

# Arizona State Board of Podiatry Examiners

## Statutes & Rules

4/2024



# ARIZONA REVISED STATUTES

## PODIATRY- Chapter 7 Article 1 - Board of Podiatry Examiners

### 32-801. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the state board of podiatry examiners.
2. "Electrical treatment" means using electricity in diagnosing or treating of an ailment of the foot or leg by electrodes, lights, rays, vibrators or a machine run by electricity.
3. "Leg" means that part of the lower limb between the knee and the foot.
4. "Letter of concern" means an advisory letter to notify a podiatrist that while there is insufficient evidence to support a disciplinary action the board believes the podiatrist should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the board may result in action against the podiatrist's license.
5. "License" means a license to practice podiatry.
6. "Manipulative treatment" means using the hand or machinery in treating the foot or leg.
7. "Mechanical treatment" means applying a mechanical appliance of whatever material to the foot or leg, or to the shoe or other footgear.
8. "Medical treatment" means recommending, prescribing or locally applying a therapeutic agent for relief of a foot or leg ailment.
9. "Podiatric Medical Assistant" means an unlicensed person who has completed an education program approved by the Board, who assists in a podiatric medical practice under the supervision of a podiatrist and who performs delegated procedures commensurate with the assistant's education and training but who does not diagnose, interpret, design or modify established treatment programs or perform any functions that would violate any statute applicable to the practice of podiatric medicine.
10. "Podiatrist" is synonymous with podiatric physician and surgeon and means a person who, within the limits of this chapter, is registered and licensed to practice podiatry by means of performing full body physical examinations within the profession's scope of practice and diagnosing or medically, surgically, mechanically, manipulatively or electrically treating ailments of the human foot and leg but not amputating the leg or entire foot or administering an anesthetic other than local.
11. "Podiatry" is synonymous with chiropody and means diagnosing or medically, surgically, mechanically, manipulatively or electrically treating ailments of the human foot and leg but not

amputating the leg or entire foot or administering an anesthetic other than local.

12. "Surgical treatment" means using a cutting instrument to treat an ailment of the foot or leg.

32-802. Board of podiatry examiners; compensation

A. The state board of podiatry examiners is established consisting of five members who are appointed by the governor. Each member shall be appointed for a term of five years, to begin and end on February 1.

B. Before appointment by the governor, a prospective member of the board shall submit a full set of fingerprints to the governor for the purpose of obtaining a state and federal criminal records check pursuant to section 41 – 1750 and Public Law 92 – 544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

C. Three members of the board shall have practiced podiatry continuously in this state for not less than two years immediately preceding appointment and shall have valid licenses to practice podiatry. Two members of the board shall be lay persons. All members of the board shall be citizens of the United States

D. A vacancy on the board occurring other than by the expiration of a term shall be filled by appointment by the governor for the unexpired term.

E. All appointments shall be made promptly, and in the case of the vacancy of a professional member or members, appointment shall be made no later than ninety days from the expiration of the term or vacancy.

F. The term of any member, at the discretion of the board, may end and the office be declared vacant for the member's failure to attend three consecutive meetings of the board.

G. Members of the board shall receive compensation of fifty dollars for each day of actual service in the business of the board.

H. Subject to title 41, chapter 4, article 4, the board may employ personnel, including trained investigators, as it deems necessary to carry out the purposes of this chapter.

I. Members, personnel and examiners of the board are personally immune from suit with respect to all acts done and actions taken in good faith and in furtherance of the purposes of this chapter.

32-803. Organization; meetings

A. The board shall annually elect from its membership a president and a secretary at the annual meeting which shall be held in January.

B. The board shall meet at least twice each year at such times and places as it determines. Special meetings may be called by the president or any three members.

#### 32-804. Rule making powers

The board may adopt rules and regulations consistent with and necessary to carry out the provisions of this chapter.

#### 32-805. Secretary of board; duties

A. The secretary of the board shall receive compensation as determined pursuant to section 38-611.

B. The secretary shall:

1. Receive and disburse monies of the board.
2. Keep minutes of board meetings.
3. Keep a record of licenses issued, refused, suspended and revoked, and of applications and licensure.
4. Perform other duties the board prescribes.

#### 32-806. Podiatry fund

A. At the end of each calendar month, the board shall deposit, pursuant to sections 35-146 and 35-147, the ten percent of all monies received by the board in the state general fund and the remaining ninety percent in the podiatry fund.

B. All monies deposited in the podiatry fund are subject to section 35-143.01.

## **Article 2 - Licensing**

#### 32-821. Persons not required to be licensed

This chapter shall not apply to:

1. Commissioned physicians and surgeons, osteopaths and podiatrists of a United States military branch of service, public health or veterans administration personnel in the actual performance of their official duties.
2. Licensed physicians and surgeons, osteopaths, chiropractors or naturopaths while lawfully practicing their professions.
3. A visiting podiatrist called into consultation from a state in which he is qualified to practice podiatry.
4. A manufacturer of or dealer in shoes or corrective appliances for prevention, correction or relief of foot ailments, if such manufacturer or dealer is not engaged in the practice of podiatry.

5. A student of an accredited podiatry school whose standards are recognized by the American podiatry association who is engaged, in an official hospital-based or office-based externship or clerkship training program approved by the podiatry school and the board, in the actual performance of the student's duties.

6. A graduate of an accredited podiatry school whose standards are recognized by the American podiatry association who is engaged, in an official hospital-based internship or residency training program approved by the American podiatry association, in the actual performance of such internship or residency duties.

### 32-822. Application for examination

A. An applicant for a podiatry license shall file with the state board of podiatry examiners an application this is accompanied by the required fee on a form prescribed and furnished by the board. The application shall contain evidence of the applicant's necessary qualifications as the board requires and shall be signed and sworn to by the applicant.

B. An applicant for a license pursuant to section 32-827 shall file with the board an application for a license pursuant to section 32-827 that is accompanied by the required fee on a form prescribed and furnished by the board. The application shall contain evidence of the applicant's necessary qualifications as the board requires and shall be signed and sworn to by the applicant.

C. Each application submitted pursuant to this section shall contain the oath of the applicant that:

1. All of the information contained in the application and accompanying evidence or other credentials submitted is true and correct.

2. The credentials submitted with the application were procured without fraud or misrepresentation or any mistake of which the applicant is aware and that the applicant is the lawful holder of the credentials.

