issues and nervous, mental and
39 emotional disorders that are cognitive, affective or behavioral.

40 (d) Manage symptoms of mental illness.

41 (e) Assess, appraise, evaluate, diagnose and treat individuals,
42 couples, families and groups through the use of psychotherapy.

43 11. "Practice of social work" means the professional application of
44 social work theories, principles, methods and techniques to:

45 (a) Treat mental, behavioral and emotional disorders.

1 (b) Assist individuals, families, groups and communities to enhance
2 or restore the ability to function physically, socially, emotionally,
3 mentally and economically.

4 (c) Assess, appraise, diagnose, evaluate and treat individuals,
5 couples, families and groups through the use of psychotherapy.

6 12. "Practice of substance abuse counseling" means the professional
7 application of general counseling theories, principles and techniques as
8 specifically adapted, based on research and clinical experience, to the
9 specialized needs and characteristics of persons who are experiencing
10 substance abuse, chemical dependency and related problems and to the
11 families of those persons. The practice of substance abuse counseling
12 includes the following as they relate to substance abuse and chemical
13 dependency issues:

14 (a) Assessment, appraisal and diagnosis.

15 (b) The use of psychotherapy for the purpose of evaluation,
16 diagnosis and treatment of individuals, couples, families and groups.

17 13. "Psychoeducation" means the education of a client as part of a
18 treatment process that provides the client with information regarding
19 mental health, emotional disorders or behavioral health.

20 14. "Psychotherapy" means a variety of treatment methods developing
21 out of generally accepted theories about human behavior and development.

22 ~~15. "Telepractice" means providing behavioral health services~~
23 ~~through interactive audio, video or electronic communication that occurs~~
24 ~~between the behavioral health professional and the client, including any~~
25 ~~electronic communication for evaluation, diagnosis and treatment,~~
26 ~~including distance counseling, in a secure platform, and that meets the~~
27 ~~requirements of telemedicine pursuant to section 36-3602.~~

28 15. "TELEHEALTH" HAS THE SAME MEANING PRESCRIBED IN SECTION
29 36-3601.

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

32 (a) Being convicted of a felony. Conviction by a court of
33 competent jurisdiction or a plea of no contest is conclusive evidence of
34 the conviction.

35 (b) Using fraud or deceit in connection with rendering services as
36 a licensee or in establishing qualifications pursuant to this chapter.

37 (c) Making any oral or written misrepresentation of a fact:

38 (i) To secure or attempt to secure the issuance or renewal of a
39 license.

40 (ii) In any statements provided during an investigation or
41 disciplinary proceeding by the board.

42 (iii) Regarding the licensee's skills or the value of any treatment
43 provided or to be provided.

44 (d) Making any false, fraudulent or deceptive statement connected
45 with the practice of behavioral health, including false or misleading

- 1 advertising by the licensee or the licensee's staff or a representative
2 compensated by the licensee.
- 3 (e) Securing or attempting to secure the issuance or renewal of a
4 license by knowingly taking advantage of the mistake of another person or
5 the board.
- 6 (f) Engaging in active habitual intemperance in the use of alcohol
7 or active habitual substance abuse.
- 8 (g) Using a controlled substance that is not prescribed for use
9 during a prescribed course of treatment.
- 10 (h) Obtaining a fee by fraud, deceit or misrepresentation.
- 11 (i) Aiding or abetting a person who is not licensed pursuant to
12 this chapter to purport to be a licensed behavioral health professional in
13 this state.
- 14 (j) Engaging in conduct that the board determines is gross
15 negligence or repeated negligence in the licensee's profession.
- 16 (k) Engaging in any conduct or practice that is contrary to
17 recognized standards of ethics in the behavioral health profession or that
18 constitutes a danger to the health, welfare or safety of a client.
- 19 (l) Engaging in any conduct, practice or condition that impairs the
20 ability of the licensee to safely and competently practice the licensee's
21 profession.
- 22 (m) Engaging or offering to engage as a licensee in activities that
23 are not congruent with the licensee's professional education, training or
24 experience.
- 25 (n) Failing to comply with or violating, attempting to violate or
26 assisting in or abetting the violation of any provision of this chapter,
27 any rule adopted pursuant to this chapter, any lawful order of the board,
28 or any formal order, consent agreement, term of probation or stipulated
29 agreement issued under this chapter.
- 30 (o) Failing to furnish information within a specified time to the
31 board or its investigators or representatives if legally requested by the
32 board.
- 33 (p) Failing to conform to minimum practice standards as developed
34 by the board.
- 35 (q) Failing or refusing to maintain adequate records of behavioral
36 health services provided to a client.
- 37 (r) Providing behavioral health services that are clinically
38 unjustified or unsafe or otherwise engaging in activities as a licensee
39 that are unprofessional by current standards of practice.
- 40 (s) Terminating behavioral health services to a client without
41 making an appropriate referral for continuation of care for the client if
42 continuing behavioral health services are indicated.
- 43 (t) Disclosing a professional confidence or privileged
44 communication except as may otherwise be required by law or permitted by a
45 legally valid written release.

