

REFERENCE TITLE: pharmacy board; duties; regulation

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1200

Introduced by
Senator Pace

AN ACT

AMENDING SECTIONS 32-1901.01, 32-1904, 32-1925, 32-1926, 32-1927, 32-1927.01, 32-1927.02, 32-1930, 32-1965 AND 36-2608, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE BOARD OF PHARMACY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1901.01, Arizona Revised Statutes, is amended
3 to read:

4 32-1901.01. Definition of unethical and unprofessional
5 conduct; permittees; licensees

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

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

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

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

18 4. Using alcohol or other drugs to such a degree as to render the
19 permittee unfit to perform the permittee's employment duties.

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

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

26 7. Violating state or federal reporting or recordkeeping
27 requirements on transactions relating to precursor chemicals.

28 8. Failing to report in writing to the board **WITHIN FIFTEEN DAYS**
29 any evidence that a pharmacist or pharmacy intern is or may be
30 professionally incompetent, is or may be guilty of unprofessional conduct
31 or is or may be mentally or physically unable safely to engage in the
32 practice of pharmacy.

33 9. Failing to report in writing to the board **WITHIN FIFTEEN DAYS**
34 any evidence that a pharmacy technician or pharmacy technician trainee is
35 or may be professionally incompetent, is or may be guilty of
36 unprofessional conduct or is or may be mentally or physically unable
37 safely to engage in the permissible activities of a pharmacy technician or
38 pharmacy technician trainee.

39 10. Failing to report in writing to the board **WITHIN FIFTEEN DAYS**
40 any evidence that appears to show that a permittee or permittee's employee
41 is or may be guilty of unethical conduct, is or may be mentally or
42 physically unable safely to engage in employment duties related to
43 manufacturing, selling, distributing or dispensing drugs, devices,
44 poisons, hazardous substances, controlled substances or precursor

1 chemicals or is or may be violating this chapter or a rule adopted under
2 this chapter.

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

8 12. Having the permittee's permit to manufacture, sell, distribute
9 or dispense drugs, devices, poisons, hazardous substances or precursor
10 chemicals denied or disciplined in another jurisdiction. **THE PERMITTEE**
11 **SHALL NOTIFY THE BOARD IN WRITING WITHIN FIFTEEN DAYS AFTER THE OTHER**
12 **JURISDICTION'S ACTION ON THE PERMITTEE'S PERMIT.**

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

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

18 15. Wilfully making a false report or record that is required by
19 this chapter, that is required by federal or state laws pertaining to
20 drugs, devices, poisons, hazardous substances or precursor chemicals or
21 that is required to pay for drugs, devices, poisons or hazardous
22 substances or precursor chemicals or for services pertaining to such drugs
23 or substances.

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

26 17. 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 18. Violating or attempting to violate, directly or indirectly, or
30 assisting in or abetting the violation of, or conspiring to violate, this
31 chapter.

32 19. 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 20. 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 21. Failing to provide the board or its employees or agents or an
39 authorized federal or state official conducting a site investigation,
40 inspection or audit with access to any place for which a permit has been
41 issued or for which an application for a permit has been submitted.

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

1 23. Failing to ~~promptly~~ produce, WITHIN FIFTEEN DAYS, on the
2 request of the official conducting ~~a site~~ AN investigation, ~~inspection~~ or
3 audit any ~~book, record or document~~ BOOKS, RECORDS OR DOCUMENTS AND, IF
4 AVAILABLE, AUDIO OR VISUAL RECORDINGS.

5 24. Overruling or attempting to overrule a pharmacist in matters of
6 pharmacy ethics or interpreting laws pertaining to the practice of
7 pharmacy or the distribution of drugs or devices.

8 25. Distributing premiums or rebates of any kind in connection with
9 the sale of prescription medication, other than to the prescription
10 medication recipient.

11 26. Failing to maintain effective controls against the diversion of
12 controlled substances or precursor chemicals to unauthorized persons or
13 entities.

14 27. Fraudulently claiming to have performed a service.

15 28. Fraudulently charging a fee for a service.

16 29. Advertising drugs or devices, or services pertaining to drugs
17 or devices, in a manner that is untrue or misleading in any particular,
18 and that is known, or that by the exercise of reasonable care should be
19 known, to be untrue or misleading.

20 30. FAILING TO ROUTINELY OPERATE ACCORDING TO THE PERMITTEE'S HOURS
21 OF OPERATION AS SUBMITTED TO THE BOARD BY CLOSING FOR FIVE CONSECUTIVE
22 DAYS OR MORE. THIS PARAGRAPH DOES NOT APPLY IF THE PERMITTEE NOTIFIES THE
23 BOARD WITHIN FORTY-EIGHT HOURS AFTER AN UNEXPECTED CLOSURE OF FIVE DAYS OR
24 MORE.

25 31. FAILING TO REPORT AN UNEXPECTED SERIOUS ADVERSE DRUG EVENT FROM
26 A COMPOUNDED PRESCRIPTION THAT RESULTED IN A PATIENT BEING HOSPITALIZED OR
27 THAT RESULTED IN DEATH AND THAT IS FROM A 503A PHARMACY OR 503B
28 OUTSOURCING FACILITY AS DEFINED BY THE FEDERAL FOOD, DRUG, AND COSMETIC
29 ACT. A SERIOUS ADVERSE DRUG EVENT IS NOT, IN AND OF ITSELF, A
30 DISCIPLINARY OFFENSE OR UNETHICAL CONDUCT UNLESS THE COMPOUNDED
31 PRESCRIPTION WAS MISBRANDED OR ADULTERATED.

32 B. In this chapter, unless the context otherwise requires, for the
33 purposes of disciplining a pharmacist or pharmacy intern, "unprofessional
34 conduct" means the following, whether occurring in this state or
35 elsewhere:

36 1. Using alcohol or other drugs to such a degree as to render the
37 licensee unfit to practice the profession of pharmacy.

38 2. Violating any federal or state law, rule or regulation relating
39 to the manufacture or distribution of drugs and devices or the practice of
40 pharmacy.

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

- 1 4. Obtaining or attempting to obtain a license to practice pharmacy
2 or a license renewal by fraud, by misrepresentation or by knowingly taking
3 advantage of the mistake of another person or an agency.
- 4 5. Having the licensee's license to practice pharmacy denied or
5 disciplined in another jurisdiction. **THE LICENSEE SHALL NOTIFY THE BOARD**
6 **IN WRITING WITHIN FIFTEEN DAYS AFTER THE OTHER JURISDICTION'S ACTION ON**
7 **THE LICENSEE'S LICENSE.**
- 8 6. Claiming professional superiority in compounding or dispensing
9 prescription orders.
- 10 7. Failing to comply with the mandatory continuing professional
11 pharmacy education requirements of sections 32-1936 and 32-1937 and rules
12 adopted by the board.
- 13 8. Committing a felony, whether or not involving moral turpitude,
14 or a misdemeanor involving moral turpitude or any drug-related offense. In
15 either case, conviction by a court of competent jurisdiction or a plea of
16 no contest is conclusive evidence of the commission.
- 17 9. Working under the influence of alcohol or other drugs.
- 18 10. Violating a federal or state law or administrative rule
19 relating to marijuana, prescription-only drugs, narcotics, dangerous
20 drugs, controlled substances or precursor chemicals when determined by the
21 board or by conviction in a federal or state court.
- 22 11. Knowingly dispensing a drug without a valid prescription order
23 as required pursuant to section 32-1968, subsection A.
- 24 12. Knowingly dispensing a drug on a prescription order that was
25 issued in the course of the conduct of business of dispensing drugs
26 pursuant to diagnosis by mail or the internet, unless the order was any of
27 the following:
 - 28 (a) Made by a physician who provides temporary patient supervision
29 on behalf of the patient's regular treating licensed health care
30 professional or provides a consultation requested by the patient's regular
31 treating licensed health care professional.
 - 32 (b) Made in an emergency medical situation as defined in section
33 41-1831.
 - 34 (c) Written to prepare a patient for a medical examination.
 - 35 (d) Written or the prescription medications were issued for use by
36 a county or tribal public health department for immunization programs or
37 emergency treatment or in response to an infectious disease investigation,
38 a public health emergency, an infectious disease outbreak or an act of
39 bioterrorism. For the purposes of this subdivision, "bioterrorism" has
40 the same meaning prescribed in section 36-781.
 - 41 (e) Written or antimicrobials were dispensed by the prescribing or
42 dispensing physician to a contact as defined in section 36-661 who is
43 believed to have had significant exposure risk as defined in section
44 36-661 with another person who has been diagnosed with a communicable
45 disease as defined in section 36-661.

1 (f) Written or the prescription medications were issued for
2 administering immunizations or vaccines listed in the United States
3 centers for disease control and prevention's recommended immunization
4 schedule to a household member of a patient.