3. The applicant has read and understands the board's statutes and rules.

D. All applications, completed or otherwise, together with all attendant evidence, credentials and other proof submitted with the applications are the property of the board.

E. The board shall inform an applicant, promptly and in writing, of any deficiency existing in the application for licensure under this article that prevents the application from being processed.

F. An applicant who disagrees with the board's denial of a license shall be granted a hearing on request before the board at its next regular meeting. At any hearing granted pursuant to this subsection, the burden of proof is on the applicant to demonstrate that the alleged deficiencies that are the basis of the denial do not exist.

### 32-823. Qualifications of applicant

A. An applicant shall prove to the board that the applicant:

1. Is a graduate of an accredited podiatry school whose standards are recognized by the American podiatry association.
2. Has the physical and mental capability to engage safely in the practice of podiatry.
3. Has a professional record that indicates that the applicant has not committed any act or engaged in any conduct that would constitute grounds for disciplinary action against a licensee under this chapter if the applicant has previously engaged in the practice of podiatry.
4. Has a professional record that indicates that the applicant has not had a license to practice podiatry refused, revoked, suspended or restricted in any way by any other state, federal jurisdiction or country for reasons that relate to the ability to competently and safely practice podiatry if the applicant has previously engaged in the practice of podiatry.
5. Has passed a national board written examination.

B. The board may require an applicant to submit such credentials or other evidence, written and oral, and may investigate as it deems necessary to adequately inform itself with respect to the applicant's ability to meet the requirements prescribed by this section, including a requirement that the applicant for licensure undergo a physical examination, a mental evaluation or an oral competence examination and interview, or any combination thereof, as the board deems proper.

C. Beginning September 1, 2022, an applicant for initial licensure, license renewal, license reinstatement or temporary licensure shall possess a valid fingerprint clearance card issued pursuant to Title 41, Chapter 12, Article 3.1.

### 32-826. Issuance of license

A. The board shall issue a license to practice podiatry to every person who pays the required fee and furnishes satisfactory proof of successfully completing a thirty-six month residency program.

B. Each license shall be signed by the president and secretary of the board and bear the seal of the board.

C. The board shall deny a license to an applicant who satisfies all of the licensing requirements of this article if that applicant does not submit the license issuance fee within twelve months after the date of application. An applicant who fails to submit the fee within this time shall reapply for licensure pursuant to this article.

### 32-827. Comity

The board may issue a license to an applicant if the applicant has been licensed to practice podiatry in another state or country from which the applicant applies if:

1. The requirements in the other state or country, at the date of registration or licensing, were substantially equal to those then in force in this state.
2. The applicant has lawfully practiced podiatry in the other state or country for at least five years within the seven years immediately preceding the application for a license in this state.
3. The applicant complies with all other requirements set forth in this chapter for a license.

### 32-829. Renewal or cancellation of license; change of address; continuing education

A. Except as provided in section 32-4301, a license to practice podiatry expires on June 30 of each year. To renew the license the licensee shall submit the renewal fee prescribed in section 32-830 and present evidence satisfactory to the board that in the year preceding the application for renewal the licensee attended at least twenty-five hours of board approved continuing education courses or programs. A licensee who does not renew a license on or before July 30 shall also pay a penalty fee as prescribed in section 32-830 for late renewal. The board shall cancel a license if the licensee does not renew it on or before August 31. A person who practices podiatry in this state after the person's license is cancelled is in violation of this chapter.

B. A person whose license is cancelled may reapply for a license to practice podiatry as provided in this chapter.

C. On written application the board may waive the requirement provided in subsection A of this section for those licensees who submit satisfactory proof that they were prevented from attending educational programs because of disability, military service or absence from the continental United States.

D. Each licensee shall promptly and in writing inform the board of the licensee's current office address and of each change in office address within thirty days.

E. If the board finds that an applicant for license renewal has not met the board's continuing education requirements, it may allow the licensee an additional sixty days to meet those requirements after which time the applicant is ineligible for license renewal.

### 32-830. Fees

A. The board shall establish and collect fees not to exceed:

1. For initial application for licensure, which includes the initial registration to dispense drugs and devices, \$1,000.
2. For application for a license pursuant to section 32-827 by a podiatrist from another state

or country, which includes the initial registration to dispense drugs and devices, \$500.00.

3. For issuing a license, \$500.00.
4. For annual renewal of a license, which includes the annual renewal of registration to dispense drugs and devices, \$500.00.
5. For certifying a licensed podiatrist to authorities of another state or country, \$50.00.
6. For late renewal of a license after July 30 through August 31, \$150.00.

B. The Board may establish and collect fees for the following:

1. Providing a duplicate wallet card.
2. Providing a duplicate wall certificate.
3. Copying records, documents, letters, minutes, applications, files and policy statements.
4. Providing a licensee list.
5. Providing audio files.

### **Article 3 - Regulation of Podiatrists**

#### 32-851. Practicing podiatry without license prohibited

It is unlawful for a person to practice podiatry, or to hold himself out to be or assume or attempt to act as a podiatrist, without a valid unrevoked license to practice podiatry.

#### 32-852. Revocation, suspension or refusal to issue license; civil penalty

A. The board, after notice and a hearing, may suspend, revoke or refuse to issue a license on proof against the applicant or licensee of any of the following:

1. That the applicant or licensee wilfully revealed a privileged communication except as required by law. This paragraph does not prevent members of the board from the full and free exchange of information with licensing and disciplinary boards of other states or jurisdictions of the United States, with foreign countries or with any podiatry society of this state or any other state, county, district, territory or country.
2. That the applicant or licensee knowingly made a false or fraudulent statement, written or oral, required for application or licensing or in connection with the practice of podiatry.
3. That the applicant or licensee had a professional association with or loaned the use of the applicant's or licensee's name to an unlicensed podiatrist or an illegal practitioner of any of the



healing arts.

4. That the licensee violated a provision of section 32-854.

5. That the applicant or licensee is guilty of other conduct that disqualifies the applicant or licensee to practice podiatry with regard to the safety and welfare of the public.

6. That the licensee is guilty of unprofessional conduct as defined in section 32-854.01.

B. The board may impose against a licensee determined by the board to be in violation of this section a civil penalty of not more than two thousand dollars. The board shall deposit, pursuant to sections 35-146 and 35-147, all monies it collects from civil penalties it imposes pursuant to this section in the state general fund.