- 1 (u) Failing to allow the board or its investigators on demand to
2 examine and have access to documents, reports and records in any format
3 maintained by the licensee that relate to the licensee's practice of
4 behavioral health.
- 5 (v) Engaging in any sexual conduct between a licensee and a client
6 or former client.
- 7 (w) Providing behavioral health services to any person with whom
8 the licensee has had sexual contact.
- 9 (x) Exploiting a client, former client or supervisee. For the
10 purposes of this subdivision, "exploiting" means taking advantage of a
11 professional relationship with a client, former client or supervisee for
12 the benefit or profit of the licensee.
- 13 (y) Engaging in a dual relationship with a client that could impair
14 the licensee's objectivity or professional judgment or create a risk of
15 harm to the client. For the purposes of this subdivision, "dual
16 relationship" means a licensee simultaneously engages in both a
17 professional and nonprofessional relationship with a client that is
18 avoidable and not incidental.
- 19 (z) Engaging in physical contact between a licensee and a client if
20 there is a reasonable possibility of physical or psychological harm to the
21 client as a result of that contact.
- 22 (aa) Sexually harassing a client, former client, research subject,
23 supervisee or coworker. For the purposes of this subdivision, "sexually
24 harassing" includes sexual advances, sexual solicitation, requests for
25 sexual favors, unwelcome comments or gestures or any other verbal or
26 physical conduct of a sexual nature.
- 27 (bb) Harassing, exploiting or retaliating against a client, former
28 client, research subject, supervisee, coworker or witness or a complainant
29 in a disciplinary investigation or proceeding involving a licensee.
- 30 (cc) Failing to take reasonable steps to inform potential victims
31 and appropriate authorities if the licensee becomes aware during the
32 course of providing or supervising behavioral health services that a
33 client's condition indicates a clear and imminent danger to the client or
34 others.
- 35 (dd) Failing to comply with the laws of the appropriate licensing
36 or credentialing authority to provide behavioral health services by
37 electronic means in all governmental jurisdictions where the client
38 receiving these services resides.
- 39 (ee) Giving or receiving a payment, kickback, rebate, bonus or
40 other remuneration for a referral.
- 41 (ff) Failing to report in writing to the board information that
42 would cause a reasonable licensee to believe that another licensee is
43 guilty of unprofessional conduct or is physically or mentally unable to
44 provide behavioral health services competently or safely. This duty does
45 not extend to information provided by a licensee that is protected by the

1 behavioral health professional-client privilege unless the information
2 indicates a clear and imminent danger to the client or others or is
3 otherwise subject to mandatory reporting requirements pursuant to state or
4 federal law.

5 (gg) Failing to follow federal and state laws regarding the
6 storage, use and release of confidential information regarding a client's
7 personal identifiable information or care.

8 (hh) Failing to retain records pursuant to section 12-2297.

9 (ii) Violating any federal or state law, rule or regulation
10 applicable to the practice of behavioral health.

11 (jj) Failing to make client records in the licensee's possession
12 available in a timely manner to another health professional or licensee on
13 receipt of proper authorization to do so from the client, a minor client's
14 parent, the client's legal guardian or the client's authorized
15 representative.

16 (kk) Failing to make client records in the licensee's possession
17 promptly available to the client, a minor client's parent, the client's
18 legal guardian or the client's authorized representative on receipt of
19 proper authorization to do so from the client, a minor client's parent,
20 the client's legal guardian or the client's authorized representative.

21 (ll) Being the subject of the revocation, suspension, surrender or
22 any other disciplinary sanction of a professional license, certificate or
23 registration or other adverse action related to a professional license,
24 certificate or registration in another jurisdiction or country, including
25 the failure to report the adverse action to the board. The action taken
26 may include refusing, denying, revoking or suspending a license or
27 certificate, the surrendering of a license or certificate, otherwise
28 limiting, restricting or monitoring a licensee or certificate holder or
29 placing a licensee or certificate holder on probation.