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

9 (h) Written by a licensee through a telehealth program that is
10 covered by the policies and procedures adopted by the administrator of a
11 hospital or outpatient treatment center.

12 (i) Written pursuant to a physical or mental health status
13 examination that was conducted through telehealth as defined in section
14 36-3601 and consistent with federal law.

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

18 13. Failing to report in writing to the board **WITHIN FIFTEEN DAYS**
19 any evidence that a pharmacist or pharmacy intern is or may be
20 professionally incompetent, is or may be guilty of unprofessional conduct
21 or is or may be mentally or physically unable to safely engage in the
22 practice of pharmacy.

23 14. Failing to report in writing to the board **WITHIN FIFTEEN DAYS**
24 any evidence that a pharmacy technician or pharmacy technician trainee is
25 or may be professionally incompetent, is or may be guilty of
26 unprofessional conduct or is or may be mentally or physically unable to
27 safely engage in the permissible activities of a pharmacy technician or
28 pharmacy technician trainee.

29 15. Failing to report in writing to the board **WITHIN FIFTEEN DAYS**
30 any evidence that a permittee or a permittee's employee is or may be
31 guilty of unethical conduct or is or may be violating this chapter or a
32 rule adopted under this chapter.

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

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

37 18. Providing false or misleading information or omitting material
38 information in any communication to the board or the board's employees or
39 agents.

40 19. Violating or attempting to violate, directly or indirectly, or
41 assisting in or abetting in the violation of, or conspiring to violate,
42 this chapter.

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

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

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

7 23. Participating in an arrangement or agreement to allow a
8 prescription order or a prescription medication to be left at, picked up
9 from, accepted by or delivered to a place that is not licensed as a
10 pharmacy. This paragraph does not prohibit a pharmacist or a pharmacy
11 from using an employee or a common carrier to pick up prescription orders
12 at or deliver prescription medications to the office or home of a medical
13 practitioner, the residence of a patient or a patient's hospital.

14 24. Paying rebates or entering into an agreement for paying rebates
15 to a medical practitioner or any other person in the health care field.

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

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

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

21 28. Failing to report **TO THE BOARD WITHIN FIFTEEN DAYS** a change of
22 the licensee's home address, contact information, employer or employer's
23 address as required by section 32-1926.

24 29. Failing to report **TO THE BOARD WITHIN FIFTEEN DAYS** a change in
25 the licensee's residency status as required by section 32-1926.01.

26 30. Failing to maintain effective controls against the diversion of
27 controlled substances or precursor chemicals to unauthorized persons or
28 entities.

29 **31. FAILING TO PRODUCE, WITHIN FIFTEEN DAYS, ON THE REQUEST OF THE**
30 **OFFICIAL CONDUCTING AN INVESTIGATION PURSUANT TO A COMPLAINT ANY BOOKS,**
31 **RECORDS, DOCUMENTS OR STATEMENTS AND, IF AVAILABLE, AUDIO OR VISUAL**
32 **RECORDINGS.**

33 C. In this chapter, unless the context otherwise requires, for the
34 purposes of disciplining a pharmacy technician or pharmacy technician
35 trainee, "unprofessional conduct" means the following, whether occurring
36 in this state or elsewhere:

37 1. Using alcohol or other drugs to such a degree as to render the
38 licensee unfit to perform the licensee's employment duties.

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

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

- 1 4. Having the licensee's license to practice as a pharmacy
2 technician denied or disciplined in another jurisdiction.
- 3 5. Failing to comply with the mandatory continuing professional
4 education requirements of section 32-1925, subsection H and rules adopted
5 by the board.
- 6 6. Committing a felony, whether or not involving moral turpitude,
7 or a misdemeanor involving moral turpitude or any drug-related offense. In
8 either case, conviction by a court of competent jurisdiction or a plea of
9 no contest is conclusive evidence of the commission.
- 10 7. Working under the influence of alcohol or other drugs.
- 11 8. Violating a federal or state law or administrative rule relating
12 to marijuana, prescription-only drugs, narcotics, dangerous drugs,
13 controlled substances or precursor chemicals when determined by the board
14 or by conviction in a federal or state court.
- 15 9. Failing to report in writing to the board **WITHIN FIFTEEN DAYS**
16 any evidence that a pharmacist or pharmacy intern is or may be
17 professionally incompetent, is or may be guilty of unprofessional conduct
18 or is or may be mentally or physically unable to safely engage in the
19 practice of pharmacy.
- 20 10. Failing to report in writing to the board **WITHIN FIFTEEN DAYS**
21 any evidence that a pharmacy technician or pharmacy technician trainee is
22 or may be professionally incompetent, is or may be guilty of
23 unprofessional conduct or is or may be mentally or physically unable to
24 safely engage in the permissible activities of a pharmacy technician or
25 pharmacy technician trainee.
- 26 11. Failing to report in writing to the board **WITHIN FIFTEEN DAYS**
27 any evidence that a permittee or a permittee's employee is or may be
28 guilty of unethical conduct or is or may be violating this chapter or a
29 rule adopted under this chapter.
- 30 12. Committing an offense in another jurisdiction that if committed
31 in this state would be grounds for discipline.
- 32 13. Knowingly filing with the board any application, renewal or
33 other document that contains false or misleading information.
- 34 14. Providing false or misleading information or omitting material
35 information in any communication to the board or the board's employees or
36 agents.
- 37 15. Violating or attempting to violate, directly or indirectly, or
38 assisting in or abetting in the violation of, or conspiring to violate,
39 this chapter.
- 40 16. Violating a formal order, terms of probation, a consent
41 agreement or a stipulation issued or entered into by the board or its
42 executive director pursuant to this chapter.
- 43 17. Failing to comply with a board subpoena or failing to comply in
44 a timely manner with a board subpoena without providing any explanation to
45 the board for not complying with the subpoena.

1 18. Failing to report TO THE BOARD WITHIN FIFTEEN DAYS a change of
2 the licensee's home address, contact information, employer or employer's
3 address as required by section 32-1926.

4 19. Failing to report TO THE BOARD WITHIN FIFTEEN DAYS a change in
5 the licensee's residency status as required by section 32-1926.01.

6 20. FAILING TO PRODUCE, WITHIN FIFTEEN DAYS, ON THE REQUEST OF THE
7 OFFICIAL CONDUCTING AN INVESTIGATION ANY BOOKS, RECORDS, DOCUMENTS OR
8 STATEMENTS AND, IF AVAILABLE, AUDIO OR VISUAL RECORDINGS.

9 Sec. 2. Section 32-1904, Arizona Revised Statutes, is amended to
10 read:

11 32-1904. Powers and duties of board; immunity

12 A. The board shall:

13 1. Make bylaws and adopt rules that are necessary to protect the
14 public and that pertain to the practice of pharmacy, the manufacturing,
15 wholesaling or supplying of drugs, devices, poisons or hazardous
16 substances, the use of pharmacy technicians and support personnel and the
17 lawful performance of its duties.

18 2. Fix standards and requirements to register and reregister
19 pharmacies, except as otherwise specified.

20 3. Investigate compliance as to the quality, label and labeling of
21 all drugs, devices, poisons or hazardous substances and take action
22 necessary to prevent the sale of these if they do not conform to the
23 standards prescribed in this chapter, the official compendium or the
24 federal act.

25 4. Enforce its rules. In so doing, the board or its agents have
26 free access, during the hours reported with the board or the posted hours
27 at the facility, to any pharmacy, manufacturer, wholesaler, third-party
28 logistics provider, nonprescription drug permittee or other establishment
29 in which drugs, devices, poisons or hazardous substances are manufactured,
30 processed, packed or held, or to enter any vehicle being used to transport
31 or hold such drugs, devices, poisons or hazardous substances for the
32 purpose of:

33 (a) Inspecting the establishment or vehicle to determine whether
34 any provisions of this chapter or the federal act are being violated.

35 (b) Securing samples or specimens of any drug, device, poison or
36 hazardous substance after paying or offering to pay for the sample.

37 (c) Detaining or embargoing a drug, device, poison or hazardous
38 substance in accordance with section 32-1994.

39 5. Examine and license as pharmacists and pharmacy interns all
40 qualified applicants as provided by this chapter.

41 6. Require each applicant for an initial license to apply for a
42 fingerprint clearance card pursuant to section 41-1758.03. If an
43 applicant is issued a valid fingerprint clearance card, the applicant
44 shall submit the valid fingerprint clearance card to the board with the
45 completed application. If an applicant applies for a fingerprint

1 clearance card and is denied, the applicant may request that the board
2 consider the application for licensure notwithstanding the absence of a
3 valid fingerprint clearance card. The board, in its discretion, may
4 approve an application for licensure despite the denial of a valid
5 fingerprint clearance card if the board determines that the applicant's
6 criminal history information on which the denial was based does not alone
7 disqualify the applicant from licensure.