32-852.01. Investigations; duty to report; unprofessional conduct hearing; decision of board; appeal

A. The board on its own motion may investigate any evidence that appears to show that a podiatrist is or may be guilty of a violation of section 32-852. Any podiatrist or the Arizona podiatry association shall, or any other person may, report to the board any information the podiatrist, association or person may have that appears to show that a podiatrist is or may be guilty of unprofessional conduct or is or may be guilty of practice without regard for the safety and welfare of the public. A podiatrist conducting a medical examination pursuant to section 23-1026 is not subject to a complaint of unprofessional conduct based on a disagreement with the findings and opinions expressed by the podiatrist as a result of the examination. Any podiatrist, association, health care institution or other person that reports or provides information to the board in good faith is not subject to civil liability and the name of the reporter shall not be disclosed unless the information is essential to the investigative proceedings conducted pursuant to this section. It is an act of unprofessional conduct for any podiatrist to fail to report as required by this subsection. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if the privileges of a podiatrist to practice in that health care institution are denied, revoked, suspended or limited because of actions by the podiatrist that appear to show that the podiatrist is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of podiatry, along with a general statement of the reasons, including patient chart numbers, that led the health care institution to take the action. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if a podiatrist under investigation resigns or if a podiatrist resigns in lieu of disciplinary action by the health care institution. Notification shall include a general statement of the reasons for the resignation, including patient chart numbers. The board shall inform all appropriate health care institutions in this state as defined in section 36-401 and the Arizona health care cost containment system administration of a resignation, denial, revocation, suspension or limitation, and the general reason for that action, without divulging the name of the reporting health care institution. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

B. Based on information received pursuant to subsection A of this section, the board may order

a summary suspension of a license pending formal proceedings for license revocation or other disciplinary action if the board finds that the protection of the public health or safety requires emergency action. The board shall serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days.

C. If the board finds after completing its investigation that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit direct action against the license of the podiatrist, it may take any of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.
2. File a letter of concern.
3. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

D. If the board finds after completing its investigation that the information is or may be true, the board may request an informal hearing with the licensee. If the licensee refuses the invitation or accepts the invitation and the results of the hearing indicate suspension or revocation of the license might be in order, the board shall issue a complaint and conduct a formal hearing pursuant to title 41, chapter 6, article 10. If the board finds at the informal hearing that the information provided under subsection A of this section is true but is not of sufficient seriousness to merit suspension or revocation of the license, it may take one or more of the following actions:

1. File a letter of concern.
2. Issue a decree of censure.
3. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate the licensee. If a licensee fails to comply with the terms of probation the board may file a complaint and hold a formal hearing pursuant to this section.
4. Impose a civil penalty of not more than two thousand dollars for each violation. The board shall deposit, pursuant to sections 35-146 and 35-147, all monies collected pursuant to this paragraph in the state general fund.
5. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

E. If the board believes that the charge is or may be true, the board shall serve on the licensee a summons and complaint that fully states the conduct or inability concerned and the time and place of the hearing. The board shall schedule the hearing not less than thirty days after the date of the summons and complaint.

F. The board may require that the licensee under investigation undergo any mental and physical examination and may conduct any investigation, including the taking of depositions, necessary to fully inform itself with respect to the complaint.

G. If the licensee wishes to be present at the hearing in person or by representation, or both, the licensee shall file with the board a written and verified answer to the charges within twenty days after service of the summons and complaint. A licensee who complies with this subsection may be present at the hearing with any witnesses of the licensee's choice.

H. The board may issue subpoenas for any witnesses, documents and other evidence it may need and for any witnesses, documents and other evidence the licensee may request. The superior court may hold a person who refuses to obey a subpoena in contempt of court.

I. Service of the summons and complaint shall be as provided for service of the summons and complaint in civil cases.

J. Service of subpoenas for witnesses shall be as provided by law for the service of subpoenas generally.

K. The board may administer the oath to all witnesses, shall keep a written transcript of all oral testimony submitted at the hearing and shall keep the original or a copy of all other evidence submitted. The board shall make copies of the transcript available to the licensee at that person's expense and without charge to the court in which the appeal may be taken. At all hearings the board may waive the technical rules of evidence.

L. A licensee who, after a hearing held pursuant to this section, is found to be guilty of a violation of section 32-852 or this section is subject to censure, probation as provided in this section, suspension of a license or revocation of a license, or any combination of these, for a period of time or permanently and under any conditions the board deems appropriate for the protection of the public health and safety and just in the circumstances. The board may file a letter of concern if it finds that the violation is not of sufficient seriousness to merit censure, probation or suspension or revocation of a license. The board may also issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

M. Patient records, including clinical records, medical reports, laboratory statements and reports, any file, film, other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or the patient's family might be identified or information received and records kept by the board as a result of the investigation procedure outlined in this chapter are not available to the public.

N. Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

O. This section and any other law relating to a privileged communication do not apply to investigations or proceedings conducted pursuant to this chapter. The board and its employees,

agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

P. If the board acts to modify any podiatrist's prescription writing privileges, it shall immediately notify the state board of pharmacy of the modification.

Q. A letter of concern is a public document and may be used in future disciplinary actions against a podiatrist.

### 32-853. Certain acts exempt from chapter

Nothing in this chapter shall prohibit the fitting, recommending, advertising, adjusting or sale of appliances, foot remedies or foot gear by retail dealers or manufacturers, provided that they shall not be made or fabricated by means of plaster casts or molds or by any other means for specific individual persons except on the prescription of a licensed podiatrist or physician.

### 32-854. Unauthorized practice

A license to practice podiatry shall not be issued to a corporation, partnership or association, but two or more licensed podiatrists may occupy and practice in the same office space.

#### 32-854.01. Unprofessional conduct

Unprofessional conduct includes the following conduct, whether it occurs in this state or elsewhere:

1. Requesting, listing, accepting or receiving any rebate or commission for prescribing or recommending any footwear, drug, medicine, or other article to the licensee's patients.
2. Prescribing, dispensing or pretending to use, in treating any patient, any secret remedial agent, or manifesting or promoting its use in any way, or guaranteeing or implying to guarantee any treatment, therapy or remedy.
3. Representing that a disease or infirmity can be permanently cured, or that any disease, ailment or infirmity can be cured by secret method, procedure, treatment, medicine or devices, if this is not true.
4. Practicing podiatry under a trade name, under the name of another podiatrist, under any other name than that which appears on the practitioner's license, or under any title that misrepresents the practice of podiatry.
5. Advertising in a false, deceptive or misleading manner or advertising the quality of podiatric service.
6. Employing a solicitor to obtain business.
7. Fee splitting under any guise whatsoever.