30 (mm) Engaging in any conduct that results in a sanction imposed by
31 an agency of the federal government that involves restricting, suspending,
32 limiting or removing the licensee's ability to obtain financial
33 remuneration for behavioral health services.

34 (nn) Violating the security of any licensure examination materials.

35 (oo) Using fraud or deceit in connection with taking or assisting
36 another person in taking a licensure examination.

37 Sec. 12. Section 36-2272, Arizona Revised Statutes, is amended to
38 read:

39 36-2272. Consent of parent required for mental health
40 screening or treatment of minors; exception;
41 violation; classification; definition

42 A. Except as otherwise provided by law or a court order, no person,
43 corporation, association, organization or state-supported institution, or
44 any individual employed by any of these entities, may procure, solicit to
45 perform, arrange for the performance of or perform mental health screening

1 in a nonclinical setting or mental health treatment on a minor without
2 first obtaining the written or oral consent of a parent or a legal
3 custodian of the minor child. If the parental consent is given through
4 ~~telemedicine~~ TELEHEALTH, the health professional must verify the parent's
5 identity at the site where the consent is given.

6 B. This section does not apply when an emergency exists that
7 requires a person to perform mental health screening or provide mental
8 health treatment to prevent serious injury to or save the life of a minor
9 child.

10 C. A person who violates this section is guilty of a class 1
11 misdemeanor.

12 D. For the purposes of this section, "parent" means the parent or
13 legal guardian of a minor child.

14 Sec. 13. Heading change

15 The chapter heading of title 36, chapter 36, Arizona Revised
16 Statutes, is changed from "TELEMEDICINE" to "TELEHEALTH".

17 Sec. 14. Section 36-3601, Arizona Revised Statutes, is amended to
18 read:

19 36-3601. Definitions

20 For the purposes of this chapter:

21 1. "Health care decision maker" has the same meaning prescribed in
22 section 12-2801.

23 2. "Health care provider":

24 (a) Means a person licensed pursuant to title 32, chapter 7, 8, 13,
25 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, ~~or~~ 33, 34, 35, 39, 41
26 OR 42, OR CHAPTER 4, ARTICLE 6 OF THIS TITLE, CHAPTER 6, ARTICLE 7 OF THIS
27 TITLE OR CHAPTER 17 OF THIS TITLE.

28 (b) INCLUDES A HEALTH CARE INSTITUTION LICENSED PURSUANT TO CHAPTER
29 4 OF THIS TITLE.

30 ~~3. "Telemedicine" means the practice of health care delivery,~~
31 ~~diagnosis, consultation and treatment and the transfer of medical data~~
32 ~~through interactive audio, video or data communications that occur in the~~
33 ~~physical presence of the patient, including audio or video communications~~
34 ~~sent to a health care provider for diagnostic or treatment consultation.~~

35 3. "HEALTH CARE PROVIDER REGULATORY BOARD OR AGENCY" MEANS A BOARD
36 OR AGENCY THAT REGULATES ONE OR MORE HEALTH CARE PROVIDER PROFESSIONS IN
37 THIS STATE.

38 4. "TELEHEALTH" MEANS:

39 (a) THE INTERACTIVE USE OF AUDIO, VIDEO OR OTHER ELECTRONIC MEDIA,
40 INCLUDING ASYNCHRONOUS STORE-AND-FORWARD TECHNOLOGIES AND REMOTE PATIENT
41 MONITORING TECHNOLOGIES, FOR THE PRACTICE OF HEALTH CARE, ASSESSMENT,
42 DIAGNOSIS, CONSULTATION OR TREATMENT AND THE TRANSFER OF MEDICAL DATA.

43 (b) INCLUDES THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN
44 THE PATIENT OR CLIENT AND HEALTH CARE PROVIDER IF AN AUDIO-VISUAL
45 TELEHEALTH ENCOUNTER IS NOT REASONABLY AVAILABLE DUE TO THE PATIENT'S

1 PREFERENCE, THE PATIENT'S FUNCTIONAL STATUS, THE PATIENT'S LACK OF
2 TECHNOLOGY OR TELECOMMUNICATIONS INFRASTRUCTURE LIMITS, AS DETERMINED BY
3 THE HEALTH CARE PROVIDER.

4 (c) DOES NOT INCLUDE THE USE OF A FAX MACHINE, INSTANT MESSAGES
5 THAT ARE NOT COMPLIANT WITH THE HEALTH INSURANCE PORTABILITY AND
6 ACCOUNTABILITY ACT OF 1996, VOICE MAIL OR EMAIL.