8 7. Issue duplicates of lost or destroyed permits on the payment of
9 a fee as prescribed by the board.

10 8. Adopt rules to rehabilitate pharmacists and pharmacy interns as
11 provided by this chapter.

12 9. At least once every three months, notify pharmacies regulated
13 pursuant to this chapter of any modifications on prescription writing
14 privileges of podiatrists, dentists, doctors of medicine, registered nurse
15 practitioners, osteopathic physicians, veterinarians, physician
16 assistants, optometrists and homeopathic physicians of which it receives
17 notification from the state board of podiatry examiners, state board of
18 dental examiners, Arizona medical board, Arizona state board of nursing,
19 Arizona board of osteopathic examiners in medicine and surgery, Arizona
20 state veterinary medical examining board, Arizona regulatory board of
21 physician assistants, state board of optometry or board of homeopathic and
22 integrated medicine examiners.

23 10. Charge a permittee a fee, as determined by the board, for an
24 inspection if the permittee requests the inspection.

25 11. Issue only one active or open license per individual.

26 12. Allow a licensee to regress to a lower level license on written
27 explanation and review by the board for discussion, determination and
28 possible action.

29 13. Open an investigation only if the identifying information
30 regarding a complainant is provided or the information provided is
31 sufficient to conduct an investigation.

32 14. Provide notice to an applicant, licensee or permittee using
33 only the information provided to the board through the board's licensing
34 database.

35 B. The board may:

36 1. Employ chemists, compliance officers, clerical help and other
37 employees subject to title 41, chapter 4, article 4 and provide laboratory
38 facilities for the proper conduct of its business.

39 2. Provide, by educating and informing the licensees and the
40 public, assistance in curtailing abuse in the use of drugs, devices,
41 poisons and hazardous substances.

42 3. Approve or reject the manner of storage and security of drugs,
43 devices, poisons and hazardous substances.

1 4. Accept monies and services to assist in enforcing this chapter
2 from other than licensees:

3 (a) For performing inspections and other board functions.

4 (b) For the cost of copies of the pharmacy and controlled
5 substances laws, the annual report of the board and other information from
6 the board.

7 5. Adopt rules for professional conduct appropriate to the
8 establishment and maintenance of a high standard of integrity and dignity
9 in the profession of pharmacy.

10 6. Grant permission to deviate from a state requirement for
11 modernization of pharmacy practice, experimentation or technological
12 advances.

13 7. Adopt rules for the training and practice of pharmacy interns,
14 pharmacy technicians and support personnel.

15 8. Investigate alleged violations of this chapter, conduct hearings
16 in respect to violations, subpoena witnesses and take such action as it
17 deems necessary to revoke or suspend a license or a permit, place a
18 licensee or permittee on probation or warn a licensee or permittee under
19 this chapter or to bring notice of violations to the county attorney of
20 the county in which a violation took place or to the attorney general.

21 9. By rule, approve colleges or schools of pharmacy.

22 10. By rule, approve programs of practical experience, clinical
23 programs, internship training programs, programs of remedial academic work
24 and preliminary equivalency examinations as provided by this chapter.

25 11. Assist in the continuing education of pharmacists and pharmacy
26 interns.

27 12. Issue inactive status licenses as provided by this chapter.

28 13. Accept monies and services from the federal government or
29 others for educational, research or other purposes pertaining to the
30 enforcement of this chapter.

31 14. By rule, except from the application of all or any part of this
32 chapter any material, compound, mixture or preparation containing any
33 stimulant or depressant substance included in section 13-3401, paragraph
34 6, subdivision (c) or (d) from the definition of dangerous drug if the
35 material, compound, mixture or preparation contains one or more active
36 medicinal ingredients not having a stimulant or depressant effect on the
37 central nervous system, provided that such admixtures are included in such
38 combinations, quantity, proportion or concentration as to vitiate the
39 potential for abuse of the substances that do have a stimulant or
40 depressant effect on the central nervous system.

41 15. Adopt rules for the revocation, suspension or reinstatement of
42 licenses or permits or the probation of licensees or permittees as
43 provided by this chapter.

1 16. Issue a certificate of free sale to any person that is licensed
2 by the board as a manufacturer for the purpose of manufacturing or
3 distributing food supplements or dietary supplements as defined in rule by
4 the board and that wants to sell food supplements or dietary supplements
5 domestically or internationally. ~~The application shall contain all of the~~
6 ~~following:~~

7 ~~(a) The applicant's name, address, email address, telephone and fax~~
8 ~~number.~~

9 ~~(b) The product's full, common or usual name.~~

10 ~~(c) A copy of the label for each product listed. If the product is~~
11 ~~to be exported in bulk and a label is not available, the applicant shall~~
12 ~~include a certificate of composition.~~

13 ~~(d) The country of export, if applicable.~~

14 ~~(e) The number of certificates of free sale requested~~ THE APPLICANT
15 SHALL SUBMIT AN APPLICATION APPROVED BY THE BOARD.

16 17. Establish an inspection process to issue certificates of free
17 sale or good manufacturing practice certifications. The board shall
18 establish in rule:

19 (a) A fee to issue certificates of free sale.

20 (b) A fee to issue good manufacturing practice certifications.

21 ~~(c) An annual inspection fee.~~

22 18. Delegate to the executive director the authority to:

23 (a) If the president or vice president of the board concurs after
24 reviewing the case, enter into an interim consent agreement with a
25 licensee or permittee if there is evidence that a restriction against the
26 license or permit is needed to mitigate danger to the public health and
27 safety. The board may subsequently formally adopt the interim consent
28 agreement with any modifications the board deems necessary.

29 (b) Take no action or dismiss a complaint that has insufficient
30 evidence that a violation of statute or rule governing the practice of
31 pharmacy occurred.

32 (c) Request an applicant or licensee to provide court documents and
33 police reports if the applicant or licensee has been charged with or
34 convicted of a criminal offense. The executive director may do either of
35 the following if the applicant or licensee fails to provide the requested
36 documents to the board within thirty business days after the request:

37 (i) Close the application, deem the application fee forfeited and
38 not consider a new application complete unless the requested documents are
39 submitted with the application.

40 (ii) Notify the licensee of an opportunity for a hearing in
41 accordance with section 41-1061 to consider suspension of the licensee.

42 (d) Pursuant to section 36-2604, subsection B, review prescription
43 information collected pursuant to title 36, chapter 28, article 1.

- 1 (e) ISSUE A SUBPOENA TO DO EITHER OF THE FOLLOWING:
- 2 (i) SOLICIT A RESPONSE EITHER FOR INFORMATION PERTAINING TO A
- 3 COMPLAINT OR INVESTIGATION OR TO A CONSENT AGREEMENT ISSUED BY THE BOARD.
- 4 (ii) REQUIRE A PERSONAL APPEARANCE BEFORE THE BOARD.
- 5 (f) ENTER INTO AGREEMENTS OR MEMORANDA OF UNDERSTANDING BETWEEN A
- 6 STATE OR FEDERAL REGULATORY AGENCY.

7 C. At each regularly scheduled board meeting, the executive
8 director shall provide to the board a list of the executive director's
9 actions taken pursuant to subsection B, paragraph 18, subdivisions ~~(a)~~,
10 (b) AND (c) ~~and (d)~~ of this section since the last board meeting.

11 D. The board may issue nondisciplinary civil penalties or delegate
12 to the executive director the authority to issue nondisciplinary civil
13 penalties. The nondisciplinary civil penalties shall be prescribed by the
14 board in rule and issued using a board-approved form. If a licensee or
15 permittee fails to pay a nondisciplinary civil penalty that the board has
16 imposed on it, the board shall hold a hearing on the matter. In addition
17 to any other nondisciplinary civil penalty adopted by the board, either of
18 the following acts or omissions that is not an imminent threat to the
19 public health and safety is subject to a nondisciplinary civil penalty:

- 20 1. An occurrence of either of the following:
 - 21 (a) Failing to submit a remodel application before remodeling a
 - 22 permitted facility.
 - 23 (b) Failing to notify the board of the relocation of a business.
- 24 2. The occurrence of any of the following violations or any of the
- 25 violations adopted by the board in rule, with three or more violations
- 26 being presented to the board as a complaint:
 - 27 (a) The licensee or permittee fails to update the licensee's or
 - 28 permittee's online profile within ten days after a change in contact
 - 29 information, address, telephone number or email address.
 - 30 (b) The licensee fails to update the licensee's online profile
 - 31 within ten days after a change in employment.
 - 32 (c) The licensee fails to complete the required continuing
 - 33 education for a license renewal.
 - 34 (d) The licensee fails to update the licensee's online profile to
 - 35 reflect a new pharmacist in charge within fourteen days after the position
 - 36 change.
 - 37 (e) The permittee fails to update the permittee's online profile to
 - 38 reflect a new designated representative within ten days after the position
 - 39 change.
 - 40 (f) The licensee or permittee fails to notify the board of a new
 - 41 criminal charge, arrest or conviction against the licensee or permittee in
 - 42 this state or any other jurisdiction.
 - 43 (g) The licensee or permittee fails to notify the board of a
 - 44 disciplinary action taken against the licensee or permittee by another
 - 45 regulating agency in this state or any other jurisdiction.