8. Failing to report as required in section 32-852.01, subsection A.
9. Failing to obtain written informed consent from a patient before the licensee performs any surgical procedure on the patient.
10. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction is conclusive evidence that the licensee committed the crime.
11. Failing or refusing to maintain adequate records on:
  - (a.) A patient who is eighteen years of age or older for at least six years.
  - (b.) A patient who is under eighteen years of age for the later of either:
    - (i) Three years after the patient's eighteenth birthday.
    - (ii) Six years after the last date the patient received medical or health care services from the licensee.
12. Failing or refusing to make a patient's records available to a physician or another podiatrist within twenty-one days after a request and the receipt of proper authorization.
13. Habitual intemperance in the use of alcohol or habitual substance abuse.
14. Using controlled substances or prescription-only drugs except if provided by a physician for use during a prescribed lawful course of treatment.
15. Prescribing controlled substances to members of the podiatrist's immediate family.
16. Providing any controlled substance or prescription-only drug for other than accepted therapeutic purposes.
17. Dispensing a schedule II controlled substance that is an opioid.
18. Committing gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient
19. Refusing to divulge to the board on demand the means, method, procedure, modality of treatment or medicine used in treating a disease, injury, ailment or infirmity.
20. Violating any federal or state law applicable to the practice of podiatry.
21. Having the licensee's license refused, revoked or suspended by any other licensing jurisdiction for inability to safely and skillfully practice podiatry or for unprofessional conduct as defined by that jurisdiction that directly or indirectly corresponds to any act of unprofessional conduct as prescribed by this section or any act under section 32-852.

22. Committing any conduct or practice that is or might be harmful or dangerous to the health of a patient.
23. Violating any formal order, probation or stipulation issued by the board pursuant to this chapter.
24. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision of this chapter.
25. Charging or collecting a clearly excessive fee. In determining the reasonableness of a fee, the fee customarily charged in the locality for similar services shall be considered in light of modifying factors, such as the time required, the complexity of the service and the skill requisite to perform the service properly. This paragraph does not apply if there is a clear written contract for a fixed fee between the podiatrist and the patient that has been entered into before the licensee provides the service.
26. Obtaining a fee by fraud, deceit or misrepresentation.
27. Charging a fee for services not rendered.
28. Failing to dispense drugs and devices in compliance with article 4 of this chapter.

**32-855. Violations; classification; injunctive relief**

A. A person is guilty of a class 5 Felony who:

1. Practices or advertises or holds himself out as practicing or entitled to practice podiatry, or who in a sign or advertisement uses the term chiropodist, foot specialist, podiatrist, or practapedist or any other term or letter indicating or implying that the person practices podiatry or foot correction, without having at the time a valid unrevoked license to practice podiatry.
2. Otherwise violates this chapter.

B. The superior court is vested with jurisdiction to restrain any actual or threatened violation of this chapter by an action filed by the board in the county where the cause of action arises.

**32-856. Podiatric medical assistants; rules**

A podiatric medical assistant may assist a podiatrist pursuant to rules adopted by the Board.

## **Article 4 - Dispensing of Drugs and Devices**

**32-871. Dispensing of drugs and devices; conditions; definition**

A. A podiatrist may dispense drugs, except schedule II controlled substances that are opioids, and devices kept by the podiatrist if:

1. All drugs are dispensed in packages labeled with the following information:

(a) The dispensing podiatrist's name, address and telephone number.

(b) The date the drug is dispensed.

(c) The patient's name.

(d) The name and strength of the drug, directions for its use and any cautionary statements.

2. The dispensing podiatrist enters into the patient's medical record the name and strength of the drug dispensed, the date the drug is dispensed and the therapeutic reason.

3. The dispensing podiatrist keeps all drugs in a locked cabinet or room, controls access to the cabinet or room by a written procedure and maintains an ongoing inventory of its contents.

B. Except in an emergency situation, a podiatrist who dispenses drugs for a profit without being registered by the board to do so is subject to a civil penalty by the board of not less than three hundred dollars and not more than one thousand dollars for each transaction and is prohibited from further dispensing for a period of time as prescribed by the board.

C. Before dispensing a drug pursuant to this section, the patient shall be given a written prescription on which appears the following statement in bold type:

**"This prescription may be filled by the prescribing podiatrist or by a pharmacy of your choice."**

D. A podiatrist shall dispense for profit only to his own patient and only for conditions being treated by that podiatrist. The podiatrist shall provide direct supervision of a nurse or attendant involved in the dispensing process. For the purpose of this subsection, "direct supervision" means that a podiatrist is present and makes the determination as to the legitimacy or the advisability of the drugs or devices to be dispensed.

E. This section shall be enforced by the board, which shall establish rules regarding labeling, record keeping, storage and packaging of drugs that are consistent with the requirements of chapter 18 of this title. The board may conduct periodic inspections of dispensing practices to ensure compliance with this section and applicable rules.

F. For the purposes of this section, "dispense" means the delivery by a podiatrist of a prescription drug or device to a patient, except for samples packaged for individual use by licensed manufacturers or repackagers of drugs, and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.

# ARIZONA ADMINISTRATIVE CODE (Rules)

## Title 4. Professions and Occupations Chapter 25. Board of Podiatry Examiners

### ARTICLE 1. GENERAL PROVISIONS

#### R4-25-101. Definitions

The following definitions apply in this Chapter unless otherwise specified:

1. "Administer" has the same meaning as in A.R.S. § 32-1901.
2. "Comity" means the procedure for granting an Arizona license to an applicant who is licensed as a podiatrist in another state of the United States.
3. "Controlled substance" has the same meaning as in A.R.S. § 32-1901.
4. "Council" means the Council of Podiatric Medical Education, an organization approved by the American Podiatry Association to govern podiatric education.
5. "Credit hour" means 60 minutes of participation in continuing education.
6. "Day" means calendar day.
7. "DEA" means The Drug Enforcement Administration in the Department of Justice
8. "DEA Registration" means the DEA Controlled Substance Registration required and permitted by 21 U.S.C. 823 of the Controlled Substances Act.
9. "Device" has the same meaning as in A.R.S. § 32-1901 and includes a prescription-only device defined in A.R.S. § 32-1901.
10. "Directly supervise" has the same meaning as "direct supervision" in A.R.S. § 32- 871(D).
11. "Dispense" has the same meaning as in A.R.S. § 32-871(F).
12. "Distributor" has the same meaning as in A.R.S. § 32-1901.
13. "Drug" has the same meaning as in A.R.S. § 32-1901 and includes a controlled substance, a narcotic drug defined in A.R.S. § 32-1901, a prescription medication, and a prescription-only drug.
14. "Informed consent" means a document signed by a patient or patient's representative that authorizes treatment to the patient after the treating podiatrist informs the patient or the patient's representative of the following:
  - a. A description of the treatment;
  - b. A description of the expected benefits of the treatment;
  - c. Alternatives to the treatment;
  - d. Associated risks of the treatment, including potential side effects and complications; and
  - e. The patient's right to withdraw authorization for the treatment at any time.
15. "Party" has the same meaning as in A.R.S. § 41-1001.
16. "Patient" means an individual receiving treatment from a podiatrist.
17. "Prescription medication" has the same meaning as in A.R.S. § 32-1901.
18. "Prescription-only device" has the same meaning as in A.R.S. § 32-1901.
19. "Prescription-only drug" has the same meaning as in A.R.S. § 32-1901.
20. "Prescription order" has the same meaning as in A.R.S. § 32-1901.
21. "Regular podiatry license" means a license issued pursuant to the provisions of A.R.S. § 32-826(A).
22. "Representative" means a legal guardian, an individual acting on behalf of another individual under written authorization from the individual, or a surrogate according to A.R.S. § 36-3201.
23. "Treatment" means podiatric medical, surgical, mechanical, manipulative, or electrical



treatment according to A.R.S. § 32-801.

**R4-25-102. Postdoctoral, or Residency Program Approval**

A. For purposes of satisfying the requirements of A.R.S. § 32-826(A), a postdoctoral, or residency program approved by the Council is approved by the Board.

B. A postdoctoral, or residency program provisionally approved or placed on probation by the Council is approved by the Board until the Council makes a final adverse determination of the status of the postdoctoral, or residency program.

**R4-25-103. Fees**

The Board shall charge the following fees, which are not refundable unless A.R.S. § 41-1077 applies:

1. Application for license according to A.R.S. §§ 32-822(A) and 32-825, \$450.00.
2. Application for license according to A.R.S. § 32-827, \$450.00.
3. License issuance, \$225.00.
4. Annual renewal, \$325.00.
5. Penalty fee for late renewal after July 30, \$150.00 in addition to the regular renewal fee.
6. Certification of a licensee to authorities of another state or country, \$10.00.
7. For initial registration to dispense drugs and devices, \$200.00.
8. For annual renewal of registration to dispense drugs and devices, \$100.00.
9. Application for temporary license and issuance of license, 100.00
10. Application for telehealth registration and issuance of registration, \$50.00.

**R4-25-104. Time-frames for Approvals**

A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1.

1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame.

B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Board is set forth in Table 1.

1. The administrative completeness review time-frame begins:

- a. For approval of a podiatry license, when the Board receives the application packet required in R4-25-303;
- b. For approval of a registration to dispense drugs, when the Board receives the application packet required in R4-25-602;
- c. For approval of an application for renewal of a license or dispensing registration, when a licensee submits an application packet to the Board; or
- d. For approval of continuing education, when the Board receives a request for approval.

2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.

3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.

4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.

C. The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.

1. During the substantive review time-frame, the Board may make one comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.

2. The Board shall send a written notice of approval to an applicant who meets the qualifications and requirements in A.R.S. Title 4, Chapter 7 and this Chapter.

3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications and requirements in A.R.S. Title 4, Chapter 7 and this Chapter.

D. The Board shall consider an application withdrawn if, within 365 days from the application submission date, the applicant fails to supply the missing information under subsection (B)(2) or (C)(1).

E. An applicant who does not wish an application withdrawn may request a denial in writing within 365 days from the application submission date.

F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Board considers the next business day the time-frame's last day.

**Table 1. Time-frames (in days)**

<b>Type of Approval</b>	<b>Statutory Authority</b>	<b>Overall Time-frame</b>	<b>Administrative Completeness Time-frame</b>	<b>Substantive Review Time-frame</b>
Regular Podiatry License (R4-25-301)	A.R.S. § 32-826	60	30	30
License by Comity (R4-25-302)	A.R.S. § 32-827	60	30	30
Dispensing Registration (R4-25-602)	A.R.S. § 32-871	60	30	30
License Renewal (R4-25-306)	A.R.S. § 32-829	60	15	45
Registration Renewal (R4-25-605)	A.R.S. § 32-871	60	30	30
Continuing Education Approval (R4-25-502)	A.R.S. § 32-829	60	15	45

**ARTICLE 2. EXAMINATIONS**

#### **R4-25-201. Examination of Applicants**

- A. An applicant who does not meet the requirements in A.R.S. § 32-827 for licensure by comity shall pass the National Board Written Examinations with a grade of 75% or more.
- B. An applicant licensed to practice podiatry in a state other than Arizona who is applying to the Board for a license by comity and who passed The national Board Written Examinations in a state other than Arizona with a score of 75% or more within five years of the application submission date meets the examination requirements of A.R.S. § 32-823

### **ARTICLE 3. LICENSES**

#### **R4-25-301. Application for a Regular Podiatry License**

- A. An applicant for a regular license shall submit:
1. An application form approved by the Board, signed and dated by the applicant that contains questions approved by the Board.
  2. Two passport-type photographs of the applicant taken not more than six months before the date of application;
  3. A photocopy of the diploma issued to the applicant upon completion of podiatric school;
  4. A photocopy of the residency certificate issued to the applicant upon completion of residency; and
  5. The fee required in R4-25-103.
- B. An applicant shall arrange to have a transcript of examination scores of a national board examination in podiatry sent directly to the Board office by the professional examination service preparing the examination.

#### **R4-25-302. Application for a Podiatrist's License by Comity**

- A. Under A.R.S. § 32-827, an applicant for a podiatrist's license by comity shall submit to the Board, an application form approved by the Board, signed and dated by the applicant that contains questions approved by the Board and the following:
1. A photocopy of a current podiatric license in good standing issued in another state or jurisdiction;
  2. Written documentation of having been engaged in the practice of podiatric medicine for five of seven years immediately preceding the application;
  3. Two passport-type photographs of the applicant no larger than 1 1/2 x 2 inches taken not more than six months before the date of application;
  4. The fee required in R4-25-103.
- B. An applicant shall arrange to have a transcript of examination scores of a national board examination in podiatry sent directly to the Board office by the professional examination service preparing the examination.