7 Sec. 15. Section 36-3602, Arizona Revised Statutes, is amended to
8 read:

9 36-3602. Delivery of health care through telehealth;
10 requirements; exceptions

11 A. Except as provided in subsection ~~E~~ F of this section, before a
12 health care provider delivers health care through ~~telemedicine~~ TELEHEALTH,
13 the treating health care provider shall obtain verbal or written informed
14 consent, **INCLUDING BY ELECTRONIC MEANS**, from the patient or the patient's
15 health care decision maker. If the informed consent is obtained verbally,
16 the health care provider shall document the consent on the patient's
17 medical record.

18 B. The patient is entitled to all existing confidentiality
19 protections pursuant to section 12-2292.

20 C. All medical reports resulting from a ~~telemedicine~~ TELEHEALTH
21 consultation are part of a patient's medical record as defined in section
22 12-2291.

23 D. Dissemination of any images or information identifiable to a
24 specific patient for research or educational purposes shall not occur
25 without the patient's consent, unless authorized by state or federal law.

26 **E. A HEALTH CARE PROVIDER REGULATORY BOARD OR AGENCY MAY NOT**
27 **ENFORCE ANY STATUTE, RULE OR POLICY THAT WOULD REQUIRE A HEALTH CARE**
28 **PROVIDER WHO IS LICENSED BY THAT BOARD OR AGENCY AND WHO IS AUTHORIZED TO**
29 **WRITE PRESCRIPTIONS TO REQUIRE AN IN-PERSON EXAMINATION OF THE PATIENT**
30 **BEFORE ISSUING A PRESCRIPTION EXCEPT AS SPECIFICALLY PRESCRIBED BY FEDERAL**
31 **LAW. A PHYSICAL OR MENTAL HEALTH STATUS EXAMINATION MAY BE CONDUCTED**
32 **DURING A REAL-TIME TELEHEALTH ENCOUNTER.**

33 ~~E~~ F. The consent requirements of this section do not apply:

34 1. If the ~~telemedicine~~ TELEHEALTH interaction does not take place
35 in the physical presence of the patient.

36 2. In an emergency situation in which the patient or the patient's
37 health care decision maker is unable to give informed consent.

38 3. To the transmission of diagnostic images to a health care
39 provider serving as a consultant or the reporting of diagnostic test
40 results by that consultant.

41 Sec. 16. Section 36-3603, Arizona Revised Statutes, is amended to
42 read:

43 36-3603. State jurisdiction; scope

44 ~~The provisions of~~ This article **apply APPLIES** to the practice of
45 ~~telemedicine~~ TELEHEALTH within ~~the~~ **THIS** state ~~of Arizona~~. ~~Nothing in~~ This

1 article ~~shall be construed to~~ DOES NOT expand, reduce or otherwise amend
2 the health care provider licensing requirements of title 32.

3 Sec. 17. Section 36-3604, Arizona Revised Statutes, is amended to
4 read:

5 36-3604. Use of telehealth for abortion prohibited; penalty;
6 definition

7 A. A health care provider shall not use ~~telemedicine~~ TELEHEALTH to
8 provide an abortion.

9 B. A health care provider who knowingly violates this section
10 commits an act of unprofessional conduct and is subject to license
11 suspension or revocation pursuant to title 32.

12 C. For the purposes of this section, "abortion" has the same
13 meaning prescribed in section 36-2151.

14 Sec. 18. Title 36, chapter 36, article 1, Arizona Revised Statutes,
15 is amended by adding sections 36-3605, 36-3606 and 36-3607, to read:

16 36-3605. Health care providers; determination of telehealth
17 medium

18 A. A HEALTH CARE PROVIDER SHALL MAKE A GOOD FAITH EFFORT TO USE
19 BEST PRACTICES IN DETERMINING WHETHER A HEALTH CARE SERVICE SHOULD BE
20 PROVIDED THROUGH TELEHEALTH INSTEAD OF IN PERSON. THE HEALTH CARE
21 PROVIDER SHALL USE THE HEALTH CARE PROVIDER'S CLINICAL JUDGMENT BASED ON
22 BEST PRACTICE STANDARDS CONSIDERING WHETHER THE NATURE OF THE SERVICES
23 NECESSITATES PHYSICAL INTERVENTIONS AND CLOSE OBSERVATION AND THE
24 CIRCUMSTANCES OF THE PATIENT, INCLUDING DIAGNOSIS, SYMPTOMS, HISTORY, AGE,
25 PHYSICAL LOCATION AND ACCESS TO TELEHEALTH.