1 (h) ~~THE~~ licensee or permittee fails to renew a license or permit
2 within sixty days after the license or permit expires. If more than sixty
3 days have lapsed after the expiration of a license or permit, the licensee
4 or permittee shall appear before the board.

5 (i) A new pharmacist in charge fails to conduct a controlled
6 substance inventory within ten days after starting the position.

7 (j) A person fails to obtain a permit before shipping into this
8 state anything that requires a permit pursuant to this chapter.

9 (k) Any other violations of statute or rule that the board or the
10 board's designee deems appropriate for a nondisciplinary civil penalty.

11 E. The board shall develop substantive policy statements pursuant
12 to section 41-1091 for each specific licensing and regulatory authority
13 the board delegates to the executive director.

14 F. The executive director and other personnel or agents of the
15 board are not subject to civil liability for any act done or proceeding
16 undertaken or performed in good faith and in furtherance of the purposes
17 of this chapter.

18 Sec. 3. Section 32-1925, Arizona Revised Statutes, is amended to
19 read:

20 32-1925. Renewal of license of pharmacists, interns and
21 pharmacy technicians; fees; expiration dates;
22 penalty for failure to renew; continuing education

23 A. Except for interns and pharmacy technician trainees, the board
24 shall assign all persons who are licensed under this chapter to one of two
25 license renewal groups **AS PRESCRIBED BY THE BOARD IN RULE**. Except as
26 provided in section 32-4301, ~~a holder of a license certificate designated~~
27 ~~in the licensing database as even by way of verbiage or numerical value~~
28 ~~shall renew it biennially on or before November 1 of the even-numbered~~
29 ~~year, two years after the last renewal date. Except as provided in~~
30 ~~section 32-4301, a holder of a license certificate designated in the~~
31 ~~licensing database as odd by way of verbiage or numerical value shall~~
32 ~~renew it biennially on or before November 1 of the odd-numbered year, two~~
33 ~~years after the last renewal date.~~ failure to renew and pay all required
34 fees on or before November 1 of the year in which the renewal is due
35 suspends the license. The board shall vacate a suspension when the
36 licensee pays all past due fees and reinstatement penalties.
37 Reinstatement penalties shall not exceed \$350. The board may waive
38 collection of a fee or reinstatement penalty due after suspension under
39 conditions established by a majority of the board.

40 B. A person shall not apply for license renewal more than sixty
41 days before the expiration date of the license.

42 C. A person who is licensed as a pharmacist or a pharmacy
43 technician and who has not renewed the license for five consecutive years
44 shall furnish to the board satisfactory proof of fitness to be licensed as
45 a pharmacist or a pharmacy technician. A person whose license has lapsed

1 for two or more renewal cycles shall pay the fees for the two most recent
2 renewal cycles and the penalties before being reinstated.

3 D. Biennial renewal fees for licensure shall be not more than:

4 1. For a pharmacist, \$250.

5 2. For a pharmacy technician, \$100.

6 3. For a duplicate renewal license, \$25.

7 E. Fees that are designated to be not more than a maximum amount
8 shall be set by the board for the following two fiscal years beginning
9 November 1. The board shall establish fees approximately proportionate to
10 the maximum fee allowed to cover the board's anticipated expenditures for
11 the following two fiscal years. Variation in a fee is not effective
12 except at the expiration date of a license.

13 F. The board shall not renew a license for a pharmacist unless the
14 pharmacist has complied with the mandatory continuing professional
15 pharmacy education requirements of sections 32-1936 and 32-1937.

16 G. The board shall prescribe intern licensure renewal fees that do
17 not exceed \$75. The license of an intern who does not receive specific
18 board approval to renew the intern license or who receives board approval
19 to renew but who does not renew and pay all required fees before the
20 license expiration date is suspended after the license expiration
21 date. The board shall vacate a suspension if the licensee pays all past
22 due fees and penalties. Penalties shall not exceed \$350. The board may
23 waive collection of a fee or penalty due after suspension under conditions
24 established by the board.

25 H. The board shall not renew a license for a pharmacy technician
26 unless that person has a current board-approved license and has complied
27 with board-approved mandatory continuing professional education
28 requirements. If a pharmacy technician prepares, compounds or dispenses
29 prescription medications at a remote dispensing site pharmacy, the
30 pharmacy technician shall complete, in addition to any other
31 board-approved mandatory continuing professional education requirements, a
32 two-hour continuing education program on remote dispensing site pharmacy
33 practices provided by an approved provider.

34 Sec. 4. Section 32-1926, Arizona Revised Statutes, is amended to
35 read:

36 32-1926. Notice of change of information required

37 A. Except as prescribed in subsection B of this section, a
38 pharmacist, intern, pharmacy technician or pharmacy technician trainee,
39 within ~~ten~~ FIFTEEN days after a change in that person's employer,
40 employer's address, home address or contact information, shall
41 electronically update the person's online board profile or give written
42 notice to the board office staff of the new information.

43 B. Pursuant to board rule, a pharmacist designated as the
44 pharmacist in charge for a permit issued under this chapter shall give
45 immediate notice to the board office staff of the initiation and

1 termination of such responsibility. The pharmacist shall either
2 electronically update the pharmacist's online board profile or give
3 written notice to the board office staff of the new information.

4 Sec. 5. Section 32-1927, Arizona Revised Statutes, is amended to
5 read:

6 32-1927. Pharmacists; pharmacy interns; disciplinary action

7 A. A pharmacist or pharmacy intern is subject to disciplinary
8 action by the board for any of the following:

9 1. The board determines that the licensee has committed an act of
10 unprofessional conduct.

11 2. The licensee is found by psychiatric examination to be mentally
12 unfit to practice the profession of pharmacy.

13 3. The licensee is found to be physically or mentally incapacitated
14 to such a degree as to render the licensee unfit to practice the
15 profession of pharmacy.

16 4. The licensee is found to be professionally incompetent to such a
17 degree as to render the licensee unfit to practice the profession of
18 pharmacy.

19 5. The license was issued through error.

20 B. A pharmacist or pharmacy intern who after a formal hearing is
21 found by the board to be guilty of unprofessional conduct, to be mentally
22 or physically unable safely to engage in the practice of pharmacy or to be
23 professionally incompetent is subject to any one or combination of the
24 following:

25 1. A civil penalty of not ~~to exceed one thousand dollars~~ MORE THAN
26 \$1,000 for each violation of this chapter or a rule adopted under this
27 chapter.

28 2. A letter of reprimand.

29 3. A decree of censure.

30 4. Completion of board-designated continuing pharmaceutical
31 education courses.

32 5. Probation.

33 6. Suspension or revocation of the license.

34 C. The board may charge the costs of formal hearings to the
35 licensee whom it finds to be in violation of this chapter or a rule
36 adopted under this chapter.

37 D. The board on its own motion may investigate any evidence that
38 appears to show that a pharmacist or pharmacy intern is or may be
39 professionally incompetent, is or may be guilty of unprofessional conduct
40 or is or may be mentally or physically unable safely to engage in the
41 practice of pharmacy. Any person may, and a licensee or permittee of the
42 board must, report to the board any information that appears to show that
43 a pharmacist or pharmacy intern is or may be professionally incompetent,
44 is or may be guilty of unprofessional conduct or is or may be mentally or
45 physically unable safely to engage in the practice of pharmacy. The board

1 or the executive director shall notify the pharmacist or pharmacy intern
2 as to the content of the complaint as soon as reasonable. Any person or
3 entity that reports or provides information to the board in good faith is
4 not subject to an action for civil damages. It is an act of
5 unprofessional conduct for any pharmacist or pharmacy intern to fail to
6 report as required by this subsection.

7 E. The pharmacy permittee or pharmacist in charge of a pharmacy
8 located in this state must inform the board if a pharmacist or pharmacy
9 intern employed by the pharmacy is terminated because of actions by the
10 pharmacist or pharmacy intern that appear to show that the pharmacist or
11 pharmacy intern is or may be professionally incompetent, is or may be
12 guilty of unprofessional conduct or is or may be mentally or physically
13 unable safely to engage in the practice of pharmacy, along with a general
14 statement of the reasons that led the pharmacy to take the action. The
15 pharmacy permittee or pharmacist in charge of a pharmacy located in this
16 state must inform the board if a pharmacist or pharmacy intern under
17 investigation resigns or if a pharmacist or pharmacy intern resigns in
18 lieu of disciplinary action by the pharmacy. Notification must include a
19 general statement of the reasons for the resignation. A person who
20 reports information in good faith pursuant to this subsection is not
21 subject to civil liability.