#### **R4-25-306. License Renewal**

- On or before June 30 of each year, a licensee shall submit the renewal fee required in R4-25-103 and:
1. A renewal application approved by the Board that contains questions approved by the Board.
  2. The written report required in R4-25-503 for continuing education, including an attestation of attendance signed by the licensee.

### **ARTICLE 4. REHEARING OR REVIEW**

#### **R4-25-401. Rehearing or Review**

- A. Except as provided in subsection (G), a party who is aggrieved by a decision issued by the Board may

file with the Board no later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the grounds for rehearing or review. For purposes of this Section, a decision is considered to have been served when personally delivered to the party's last known home or business address or five days after the decision is mailed by certified mail to the party or the party's attorney.

B. A party filing a motion for rehearing or review may amend the motion at any time before it is ruled upon by the Board. Other parties may file a response within 15 days after the date the motion or amended motion by any other party for rehearing or review is filed. The Board may require a party to file a supplemental memorandum explaining the issues raised in the motion or response and may permit oral argument.

C. The Board may grant a rehearing or review of the decision for any of the following reasons materially affecting the moving party's rights:

1. Irregularity in the Board's administrative proceedings or an abuse of discretion that deprived the party of a fair hearing,
2. Misconduct of the Board or the prevailing party,
3. Accident or surprise that could not have been prevented by ordinary prudence,
4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing,
5. Excessive or insufficient penalties,
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, or
7. That the decision is not supported by the evidence or is contrary to law.

D. The Board may affirm or modify the decision or grant a rehearing or review on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify the ground for the rehearing or review.

E. No later than 30 days after a decision is issued by the Board, the Board may, on its own initiative, grant a rehearing or review of its decision for any reason in subsection (C). An order granting a rehearing or review shall specify the grounds for the rehearing or review.

F. When a motion for rehearing or review is based upon affidavits, a party shall serve the affidavits with the motion. An opposing party may, within 10 days after service, serve opposing affidavits. The Board may extend the time for serving opposing affidavits for no more than 20 days for good cause or by written stipulation of the parties. The Board may permit reply affidavits.

G. If the Board makes specific findings that the immediate effectiveness of a decision is necessary to preserve the public health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for rehearing or review. If a decision is issued as a final decision without an opportunity for a rehearing or review, an aggrieved party that makes an application for judicial review of the decision shall make the application within the time limits permitted for an application for judicial review of the Board's final decision at A.R.S. § 12-904.

## **ARTICLE 5. CONTINUING EDUCATION**

### **R4-25-501. Continuing Education Hours Required**

A. Unless a licensee obtains a waiver according to R4-25-505, the licensee shall complete 25 hours or more of continuing education credit hours every fiscal year.

B. A licensee who has been licensed for less than 12 months before license renewal shall complete two continuing education credit hours for each month of licensure.

C. For a licensee authorized to prescribe schedule II controlled substances and who has a valid DEA

registration, at least three hours of the 25 hours required in subsection (A) shall be obtained in the area of opioid-related, substance use disorder-related or addiction-related continuing education.

**R4-25-502. Approval of Continuing Education**

- A. A licensee may submit a written request to the Board for approval of continuing education before submission of a renewal application.
- B. A request under subsection (A) shall contain:
  - 1. A brief summary of the continuing education;
  - 2. The educational objectives of the continuing education;
  - 3. The date, time, and place of the provision of the continuing education;
  - 4. The name of the individual providing the continuing education, if available; and
  - 5. The name of the organization providing the continuing education, if applicable.
- C. In determining whether to approve continuing education, the Board shall consider whether the continuing education:
  - 1. Is designed to provide current developments, skills, procedures, or treatments related to the practice of podiatry;
  - 2. Is developed and provided by an individual with knowledge and experience in the subject area; and
  - 3. Contributes directly to the professional competence of a licensee.
- D. The Board may accept a maximum of 10 continuing education credit hours or less for the following:
  - 1. Teaching a graduate level course approved by the American Podiatry Medical Association.
  - 2. Self-study which can include the following:
    - a. Reading educational literature that relates to the practice of podiatry.
    - b. A work or study group that relates to the practice of podiatry.
    - c. Having authored or co-authored a book, book chapter, or article in a peer-reviewed journal that was published within the last year and that relates to the practice of podiatry.
  - 3. Serving as a Board member or Complaint consultant for the Board.
- E. The Board shall approve or deny a request for approval according to the time-frames set forth in R4-25-104 and Table 1.
- F. According to A.R.S. § 32-829(E), if approval of a continuing education request is denied, a licensee has 60 days from the date of the denial to meet the continuing education requirements.
- G. Any opioid-related course that is approved by the Arizona State Board of Podiatry Examiners, Arizona State Board of Pharmacy, Arizona Board of Osteopathic Examiners, Arizona Medical Board or the Arizona State Board of Nursing is approved by the Board.

**R4-25-503. Documentation**

- A. A licensee shall submit a written report of completed continuing education with a renewal application that includes:
  - 1. The name of the licensee,
  - 2. The title of each continuing education,
  - 3. A description of the continuing education’s content and educational objectives,
  - 4. The date of completion of each continuing education,
  - 5. The number of credit hours of each continuing education, and
  - 6. A statement signed by the licensee verifying the information in the report.
- B. The Board may audit continuing education reports every 12 months for conformance with A.R.S. § 32-829 and this Article:
  - 1. Randomly; or
  - 2. Selectively for licensees who previously submitted reports that did not conform with the

requirements in A.R.S. § 32-829 or this Article.

**R4-25-505. Waiver of Continuing Education**

A. A licensee who is unable to complete 25 hours of continuing education for any of the reasons in A.R.S. § 32-829(C) may submit a written request for a waiver to the Board by August 31 that contains:

1. The name, address, and telephone number of the licensee;
2. The report required in R4-25-503;
3. An explanation of why the licensee was unable to meet the Board's continuing education requirements that includes one of the reasons in A.R.S. § 32-829(C); and
4. The signature of the licensee.

B. The Board shall send written notice of approval or denial of the request for waiver within seven days of receipt of the request.