26 B. A HEALTH CARE PROVIDER SHALL MAKE A GOOD FAITH EFFORT TO USE
27 BEST PRACTICES IN DETERMINING THE COMMUNICATION MEDIUM OF TELEHEALTH AND,
28 WHENEVER REASONABLY PRACTICABLE, THE TELEHEALTH COMMUNICATION MEDIUM THAT
29 ALLOWS THE HEALTH CARE PROVIDER TO MOST EFFECTIVELY ASSESS, DIAGNOSE AND
30 TREAT THE PATIENT. IF A PATIENT DOES NOT HAVE AVAILABLE ACCESS TO
31 TECHNOLOGY OR TELECOMMUNICATIONS INFRASTRUCTURE TO SUPPORT REAL-TIME AUDIO
32 OR AUDIO-VISUAL TELEHEALTH, THE HEALTH CARE PROVIDER MAY USE THE HEALTH
33 CARE PROVIDER'S CLINICAL JUDGMENT TO DETERMINE WHETHER OTHER TECHNOLOGY IS
34 ADVISABLE AND AVAILABLE IN EACH CIRCUMSTANCE.

35 36-3606. Interstate telehealth services; requirements; venue

36 A. A HEALTH CARE PROVIDER WHO IS NOT LICENSED IN THIS STATE MAY
37 PROVIDE TELEHEALTH SERVICES TO A PERSON LOCATED IN THIS STATE IF THE
38 HEALTH CARE PROVIDER COMPLIES WITH ALL OF THE FOLLOWING:

39 1. HOLDS A CURRENT, VALID AND UNRESTRICTED LICENSE TO PRACTICE IN
40 ANOTHER STATE AND IS NOT SUBJECT TO ANY PAST OR PENDING DISCIPLINARY
41 PROCEEDING.

42 2. ACTS IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS AND RULES OF
43 THIS STATE, INCLUDING SCOPE OF PRACTICE AND TELEHEALTH REQUIREMENTS.

44 3. COMPLIES WITH ALL EXISTING REQUIREMENTS OF THIS STATE REGARDING
45 MAINTAINING LIABILITY INSURANCE.

1 4. CONSENTS TO THIS STATE'S JURISDICTION FOR ANY LITIGATION ARISING
2 FROM PROVIDING TELEHEALTH PURSUANT TO THIS ARTICLE.

3 5. FOLLOWS THIS STATE'S COMMUNITY OF CARE STANDARDS.

4 B. A HEALTH CARE PROVIDER WHO FAILS TO COMPLY WITH THE APPLICABLE
5 LAWS AND RULES OF THIS STATE IS SUBJECT TO INVESTIGATION AND DISCIPLINARY
6 ACTION BY THE APPLICABLE HEALTH CARE PROVIDER REGULATORY BOARD OR AGENCY
7 IN THIS STATE. DISCIPLINARY ACTION BY THE APPLICABLE HEALTH CARE PROVIDER
8 REGULATORY BOARD OR AGENCY IN THIS STATE MAY INCLUDE REVOKING THE HEALTH
9 CARE PROVIDER'S PRACTICE PRIVILEGES IN THIS STATE AND REFERRING THE MATTER
10 TO THE LICENSING AUTHORITY IN THE STATE OR STATES WHERE THE HEALTH CARE
11 PROVIDER POSSESSES A PROFESSIONAL LICENSE.

12 C. THE VENUE FOR ANY ACTION ARISING FROM A VIOLATION OF THIS
13 SECTION IS THE PATIENT'S COUNTY OF RESIDENCE IN THIS STATE.

14 36-3607. Telehealth advisory committee on telehealth best
15 practices; membership; report; committee
16 termination

17 A. THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES
18 IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY
19 THE GOVERNOR:

20 1. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13.

21 2. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 17
22 AND WHO IS PRACTICING PRIMARY CARE IN THIS STATE.

23 3. TWO ADVANCED PRACTICE REGISTERED NURSES WHO ARE LICENSED
24 PURSUANT TO TITLE 32, CHAPTER 15.

25 4. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13
26 OR 17 AND WHO SPECIALIZES IN PAIN MANAGEMENT.

27 5. ONE PSYCHIATRIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER
28 13 OR 17.

29 6. ONE PSYCHOLOGIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER
30 19.1.