22 F. The board or, if delegated by the board, the executive director
23 shall require any combination of mental, physical, psychological,
24 psychiatric or medical competency examinations or pharmacist licensure
25 examinations and conduct necessary investigations, including
26 investigational interviews between representatives of the board and the
27 pharmacist or pharmacy intern, to fully inform itself about any
28 information filed with the board under this section. These examinations
29 may also include biological fluid testing. The board may require the
30 pharmacist or pharmacy intern, at that person's expense, to undergo
31 assessment by a board-approved substance abuse treatment and
32 rehabilitation program.

33 G. If after completing its investigation the board finds that the
34 information provided pursuant to this section is not of sufficient
35 seriousness to merit disciplinary action against the license of the
36 pharmacist or pharmacy intern, the board may take any of the following
37 actions:

- 38 1. Dismiss if the complaint is without merit.
- 39 2. File an advisory letter. The licensee may file a written
40 response with the board within thirty days after receiving the advisory
41 letter.
- 42 3. Require the licensee to complete board-designated continuing
43 pharmaceutical education courses.

1 H. The board shall not disclose the name of the person who provides
2 information regarding a licensee's drug or alcohol impairment or the name
3 of the person who files a complaint if that person requests anonymity.

4 I. If after completing its investigation the board believes that
5 the information is or may be true, it may request a conference with the
6 pharmacist or pharmacy intern. If the pharmacist or pharmacy intern
7 refuses the invitation for a conference and the investigation indicates
8 that grounds may exist for revocation or suspension of a license,
9 probation, issuance of a decree of censure or a letter of reprimand or
10 imposition of a civil penalty, the board shall issue a formal notice that
11 a hearing be held pursuant to title 41, chapter 6, article 10.

12 J. If through information provided pursuant to this section or by
13 other means the board finds that the protection of the public health,
14 welfare and safety requires emergency action against the license of a
15 pharmacist or pharmacy intern, the board may restrict a license or order a
16 summary suspension of a license pending proceedings for revocation or
17 other action. If the board acts pursuant to this subsection, the board
18 shall also serve the licensee with a written notice of complaint and
19 formal hearing that sets forth the charges and licensee's right to a
20 formal hearing before the board or an administrative law judge on the
21 charges within sixty days pursuant to title 41, chapter 6, article 10.

22 K. If after completing the conference the board finds the
23 information provided pursuant to this section is not of sufficient
24 seriousness to merit revocation or suspension of a license, probation,
25 issuance of a decree of censure or a letter of reprimand or imposition of
26 a civil penalty, it may take the following actions:

27 1. Dismiss if the information is without merit.

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

31 3. Require the licensee to complete board-designated continuing
32 pharmaceutical education courses.

33 L. If during a conference the board finds that the information
34 provided pursuant to this section indicates that grounds may exist for
35 revocation or suspension of a license, probation, issuance of a decree of
36 censure or a letter of reprimand or imposition of a civil penalty, it may
37 take the following actions:

38 1. Dismiss if the information is without merit.

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

42 3. Require the licensee to complete board-designated continuing
43 pharmaceutical education courses.

1 4. Enter into an agreement with the licensee to discipline the
2 licensee, restrict the licensee's practice or professional activities or
3 rehabilitate, retrain or assess the licensee in order to protect the
4 public and ensure the licensee's ability to safely engage in the practice
5 of pharmacy. The agreement may include at least the following:

6 (a) Issuance of a letter of reprimand.

7 (b) Issuance of a decree of censure.

8 (c) Practice or professional restrictions, such as not acting as a
9 pharmacist in charge or pharmacy intern preceptor or working with another
10 pharmacist.

11 (d) Rehabilitative, retraining or assessment programs, including:

12 (i) Board-approved community service.

13 (ii) Successful completion of additional board-designated
14 continuing pharmaceutical education courses.

15 (iii) Successful passage of board-approved pharmacist licensure
16 examinations.

17 (iv) Successful completion of a board-approved substance abuse
18 treatment and rehabilitation program at the licensee's own expense.

19 (e) A civil penalty ~~OF not to exceed one thousand dollars~~ MORE THAN
20 \$1,000 for each violation of this chapter or a rule adopted under this
21 chapter.

22 (f) A period and terms of probation best adapted to protect the
23 public health and safety and rehabilitate or educate the licensee
24 concerned. Probation may include temporary suspension and any or all of
25 the disciplinary actions, practice or professional restrictions,
26 rehabilitative, retraining or assessment programs listed in this section
27 or any other program agreed to by the board and the licensee.

28 M. If the board finds that the information provided pursuant to
29 this section and additional information provided during the conference
30 warrants revocation or suspension of a license, probation, issuance of a
31 decree of censure or a letter of reprimand or imposition of a civil
32 penalty, it shall initiate formal proceedings pursuant to title 41,
33 chapter 6, article 10.

34 N. If the licensee wishes to be present at the formal hearing in
35 person or by representation, or both, the licensee must file with the
36 board an answer to the charges in the notice of hearing. The answer must
37 be in writing, be verified under oath and be filed within thirty days
38 after service of the notice of hearing. Failure to answer the board's
39 notice of hearing is deemed an admission of the charges in the notice of
40 hearing, **AT WHICH TIME THE BOARD MAY ADOPT THE FINDINGS OF FACT,
41 ALLEGATIONS AND CONCLUSIONS OF LAW AND TAKE DISCIPLINARY ACTION AUTHORIZED
42 BY THIS CHAPTER.**

43 O. An advisory letter is a nondisciplinary public document.

1 P. If the board during an investigation determines that a criminal
2 violation might have occurred, it shall disclose its investigative
3 evidence and information to the appropriate criminal justice agency for
4 its consideration.

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

8 R. The board may deny a license to an applicant for the grounds
9 prescribed in subsection A of this section.

10 S. A person who is licensed pursuant to this chapter or by any
11 other jurisdiction and who has a license revoked or suspended shall not
12 obtain a license as a pharmacy intern, pharmacy technician or pharmacy
13 technician trainee or work as a pharmacy intern, pharmacy technician or
14 pharmacy technician trainee without the approval of the board or its
15 designee.

16 Sec. 6. Section 32-1927.01, Arizona Revised Statutes, is amended to
17 read:

18 32-1927.01. Pharmacy technicians; pharmacy technician
19 trainees; disciplinary action

20 A. A pharmacy technician or pharmacy technician trainee is subject
21 to disciplinary action by the board for any of the following:

22 1. The board determines that the licensee has committed an act of
23 unprofessional conduct.

24 2. The licensee is found by psychiatric examination to be mentally
25 unfit to safely perform the licensee's employment duties.

26 3. The licensee is found to be physically or mentally incapacitated
27 to such a degree as to render the licensee unfit to safely perform the
28 licensee's employment duties.

29 4. The licensee is found to be professionally incompetent to such a
30 degree as to render the licensee unfit to safely perform the licensee's
31 employment duties.

32 5. The license was issued through error.

33 B. A pharmacy technician or pharmacy technician trainee who after a
34 formal hearing is found by the board to be guilty of unprofessional
35 conduct, to be mentally or physically unable safely to engage in the
36 practice of pharmacy or to be professionally incompetent is subject to any
37 one or combination of the following:

38 1. A civil penalty of not ~~to exceed one thousand dollars~~ MORE THAN
39 \$1,000 for each violation of this chapter or a rule adopted under this
40 chapter.

41 2. A letter of reprimand.

42 3. A decree of censure.

43 4. Completion of board designated continuing education courses.

1 5. Probation.

2 6. Suspension or revocation of the license.

3 C. The board may charge the costs of formal hearings to the
4 licensee whom it finds to be in violation of this chapter or a rule
5 adopted under this chapter.

6 D. The board on its own motion may investigate any evidence that
7 appears to show that a pharmacy technician or pharmacy technician trainee
8 is or may be professionally incompetent, is or may be guilty of
9 unprofessional conduct or is or may be mentally or physically unable
10 safely to engage in the permissible activities of a pharmacy technician or
11 pharmacy technician trainee. Any person may, and a licensee or permittee
12 of the board must, report to the board any information that appears to
13 show that a pharmacy technician or pharmacy technician trainee is or may
14 be professionally incompetent, is or may be guilty of unprofessional
15 conduct or is or may be mentally or physically unable safely to engage in
16 the permissible activities of a pharmacy technician or pharmacy technician
17 trainee. The board or the executive director shall notify the pharmacy
18 technician or pharmacy technician trainee as to the content of the
19 complaint as soon as reasonable. Any person or entity that reports or
20 provides information to the board in good faith is not subject to an
21 action for civil damages. It is an act of unprofessional conduct for any
22 pharmacy technician or pharmacy technician trainee to fail to report as
23 required by this subsection.