C. If the Board denies a request for a waiver, a licensee has 60 days from the date of the denial to meet the requirements for continuing education.

**ARTICLE 6. DISPENSING DRUGS AND DEVICES**

**R4-25-601. Reserved**

**R4-25-602. Registration Requirements**

An individual currently licensed as a podiatrist in this state who wishes to dispense drugs and devices shall register with the Board by submitting all of the following:

1. The podiatrist's current Drug Enforcement Administration Certificate of Registration issued by the Department of Justice under 21 U.S.C. 801 et seq.;
2. The fee required in R4-25-103; and
3. An application form provided by the Board, signed and dated by the podiatrist, that contains questions approved by the Board.

**R4-25-603. Prescribing and Dispensing Requirements**

A podiatrist shall:

1. Not dispense schedule II controlled substances that are opioids.
2. Not dispense a drug unless the drug is obtained from a manufacturer or distributor licensed in any state or jurisdiction;
3. Ensure that a drug or device is dispensed only to a patient being treated by the podiatrist;
4. Before dispensing a drug, provide a patient with a written prescription order that:
  - a. Contains the following statement in bold type: "This prescription may be filled by the prescribing podiatrist or by a pharmacy of your choice," and
  - b. Is signed by the podiatrist;
5. Directly supervise each individual involved in preparing a drug that is dispensed;
6. Ensure that a drug is:
  - a. Dispensed in a prepackaged container or in a light resistant container with a consumer safety cap; and
  - b. Labeled with the following information:
    - i. The podiatrist's name, address, and telephone number;
    - ii. The date the drug is dispensed;
    - iii. The patient's name; and
    - iv. The name, strength of the drug, and directions for the drug's use;
7. Ensure that the original prescription order for a drug is countersigned and dated by the individual who prepared the drug for dispensing;

8. Before a drug or device is dispensed to a patient:
  - a. Review the drug or device to ensure compliance with the prescription order;
  - b. Ensure the patient is informed of the following:
    - i. The name of the drug or device,
    - ii. Directions for taking the drug or using the device,
    - iii. Precautions for the drug or device, and
    - iv. Directions for storing the drug or device;
9. Document in the medical record the following for each patient:
  - a. Name of the drug or device dispensed,
  - b. Strength of the drug dispensed,
  - c. Date the drug or device is dispensed, and
  - d. Therapeutic reasons for dispensing the drug or device;
10. Maintain an inventory record for each drug that contains:
  - a. Name of the drug,
  - b. Strength of the drug,
  - c. Date the drug was received by the podiatrist,
  - d. Amount of the drug received by the podiatrist,
  - e. Name of the manufacturer and distributor of the drug, and
  - f. A unique identifying number provided by the manufacturer or distributor of the drug;
11. Store a drug in a locked cabinet or room and:
  - a. Establish a written policy for access to the locked cabinet or room, and
  - b. Make the written policy available to the Board or its authorized agent within 72 hours of a Board request;
12. Ensure that a drug is stored at temperatures recommended by the manufacturer of the drug; and
13. Maintain a dispensing log, separate from the inventory record for each drug dispensed that includes the:
  - a. Name of the drug,
  - b. Strength of the drug,
  - c. Amount of the drug,
  - d. Patient's name,
  - e. Date the drug was dispensed, and
  - f. The name and signature of the podiatrist who dispensed the drug.

**R4-25-604. Recordkeeping and Reporting Shortages**

- A. A prescription order written by a podiatrist for a drug shall:
  1. Contain the:
    - a. Name of the patient,
    - b. Date the prescription order is written, and
    - c. Name and signature of the podiatrist;
  2. Be numbered consecutively; and
  3. Be maintained separately from a medical record.
- B. A podiatrist shall maintain an invoice of a drug purchased from a manufacturer or distributor for three years from the date purchased.
- C. A podiatrist shall maintain the inventory record in R4-25-603(9) and the dispensing log in R4-25-603(12) for seven years from the date of entry.
- D. A podiatrist who discovers that a drug identified in the podiatrist's inventory record cannot be accounted for shall:

1. Within 48 hours of discovery or the next business day if a weekend or holiday, whichever is later, notify the appropriate law enforcement agency and the federal Drug Enforcement Administration; and
2. Provide written notification to the Board within seven days from the date of the discovery, including the name of the law enforcement agency notified.

E. A podiatrist shall report controlled substances dispensing as required per A.R.S. § 36-2608.

#### **R4-25-605. Registration Renewal**

A. A podiatrist shall renew a registration no later than June 30 of each year by submitting to the Board:

1. An application form provided by the Board, signed and dated by the podiatrist, that contains questions approved by the Board.
2. The fee required in R4-25-103.

B. If a podiatrist fails to submit the information required in subsection (A) and the registration renewal fee required in R4-25-103 by June 30, the podiatrist's registration expires. If a registration expires, the podiatrist shall:

1. Immediately cease dispensing drugs or devices, and
2. Register pursuant to R4-25-602 before dispensing drugs and devices.

### **ARTICLE 7. PODIATRIC MEDICAL ASSISTANTS**

#### **R4-25-701. Approval of Podiatric Medical Assistant Clinical Certification and Radiology Certification**

A. For purposes of this Section, a Board-approved clinical certification program is a program:

1. Accredited by the American Society of Podiatric Medical Assistants.

B. For purposes of this Section, a Board-approved radiology certification program is a program:

1. Accredited by the American Society of Podiatric Medical Assistants.

#### **R4-25-702. Podiatric Medical Assistants – Authorized Procedures**

A. A podiatric medical assistant not working under the direct supervision of a licensed podiatric physician may:

1. Order supplies, store supplies, stock treatment rooms;
2. Clean treatment rooms;
3. Answer phones;
4. Schedule appointments;
5. Check patients in.

B. A podiatric medical assistant working under the direct supervision of a licensed podiatric physician may:

1. Obtain medical history from a patient;
2. Obtain and record vital signs of a patient;
3. Explain treatment procedures to a patient;
4. Take off a patient's shoes and put the patient's shoes back on;
5. Clip toenails on a patient;
6. Apply bandages to the feet of a patient;
7. Prepare a patient for a procedure;
8. Take x-rays if the podiatric medical assistant is certified in radiology as described in

R4-25-701, Section B. A podiatric medical assistant shall not take x-rays if the podiatric medical assistant does not meet the requirement of R4-25-701, Section B;

9. The supervising licensed podiatric physician shall ensure that the podiatric medical



assistant is properly trained and shall be responsible for all acts or missions of a podiatric medical assistant.