31 7. TWO BEHAVIORAL HEALTH PROFESSIONALS WHO ARE LICENSED PURSUANT TO
32 TITLE 32, CHAPTER 33, ONE OF WHOM IS EMPLOYED BY AN OUTPATIENT TREATMENT
33 CENTER.

34 8. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 14.

35 9. TWO DENTISTS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 11.

36 10. ONE HEALTH CARE PROFESSIONAL WHOSE PRIMARY AREA OF FOCUS IS
37 TREATING PERSONS WITH DEVELOPMENTAL DISABILITIES.

38 11. ONE HEALTH CARE PROFESSIONAL WHOSE PRIMARY AREA OF FOCUS IS
39 INDUSTRIAL INJURIES.

40 12. ONE SPEECH-LANGUAGE PATHOLOGIST WHO IS LICENSED PURSUANT TO
41 CHAPTER 17 OF THIS TITLE.

42 13. ONE OCCUPATIONAL THERAPIST WHO IS LICENSED PURSUANT TO TITLE
43 32, CHAPTER 34.

44 14. ONE HOSPITAL ADMINISTRATOR.

45 15. ONE REPRESENTATIVE FROM EACH OF THE FOLLOWING:

- 1 (a) THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.
- 2 (b) THE DEPARTMENT OF HEALTH SERVICES.
- 3 (c) THE DEPARTMENT OF ECONOMIC SECURITY.
- 4 (d) THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS.
- 5 (e) THE INDUSTRIAL COMMISSION OF ARIZONA.
- 6 B. THE ADVISORY COMMITTEE:
- 7 1. SHALL REVIEW NATIONAL AND OTHER STANDARDS FOR TELEHEALTH BEST
- 8 PRACTICES AND RELEVANT PEER-REVIEWED LITERATURE.
- 9 2. MAY CONDUCT PUBLIC MEETINGS AT WHICH TESTIMONY MAY BE TAKEN
- 10 REGARDING THE EFFICACY OF VARIOUS COMMUNICATION MEDIUMS AND THE TYPES OF
- 11 SERVICES AND POPULATIONS FOR WHICH TELEHEALTH IS APPROPRIATE.
- 12 3. ON OR BEFORE SEPTEMBER 1, 2021, SHALL SUBMIT A REPORT TO THE
- 13 GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
- 14 REPRESENTATIVES WITH RECOMMENDATIONS, INCLUDING BEST PRACTICE GUIDELINES,
- 15 FOR TELEHEALTH USE BY HEALTH CARE PROVIDERS.
- 16 4. SHALL UPDATE THE ADVISORY COMMITTEE'S BEST PRACTICE GUIDELINE,
- 17 RECOMMENDATIONS, WHEN APPLICABLE.
- 18 C. THE COMMITTEE ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2029
- 19 PURSUANT TO SECTION 41-3102.

20 Sec. 19. Section 38-672, Arizona Revised Statutes, is amended to
21 read:

22 38-672. Traumatic event counseling for public safety
23 employees; report; exceptions; definitions

24 A. Notwithstanding any other law, this state or a political
25 subdivision of this state shall establish a program to provide public
26 safety employees who are exposed to any one of the following events while
27 in the course of duty up to twelve visits of licensed counseling, which
28 may be provided ~~via telemedicine~~ THROUGH TELEHEALTH, paid for by the
29 employer:

- 30 1. Visually witnessing the death or maiming or visually witnessing
- 31 the immediate aftermath of such a death or maiming of one or more human
- 32 beings.
- 33 2. Responding to or being directly involved in a criminal
- 34 investigation of an offense involving a dangerous crime against children
- 35 as defined in section 13-705.
- 36 3. Requiring rescue in the line of duty where one's life was
- 37 endangered.

38 B. Payment by the employer for licensed counseling pursuant to this
39 section does not create a presumption that a claim is compensable under
40 section 23-1043.01, subsection B.

41 C. For each program established pursuant to this section, this
42 state and each political subdivision of this state shall compile the
43 following data:

- 44 1. The total number of public safety employees who have
- 45 participated in the program.

1 2. The average number of visits per public safety employee.

2 3. The average number of months that a public safety employee
3 participated in the program.

4 4. The average number of days that a public safety employee who
5 participated in the program missed work.

6 5. The total number of public safety employees who participated in
7 the program and who subsequently filed a workers' compensation claim and
8 the number of those claims that were approved and the number of those
9 claims that were denied.

10 6. For each employer, the total amount of work missed by public
11 safety employees who participated in the program and how missed work was
12 provided for by the employer or through employee benefits.