24 E. The pharmacy permittee or pharmacist in charge of a pharmacy
25 located in this state must inform the board if a pharmacy technician or
26 pharmacy technician trainee employed by the pharmacy is terminated because
27 of actions by that person that appear to show that the person is or may be
28 professionally incompetent, is or may be guilty of unprofessional conduct
29 or is or may be mentally or physically unable safely to engage in the
30 permissible activities of a pharmacy technician or pharmacy technician
31 trainee, along with a general statement of the reasons that led the
32 pharmacy to take the action. The pharmacy permittee or pharmacist in
33 charge of a pharmacy located in this state must inform the board if a
34 pharmacy technician or pharmacy technician trainee under investigation
35 resigns or if a pharmacy technician or pharmacy technician trainee resigns
36 in lieu of disciplinary action by the pharmacy. Notification must include
37 a general statement of the reasons for the resignation. A person who
38 reports information in good faith pursuant to this subsection is not
39 subject to civil liability.

40 F. The board or, if delegated by the board, the executive director
41 shall require any combination of mental, physical, psychological,
42 psychiatric or medical competency examinations or pharmacy technician
43 licensure examinations and conduct necessary investigations, including
44 investigational interviews between representatives of the board and the
45 pharmacy technician or pharmacy technician trainee, to fully inform itself

1 about any information filed with the board pursuant to this section.
2 These examinations may also include biological fluid testing. The board
3 may require the licensee, at that person's expense, to undergo assessment
4 by a board approved substance abuse treatment and rehabilitation program.

5 G. If after completing its investigation the board finds that the
6 information provided pursuant to this section is not of sufficient
7 seriousness to merit disciplinary action against the license of the
8 pharmacy technician or pharmacy technician trainee, the board may take any
9 of the following actions:

10 1. Dismiss if the complaint is without merit.

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

14 3. Require the licensee to complete board designated continuing
15 pharmaceutical education courses.

16 H. The board shall not disclose the name of the person who provides
17 information regarding a licensee's drug or alcohol impairment or the name
18 of the person who files a complaint if that person requests anonymity.

19 I. If after completing its investigation the board believes that
20 the information is or may be true, it may request a conference with the
21 licensee. If the licensee refuses the invitation for a conference and the
22 investigation indicates that grounds may exist for revocation or
23 suspension of a license, probation, issuance of a decree of censure or a
24 letter of reprimand or imposition of a civil penalty, the board shall
25 issue a formal notice that a hearing be held pursuant to title 41, chapter
26 6, article 10.

27 J. If through information provided pursuant to this section or by
28 other means the board finds that the protection of the public health,
29 welfare and safety requires emergency action against the license of a
30 pharmacy technician or pharmacy technician trainee, the board may restrict
31 a license or order a summary suspension of a license pending proceedings
32 for revocation or other action. If the board acts pursuant to this
33 subsection, the board shall also serve the licensee with a written notice
34 of complaint and formal hearing that sets forth the charges made against
35 the licensee and the licensee's right to a formal hearing before the board
36 or an administrative law judge on the charges within sixty days pursuant
37 to title 41, chapter 6, article 10.

38 K. If after completing the conference the board finds the
39 information provided pursuant to this section is not of sufficient
40 seriousness to merit revocation or suspension of a license, probation,
41 issuance of a decree of censure or a letter of reprimand or imposition of
42 a civil penalty, it may take the following actions:

43 1. Dismiss if the information is without merit.

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

4 3. Require the licensee to complete board designated continuing
5 pharmaceutical education courses.

6 L. If during a conference the board finds that the information
7 provided pursuant to this section indicates that grounds may exist for
8 revocation or suspension of a license, probation, issuance of a decree of
9 censure or a letter of reprimand or imposition of a civil penalty, it may
10 take the following actions:

11 1. Dismiss if the information is without merit.

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

15 3. Require the licensee to complete board designated continuing
16 pharmaceutical education courses.

17 4. Enter into an agreement with the licensee to discipline the
18 licensee, restrict the licensee's practice or professional activities or
19 rehabilitate, retrain or assess the licensee in order to protect the
20 public and ensure the licensee's ability to safely engage in the
21 permissible activities of a pharmacy technician or pharmacy technician
22 trainee. The agreement may include at least the following:

23 (a) Issuance of a letter of reprimand.

24 (b) Issuance of a decree of censure.

25 (c) Practice or professional restrictions, such as doing the
26 following only under pharmacist supervision:

27 (i) Entering prescription or patient data.

28 (ii) Initiating or accepting verbal refill authorization.

29 (iii) Counting, pouring, packaging or labeling prescription
30 medication.

31 (iv) Compounding, reconstituting, prepackaging or repackaging
32 drugs.

33 (d) Rehabilitative, retraining or assessment programs, including:

34 (i) Board approved community service.

35 (ii) Successful completion of additional board designated
36 continuing pharmaceutical education courses.

37 (iii) Successful passage of board approved pharmacist technician
38 licensure examinations.

39 (iv) Successful completion of a board approved substance abuse
40 treatment and rehabilitation program at the licensee's own expense.

41 (e) A civil penalty ~~OF not to exceed one thousand dollars~~ MORE THAN
42 \$1,000 for each violation of this chapter or a rule adopted under this
43 chapter.

1 (f) A period and terms of probation best adapted to protect the
2 public health and safety and rehabilitate or educate the licensee
3 concerned. Probation may include temporary suspension and any or all of
4 the disciplinary actions, practice or professional restrictions,
5 rehabilitative, retraining or assessment programs listed in this section
6 or any other program agreed to by the board and the licensee.

7 M. If the board finds that the information provided pursuant to
8 this section and additional information provided during the conference
9 warrants revocation or suspension of a license, probation, issuance of a
10 decree of censure or a letter of reprimand or imposition of a civil
11 penalty, it shall initiate formal proceedings pursuant to title 41,
12 chapter 6, article 10.

13 N. If the licensee wishes to be present at the formal hearing in
14 person or by representation, or both, the licensee must file with the
15 board an answer to the charges in the notice of hearing. The answer must
16 be in writing, be verified under oath and be filed within thirty days
17 after service of the notice of hearing. Failure to answer the board's
18 notice of hearing is deemed an admission of the charges in the notice of
19 hearing, **AT WHICH TIME THE BOARD MAY ADOPT THE FINDINGS OF FACT,
20 ALLEGATIONS AND CONCLUSIONS OF LAW AND TAKE DISCIPLINARY ACTION AUTHORIZED
21 BY THIS CHAPTER.**

22 O. An advisory letter is a nondisciplinary public document.

23 P. If the board during an investigation determines that a criminal
24 violation might have occurred, it shall disclose its investigative
25 evidence and information to the appropriate criminal justice agency for
26 its consideration.

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

30 R. The board may deny a license to an applicant for the grounds
31 prescribed in subsection A of this section.

32 S. A person licensed pursuant to this chapter or by any other
33 jurisdiction who has a license revoked or suspended shall not obtain a
34 license as a pharmacy technician or pharmacy technician trainee or work as
35 a pharmacy technician or pharmacy technician trainee without the approval
36 of the board or its designee.

37 Sec. 7. Section 32-1927.02, Arizona Revised Statutes, is amended to
38 read:

39 **32-1927.02. Permittees; disciplinary action**

40 A. The board may discipline a permittee if:

41 1. The board determines that the permittee or permittee's employee
42 is guilty of unethical conduct pursuant to section 32-1901.01,
43 subsection A.

1 2. Pursuant to a psychiatric examination, the permittee or the
2 permittee's employee is found to be mentally unfit to safely engage in
3 employment duties.

4 3. The board determines that the permittee or the permittee's
5 employee is physically or mentally incapacitated to such a degree as to
6 render the permittee or permittee's employee unfit to safely engage in
7 employment duties.

8 4. The permit was issued through error.

9 5. A permittee or permittee's employee allows a person who does not
10 possess a current license issued by the board to work as a pharmacist,
11 pharmacy intern, pharmacy technician or pharmacy technician trainee.

12 B. A permittee who after a formal hearing is found by the board to
13 be guilty of unethical conduct, to be mentally or physically unable safely
14 to engage in employment duties or to be in violation of this chapter or a
15 rule adopted under this chapter or whose employee after a formal hearing
16 is found by the board to be guilty of unethical conduct, to be mentally or
17 physically unable safely to engage in employment duties or to be in
18 violation of this chapter or a rule adopted under this chapter is subject
19 to any one or combination of the following:

20 1. A civil penalty ~~OF not to exceed one thousand dollars~~ MORE THAN
21 \$1,000 for each violation of this chapter or a rule adopted under this
22 chapter.