13 D. On or before ~~September 1, 2019 and~~ September 1 of each year
14 ~~thereafter~~, this state and each political subdivision of this state shall
15 submit the data collected pursuant to subsection C of this section to the
16 department of administration. On or before ~~October 1, 2019 and~~ October 1
17 of each year ~~thereafter~~, the department of administration shall compile
18 the data into a report and submit the report to the governor, the
19 president of the senate, the speaker of the house of representatives, the
20 chairperson of the senate health and human services committee, or its
21 successor committee, the chairperson of the house of representatives
22 health committee, or its successor committee, the chairperson of the
23 senate commerce and public safety committee, or its successor committee,
24 and the chairperson of the house of representatives judiciary and public
25 safety committee, or its successor committee, and shall provide a copy of
26 this report to the secretary of state. Subsection C of this section and
27 this subsection do not authorize this state or a political subdivision of
28 this state to compile and report data that is protected under the health
29 insurance portability and accountability act of 1996 (P.L. 104-191; 110
30 Stat. 1936).

31 E. This section does not apply to a state employer that provides a
32 program to its public safety employees that is characterized by all of the
33 following:

34 1. The program is paid for by the employer.

35 2. The program provides licensed counseling for any issue. For
36 licensed counseling related to trauma experienced while in the line of
37 duty, the licensed counseling is provided on the request of the public
38 safety employee and is in person.

39 3. Before July 1, 2017, the program offers at least six visits per
40 year.

41 4. On or after July 1, 2017, the program offers at least twelve
42 visits per year.

43 F. For the purposes of this section:

44 1. "Licensed counseling" means counseling provided by a licensed
45 mental health professional pursuant to title 32, chapter 19.1 or 33 if

1 licensees under title 32, chapter 33 have training and expertise in
2 treating trauma.

3 2. "Public safety employee":

4 (a) Means:

5 (i) Except as prescribed in subdivision (b) of this paragraph, an
6 individual who is a member of the public safety personnel retirement
7 system or the corrections officer retirement plan.

8 (ii) Except as prescribed in subdivision (b) of this paragraph, a
9 probation officer, surveillance officer or juvenile detention officer who
10 is employed by this state or a political subdivision of this state.

11 (b) Does not include peace officers or firefighters.

12 Sec. 20. Section 38-673, Arizona Revised Statutes, is amended to
13 read:

14 38-673. Traumatic event counseling for peace officers and
15 firefighters; report; exceptions; definitions

16 A. Notwithstanding any other law, this state or a political
17 subdivision of this state shall establish a program to provide peace
18 officers and firefighters who are exposed to any one of the following
19 events while in the course of duty up to twelve visits of licensed
20 counseling, which may be provided ~~via telemedicine~~ THROUGH TELEHEALTH,
21 paid for by the employer:

22 1. Visually witnessing the death or maiming or visually witnessing
23 the immediate aftermath of such a death or maiming of one or more human
24 beings.

25 2. Responding to or being directly involved in a criminal
26 investigation of an offense involving a dangerous crime against children
27 as defined in section 13-705.

28 3. Requiring rescue in the line of duty where one's life was
29 endangered.

30 4. Using deadly force or being subjected to deadly force in the
31 line of duty, regardless of whether the peace officer or firefighter was
32 physically injured.

33 5. Witnessing the death of another peace officer or firefighter
34 while engaged in the line of duty.

35 6. Responding to or being directly involved in an investigation
36 regarding the drowning or near drowning of a child.

37 B. If the licensed mental health professional determines that the
38 peace officer or firefighter needs additional visits of licensed
39 counseling beyond that which the peace officer or firefighter is entitled
40 to under subsection A of this section and that the additional visits are
41 likely to improve the peace officer's or firefighter's condition, the
42 employer shall pay for up to an additional twenty-four visits, if the
43 visits occur within one year after the first visit pursuant to this
44 section.

1 C. An employer may not require a peace officer or firefighter who
2 is receiving treatment pursuant to this section to use the peace officer's
3 or firefighter's accrued paid vacation LEAVE, personal leave or sick leave
4 if the peace officer or firefighter leaves work to attend a treatment
5 visit pursuant to this section.

6 D. If the licensed mental health professional determines that the
7 peace officer or firefighter is not fit for duty while the peace officer
8 or firefighter is receiving treatment pursuant to this section, the
9 employer shall ensure that the peace officer or firefighter has no loss of
10 pay and benefits for up to thirty calendar days per incident after the
11 date the licensed mental health professional determines that the employee
12 is not fit for duty if all of the following apply:

13 1. The peace officer or firefighter is unable to work light duty or
14 the employer does not offer a light duty option.