23 2. A letter of reprimand.

24 3. A decree of censure.

25 4. Completion of board-designated pharmacy law continuing education
26 courses.

27 5. Probation.

28 6. Suspension or revocation of the permit.

29 C. The board may charge the costs of formal hearings to the
30 permittee whom it finds to be in violation of this chapter or a rule
31 adopted under this chapter or whose employee it finds to be in violation
32 of this chapter or a rule adopted under this chapter.

33 D. The board on its own motion may investigate any evidence that
34 appears to show that a permittee or permittee's employee is or may be
35 guilty of unethical conduct, is or may be mentally or physically unable
36 safely to engage in employment duties or is or may be in violation of this
37 chapter or a rule adopted under this chapter. Any person may, and any
38 licensee or permittee must, report to the board any information that
39 appears to show that a permittee or permittee's employee is or may be
40 guilty of unethical conduct, is or may be mentally or physically unable
41 safely to engage in employment duties or is or may be in violation of this
42 chapter or a rule adopted under this chapter. The board or the executive
43 director shall notify the permittee as to the content of the complaint as
44 soon as reasonable. Any person or entity that reports or provides
45 information to the board in good faith is not subject to an action for

1 civil damages. It is an act of unethical conduct for any permittee to
2 fail to report as required by this subsection.

3 E. The board or, if delegated by the board, the executive director
4 shall require any combination of mental, physical, psychological,
5 psychiatric or medical competency examinations and conduct necessary
6 investigations, including investigational interviews between
7 representatives of the board and the permittee or permittee's employee, to
8 fully inform itself about any information filed with the board under
9 subsection D of this section. These examinations may also include
10 biological fluid testing. The board may require the permittee or
11 permittee's employee, at that person's expense, to undergo assessment by a
12 board-approved substance abuse treatment and rehabilitation program.

13 F. If after completing its investigation the board finds that the
14 information provided pursuant to subsection D of this section is not of
15 sufficient seriousness to merit disciplinary action against the permit,
16 the board may take any of the following actions:

17 1. Dismiss if the complaint is without merit.

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

21 3. Require the permittee to complete board-designated pharmacy law
22 continuing education courses.

23 G. The board shall not disclose the name of the person who provides
24 information regarding a permittee's or permittee's employee's drug or
25 alcohol impairment or the name of the person who files a complaint if that
26 person requests anonymity.

27 H. If after completing its investigation the board believes that
28 the information is or may be true, it may request a conference with the
29 permittee or permittee's employee. If the permittee or permittee's
30 employee refuses the invitation for a conference and the investigation
31 indicates that grounds may exist for revocation or suspension of a permit,
32 probation, issuance of a decree of censure or a letter of reprimand or
33 imposition of a civil penalty, the board shall issue a formal notice that
34 a hearing be held pursuant to title 41, chapter 6, article 10.

35 I. If through information provided pursuant to subsection D of this
36 section or by other means the board finds that the protection of the
37 public health, welfare and safety requires emergency action against the
38 permit, the board may restrict a permit or order a summary suspension of a
39 permit pending proceedings for revocation or other action. If the board
40 acts pursuant to this subsection, the board shall also serve the permittee
41 with a written notice of complaint and formal hearing that sets forth the
42 charges and the permittee's right to a formal hearing on the charges
43 before the board or an administrative law judge within sixty days pursuant
44 to title 41, chapter 6, article 10.

1 J. If after completing the conference the board finds the
2 information provided pursuant to subsection D of this section is not of
3 sufficient seriousness to merit revocation or suspension of a permit,
4 probation, issuance of a decree of censure or a letter of reprimand or
5 imposition of a civil penalty, it may take the following actions:

- 6 1. Dismiss if the information is without merit.
- 7 2. File an advisory letter. The permittee may file a written
8 response with the board within thirty days after receiving the advisory
9 letter.
- 10 3. Require the permittee to complete board-designated pharmacy law
11 continuing education courses.

12 K. If during a conference the board finds that the information
13 provided pursuant to subsection D of this section indicates that grounds
14 may exist for revocation or suspension of a permit, probation, issuance of
15 a decree of censure or a letter of reprimand or imposition of a civil
16 penalty, it may take the following actions:

- 17 1. Dismiss if the information is without merit.
- 18 2. File an advisory letter. The permittee may file a written
19 response with the board within thirty days after the permittee receives
20 the advisory letter.
- 21 3. Require the permittee to complete board-designated pharmacy law
22 continuing education courses.

23 4. Enter into an agreement with the permittee to discipline the
24 permittee, restrict the permittee's business activities or rehabilitate or
25 assess the permittee in order to protect the public and ensure the
26 permittee's ability to safely engage in employment duties. The agreement
27 may include, at a minimum, the following disciplinary actions, business
28 activity restrictions and rehabilitative or assessment programs:

- 29 (a) Issuance of a letter of reprimand.
- 30 (b) Issuance of a decree of censure.
- 31 (c) Business activity restrictions, including limitations on the
32 number, type, classification or schedule of drug, device, poison,
33 hazardous substance, controlled substance or precursor chemical that may
34 be manufactured, sold, distributed or dispensed.
- 35 (d) Successful completion of board-designated pharmacy law
36 continuing education courses.
- 37 (e) Rehabilitative or assessment programs, including board-approved
38 community service or successful completion of a board-approved substance
39 abuse treatment and rehabilitation program at the permittee's own expense.
- 40 (f) A civil penalty OF not ~~to exceed one thousand dollars~~ MORE THAN
41 \$1,000 for each violation of this chapter or a rule adopted under this
42 chapter.

1 (g) A period and terms of probation best adapted to protect the
2 public health and safety and rehabilitate or assess the permittee
3 concerned. Probation may include temporary suspension and any or all of
4 the disciplinary actions, business practice restrictions, rehabilitative
5 or assessment programs listed in this section or any other program agreed
6 to by the board and the permittee.

7 L. If the board finds that the information provided pursuant to
8 subsection D of this section and additional information provided during
9 the conference indicate that grounds may exist for revocation or
10 suspension of a permit, probation, issuance of a decree of censure or a
11 letter of reprimand or imposition of a civil penalty, it shall initiate
12 formal proceedings pursuant to title 41, chapter 6, article 10.

13 M. If the permittee wishes to be present at the formal hearing in
14 person or by representation, or both, the permittee must file with the
15 board an answer to the charges in the notice of hearing. The answer must
16 be in writing, be verified under oath and be filed within thirty days
17 after service of the notice of hearing. Failure to answer the board's
18 notice of hearing is deemed an admission of the charges in the notice of
19 hearing, **AT WHICH TIME THE BOARD MAY ADOPT THE FINDINGS OF FACT,
20 ALLEGATIONS AND CONCLUSIONS OF LAW AND TAKE DISCIPLINARY ACTION AUTHORIZED
21 BY THIS CHAPTER.**

22 N. If the board, during any investigation, determines that a
23 criminal violation might have occurred, it shall disclose its
24 investigative evidence and information to the appropriate criminal justice
25 agency for its consideration.

26 O. In determining the appropriate disciplinary action under this
27 section, the board shall consider all previous nondisciplinary and
28 disciplinary actions against a permittee.

29 P. The board may deny a permit to an applicant for the grounds
30 prescribed in subsection A of this section.

31 Q. If the board approves a permit and the business fails to become
32 operational within nine months after the date the permit is granted, the
33 permit is no longer valid. The board may grant a onetime extension for
34 the business to become operational.

35 Sec. 8. Section 32-1930, Arizona Revised Statutes, is amended to
36 read:

37 32-1930. Types of permits; permit restrictions and
38 requirements; discontinuance of pharmacy permit

39 A. On application, the board may issue the following classes or
40 kinds of permits:

41 1. If approved by the board, a pharmacy, limited service pharmacy,
42 automated prescription-dispensing kiosk, full service wholesale drug,
43 third-party logistics provider, nonprescription drug wholesale and drug
44 manufacturer's permit.

1 2. A drug packager or drug prepacker permit to an individual or
2 establishment that is currently listed by the United States food and drug
3 administration and has met the requirements of that agency to purchase,
4 repackage, relabel or otherwise alter the manufacturer's original package
5 of an approved drug product with the intent of reselling these items to
6 persons or businesses authorized to possess or resell the repackaged,
7 prepackaged or relabeled drug.

8 3. A durable medical equipment distributor and compressed medical
9 gas distributor permit and a durable medical equipment supplier and
10 compressed medical gas supplier permit.