15 2. The peace officer or firefighter has exhausted the peace
16 officer's or firefighter's sick leave, vacation leave or other leave that
17 is provided as part of the peace officer's or firefighter's benefits
18 package.

19 3. If the employer offers short-term disability benefits, the
20 employer offered and the peace officer or firefighter elected short-term
21 disability benefits, but the peace officer or firefighter is not eligible
22 to receive short-term disability benefits.

23 4. The employer does not have a supplemental program that provides
24 pay and benefits after the occurrence of an injury. For the purposes of
25 this paragraph, supplemental program that provides pay and benefits after
26 the occurrence of an injury does not include a supplemental benefits plan
27 established pursuant to section 38-961.

28 E. An employer shall allow a peace officer or firefighter to select
29 the peace officer's or firefighter's own licensed mental health
30 professional, except that if a licensed mental health professional
31 declines to provide counseling pursuant to this section, the employer is
32 not required to secure the services of that licensed mental health
33 professional. The employer shall pay the licensed mental health
34 professional pursuant to the schedule of fees that is fixed by the
35 industrial commission of Arizona pursuant to section 23-908.

36 F. Payment by the employer for licensed counseling pursuant to this
37 section does not create a presumption that a claim is compensable under
38 section 23-1043.01, subsection B.

39 G. For each program established pursuant to this section, this
40 state and each political subdivision of this state shall compile the
41 following data for peace officers and firefighters:

42 1. For each category of persons, the total number of persons who
43 have participated in the program.

44 2. For each category of persons, the average number of visits per
45 person.

1 3. For each category of persons, the average number of months that
2 a person participated in the program.

3 4. For each category of persons, the average number of days that a
4 person who participated in the program missed work.

5 5. For each category of persons, the total number of persons who
6 participated in the program and who subsequently filed a workers'
7 compensation claim and the number of those claims that were approved and
8 the number of those claims that were denied.

9 6. For each category of persons, of the total number of persons who
10 have participated in the program, the percentage of persons who received
11 additional visits under subsection B of this section.

12 7. For each category of persons, the total number of persons who
13 were deemed not fit for duty by a licensed mental health professional
14 pursuant to subsection D of this section.

15 8. For each employer, the total amount of work missed by each
16 category of persons who participated in the program and how missed work
17 was provided for by the employer or through employee benefits.

18 H. On or before ~~September 1, 2019~~ and September 1 of each year
19 ~~thereafter~~, this state and each political subdivision of this state shall
20 submit the data collected pursuant to subsection G of this section to the
21 department of administration. On or before ~~October 1, 2019~~ and October 1
22 of each year ~~thereafter~~, the department of administration shall compile
23 the data into a report and submit the report to the governor, the
24 president of the senate, the speaker of the house of representatives, the
25 chairperson of the senate health and human services committee, or its
26 successor committee, the chairperson of the house of representatives
27 health committee, or its successor committee, the chairperson of the
28 senate commerce and public safety committee, or its successor committee,
29 and the chairperson of the house of representatives judiciary and public
30 safety committee, or its successor committee, and shall provide a copy of
31 this report to the secretary of state. Subsection G of this section and
32 this subsection do not authorize this state or a political subdivision of
33 this state to compile and report data that is protected under the health
34 insurance portability and accountability act of 1996 (P.L. 104-191; 110
35 Stat. 1936).

36 I. This section does not apply to a state employer that provides a
37 program to its peace officers and firefighters that is characterized by
38 all of the following:

39 1. The program is paid for by the employer.

40 2. The program provides licensed counseling for any issue. For
41 licensed counseling related to trauma experienced while in the line of
42 duty, the licensed counseling is provided on the request of the peace
43 officer or firefighter and is in person.

1 3. The program offers at least twelve visits per year and will
2 offer additional visits if the licensed mental health professional
3 determines that additional visits are necessary.
4 J. For the purposes of this section:
5 1. "Licensed counseling" means counseling provided by a licensed
6 mental health professional.
7 2. "Licensed mental health professional" means a psychiatrist or
8 psychologist who is licensed pursuant to title 32, chapter 13, 17 or 19.1.
9 Sec. 21. Retroactivity
10 This act applies retroactively to from and after December 31, 2020.
11 Sec. 22. Emergency
12 This act is an emergency measure that is necessary to preserve the
13 public peace, health or safety and is operative immediately as provided by
14 law.