11 B. The board shall deny or revoke a pharmacy permit if a medical
12 practitioner receives compensation, either directly or indirectly, from a
13 pharmacy as a result of the practitioner's prescription orders. This does
14 not include compensation to a medical practitioner who is the owner of a
15 building where space is leased to a pharmacy at the prevailing rate, not
16 resulting in a rebate to the medical practitioner.

17 C. If a pharmacy permanently discontinues operation, the permittee
18 shall immediately surrender the permit to the executive director. The
19 permittee shall remove all drug signs and symbols, either within or
20 without the premises, and shall remove or destroy all drugs, devices,
21 poisons and hazardous substances.

22 D. An automated prescription-dispensing kiosk may not contain or
23 dispense a controlled substance as defined in section 36-2501 and the
24 controlled substances act (P.L. 91-513; 84 Stat. 1242; 21 United States
25 Code section 802).

26 E. ALL PERMITS SHALL CONTAIN THE NAME OF THE BUSINESS THAT MATCHES
27 THE NAME ON THE PERMITTEE'S FACILITY, INVOICES AND PHARMACY PERMIT.

28 F. THE PERMITTEE'S HOURS OF OPERATION SHALL BE ENTERED IN THE
29 PERMITTEE'S ONLINE PROFILE AND UPDATED WITHIN FIFTEEN DAYS AFTER ANY
30 CHANGE IN THE PERMITTEE'S HOURS OF OPERATION.

31 Sec. 9. Section 32-1965, Arizona Revised Statutes, is amended to
32 read:

33 32-1965. Prohibited acts

34 COMMITTING OR CAUSING ANY OF the following acts ~~or the causing of~~
35 ~~any thereof~~, in addition to any ~~others so~~ OTHER ACT specified in this
36 chapter, ~~are~~ IS prohibited:

37 1. ~~The manufacture, sale~~ MANUFACTURING, SELLING, holding or
38 offering for sale ~~of~~ any drug, device, poison, or hazardous substance that
39 is adulterated or misbranded.

40 2. ~~The adulteration~~ ADULTERATING or misbranding ~~of~~ any drug, device,
41 poison, ~~or~~ or hazardous substance.

42 3. ~~The alteration, mutilation, destruction, obliteration,~~ ALTERING,
43 MUTILATING, DESTROYING, OBLITERATING or ~~removal of~~ REMOVING the whole or
44 any part of the labeling of, or ~~the~~ doing ~~of~~ any other act with respect
45 to, a drug, device, poison, ~~or~~ or hazardous substance, if such AN act is

1 done while ~~such~~ THE article is held for sale and results in ~~such~~ THE
2 article being adulterated or misbranded.

3 4. ~~The manufacture, sale~~ MANUFACTURING, SELLING, holding or
4 offering for sale ~~of~~ a counterfeit drug or forging, counterfeiting,
5 simulating, ~~or~~ falsely representing or without proper authority using any
6 mark, stamp, tag, label, ~~or~~ other identification device authorized or
7 required by rules adopted under ~~the provisions of~~ this chapter, ~~or~~ ~~of~~ the
8 federal act.

9 5. ~~The~~ Using, on the labeling of any drug or device, ~~or~~ in any
10 advertisement, ~~relating to~~ ~~such~~ A drug or device, ~~of~~ any representation
11 or suggestion that ~~such~~ THE drug or device complies with ~~the provisions of~~
12 this chapter.

13 6. In the case of a prescription-only drug or a controlled
14 substance that requires a prescription order by state or federal law, the
15 failure of the manufacturer, packer, ~~or~~ distributor to transmit, to any
16 medical practitioner who makes a written request for information about
17 such A drug, true and correct copies of all printed matter included in any
18 package in which that drug is distributed or other printed matter approved
19 under the federal act.

20 7. Engaging in the practice of pharmacy without first having a
21 current license in good standing issued by the board.

22 8. Making or offering to make a forged, counterfeit, altered or
23 photocopied prescription or drug order for the purpose of obtaining
24 prescription-only DRUGS or controlled ~~substance drugs~~ SUBSTANCES.

25 9. WHOLESALING OR DISTRIBUTING A PRESCRIPTION DRUG OR DEVICE, A
26 CONTROLLED SUBSTANCE, A NONPRESCRIPTION DRUG, MEDICAL GAS OR DURABLE
27 MEDICAL EQUIPMENT WITHOUT A VALID BOARD-ISSUED PERMIT.

28 10. IN THE CASE OF A MANUFACTURER, MANUFACTURING, POSSESSING OR
29 SHIPPING INTO THIS STATE A MANUFACTURED PRESCRIPTION DRUG OR DEVICE, A
30 CONTROLLED SUBSTANCE, A NONPRESCRIPTION DRUG, A PRECURSOR CHEMICAL OR ANY
31 OTHER REGULATED CHEMICAL WITHOUT A VALID BOARD-ISSUED PERMIT.

32 Sec. 10. Section 36-2608, Arizona Revised Statutes, is amended to
33 read:

34 36-2608. Reporting requirements; waiver; exceptions

35 A. If a medical practitioner OR A HEALTH CARE FACILITY dispenses
36 FOR OUTPATIENT USE a controlled substance listed in section 36-2513,
37 36-2514, 36-2515 or 36-2516 or the rules adopted pursuant to chapter 27,
38 article 2 of this title FOR A PATIENT IN THIS STATE, or if a ~~prescription~~
39 ~~for~~ PHARMACY DISPENSES a controlled substance listed in any of those
40 sections OR THE RULES ADOPTED PURSUANT TO CHAPTER 27, ARTICLE 2 OF THIS
41 TITLE or naloxone hydrochloride or any other opioid antagonist that is
42 approved by the United States food and drug administration ~~is dispensed by~~
43 ~~a pharmacy~~ FOR A PATIENT in this state, ~~a health care facility in this~~
44 ~~state for outpatient use or a board-permitted nonresident pharmacy for~~
45 ~~delivery to a person residing in this state,~~ the medical practitioner,

1 health care facility or pharmacy must report the following information as
2 applicable and as prescribed by the board by rule:

3 1. The name, address, telephone number, prescription number and
4 United States drug enforcement administration controlled substance
5 registration number of the dispenser.

6 2. The name, address and date of birth of the person for whom the
7 prescription is written.

8 3. The name, address, telephone number and United States drug
9 enforcement administration controlled substance registration number of the
10 prescribing medical practitioner.

11 4. The name, strength, quantity, dosage and national drug code
12 number of the ~~schedule II, III, IV or V controlled substance or naloxone~~
13 ~~hydrochloride or other opioid antagonist~~ dispensed **PRESCRIPTION**.

14 5. The date the prescription was dispensed.

15 6. The number of refills, if any, authorized by the medical
16 practitioner.

17 B. Except as provided in subsection D of this section, a dispenser
18 must use the latest version of the standard implementation guide for
19 prescription monitoring programs published by the American society for
20 automation in pharmacy to report the required information.

21 C. The board shall allow the reporter to transmit the required
22 information by electronic data transfer if feasible or, if not feasible,
23 on reporting forms as prescribed by the board. The reporter shall submit
24 the required information once each day.

25 D. A dispenser who does not have an automated recordkeeping system
26 capable of producing an electronic report in the established format may
27 request a waiver from electronic reporting by submitting a written request
28 to the board. The board shall grant the request if the dispenser agrees
29 in writing to report the data by submitting a completed universal claim
30 form as prescribed by the board by rule.

31 E. The board by rule may prescribe the prescription form to be used
32 in prescribing a schedule II, III, IV or V controlled substance if the
33 board determines that this would facilitate the reporting requirements of
34 this section.

35 F. The reporting requirements of this section do not apply to the
36 following:

37 1. A controlled substance that is administered directly to a
38 patient.

39 2. A controlled substance that is dispensed by a medical
40 practitioner at a health care facility licensed by this state if the
41 quantity dispensed is limited to an amount adequate to treat the patient
42 for a maximum of seventy-two hours with not more than two seventy-two-hour
43 cycles within any fifteen-day period.

44 3. A controlled substance sample.

1 4. The wholesale distribution of a schedule II, III, IV or V
2 controlled substance. For the purposes of this paragraph, "wholesale
3 distribution" has the same meaning prescribed in section 32-1981.

4 5. A facility that is registered by the United States drug
5 enforcement administration as a narcotic treatment program and that is
6 subject to the recordkeeping provisions of 21 Code of Federal Regulations
7 section 1304.24.

8 G. A pharmacist who dispenses naloxone hydrochloride or another
9 opioid antagonist to an individual pursuant to section 32-1979 shall
10 report the information listed in subsection A, paragraphs 1, 2, 3 and 5 of
11 this section and the name, strength, quantity, dosage and national drug
12 code number as prescribed by the board by rule pursuant to subsection A of
13 this section.

14 H. Naloxone hydrochloride or any other opioid antagonist shall not
15 be viewable in the patient utilization report.