## GENERAL HEALTH REGULATIONS

Below are important laws that apply to all licensed healthcare practitioners in the State of Arizona, but shall not be perceived as a conclusive list of all laws for adherence by podiatrists.

### TITLE 12 – COURTS AND CIVIL PROCEEDINGS

#### CHAPTER 5.1 – Actions Relating to Health Care

##### Article 1 – Medical Records

#### **12-570. Malpractice settlement or award reporting; civil penalty; definition**

A. If a medical malpractice action or an action brought under section 46-455 against a nursing care institution is settled or a court enters a monetary judgment:

1. The professional liability insurers shall provide the defendant's health profession regulatory board with all information required to be filed with the national practitioner data bank pursuant to Public Law 99-660. In the case of an action brought under section 46-455 against a nursing care institution, the information shall be provided to the department of health services.
2. The plaintiff's attorney shall provide the defendant's health profession regulatory board, or, in the case of an action brought against a nursing care institution, the department of health services, with the notice described in subsection B of this section, a copy of the complaint and a copy of either the agreed terms of settlement or the judgment. The attorney shall provide this notice and these documents within thirty days after a settlement is reached or a judgment is entered.

B. The notice required by subsection A of this section shall contain the following information:

1. The name and address of each defendant.
2. The name, date of birth and address of each plaintiff.
3. The date and location of the occurrence which created the claim.
4. A statement specifying the nature of the occurrence resulting in the malpractice action.
5. A copy of all expert witness depositions, a transcript of all expert witness court testimony or a written evaluation of the case by an expert witness.

C. The notice required by subsection A of this section is not discoverable and not admissible as evidence.

D. An attorney who does not supply the information required by subsections A and B of this section within thirty days after the notice of settlement or judgment is due under subsection A of this section is subject to a civil penalty of five hundred dollars.

E. A confidentiality clause in a settlement agreement does not apply to the reporting requirements of this section.

F. For the purposes of this section, "health profession regulatory board" has the same meaning prescribed in section 32-3201.

### CHAPTER 13 – Evidence

#### Article 7.1 – Medical Records

#### **12-2291. Definitions**

In this article, unless the context otherwise requires:

1. "Clinical laboratory" has the same meaning prescribed in section 36-451.
2. "Contractor" means an agency or service that duplicates medical records on behalf of health care providers.
3. "Department" means the department of health services.
4. "Health care decision maker" means an individual who is authorized to make health care treatment decisions for the patient, including a parent of a minor or an individual who is authorized pursuant to section 8-514.05, title 14, chapter 5, article 2 or 3 or section 36-3221, 36-3231 or 36-3281.

5. "Health care provider" means:

- (a) A person who is licensed pursuant to title 32 and who maintains medical records.
- (b) A health care institution as defined in section 36-401.
- (c) An ambulance service as defined in section 36-2201.
- (d) A health care services organization licensed pursuant to title 20, chapter 4, article 9.

6. "Medical records" means all communications related to a patient's physical or mental health or condition that are recorded in any form or medium and that are maintained for purposes of patient diagnosis or treatment, including medical records that are prepared by a health care provider or by other providers. Medical records do not include materials that are prepared in connection with utilization review, peer review or quality assurance activities, including records that a health care provider prepares pursuant to section 36-441, 36-445, 36-2402 or 36-2917. Medical records do not include recorded telephone and radio calls to and from a publicly operated emergency dispatch office relating to requests for emergency services or reports of suspected criminal activity, but include communications that are recorded in any form or medium between emergency medical personnel and medical personnel concerning the diagnosis or treatment of a person.

7. "Payment records" means all communications related to payment for a patient's health care that contain individually identifiable information.

8. "Source data" means information that is summarized, interpreted or reported in the medical record, including x-rays and other diagnostic images.

#### **12-2292. Confidentiality of medical records and payment records**

- A. Unless otherwise provided by law, all medical records and payment records, and the information contained in medical records and payment records, are privileged and confidential. A health care provider may only disclose that part or all of a patient's medical records and payment records as authorized by state or federal law or written authorization signed by the patient or the patient's health care decision maker.
- B. This article does not limit the effect of any other federal or state law governing the confidentiality of medical records and payment records.

#### **12-2293. Release of medical records and payment records to patients and health care decision makers; definition**

- A. Except as provided in subsections B and C of this section, on the written request of a patient or the patient's health care decision maker for access to or copies of the patient's medical records and payment records, the health care provider in possession of the record shall provide access to or copies of the records to the patient or the patient's health care decision maker.
- B. A health care provider may deny a request for access to or copies of medical records or payment records if a health professional determines that either:
  - 1. Access by the patient is reasonably likely to endanger the life or physical safety of the patient or another person.
  - 2. The records make reference to a person other than a health professional and access by the patient or the patient's health care decision maker is reasonably likely to cause substantial harm to that other person.
  - 3. Access by the patient's health care decision maker is reasonably likely to cause substantial harm to the patient or another person.
  - 4. Access by the patient or the patient's health care decision maker would reveal information obtained under a promise of confidentiality with someone other than a health professional and access would be reasonably likely to reveal the source of the information.
- C. A health care provider may deny a request for access to or copies of medical records or payment records if the health care provider determines that either:
  - 1. The information was created or obtained in the course of clinical research and the patient or the patient's

health care decision maker agreed to the denial of access when consenting to participate in the research and was informed that the right of access will be reinstated on completion of the research.

2. A health care provider is a correctional institution or is acting under the direction of a correctional institution and access by a patient who is an inmate in the correctional institution would jeopardize the health, safety, security, custody or rehabilitation of the patient or other inmates or the safety of any officer, employee or other person at the correctional institution or of a person who is responsible for transporting the inmate.

D. If the health care provider denies a request for access to or copies of the medical records or payment records, the health care provider must note this determination in the patient's records and provide to the patient or the patient's health care decision maker a written explanation of the reason for the denial of access. The health care provider must release the medical records or payment records information for which there is not a basis to deny access under subsection B of this section.

E. For the purposes of this section, "health professional" has the same meaning prescribed in section 32-3201.

#### **12-2294. Release of medical records and payment records to third parties**

A. A health care provider shall disclose medical records or payment records, or the information contained in medical records or payment records, without the patient's written authorization as otherwise required by law or when ordered by a court or tribunal of competent jurisdiction.

B. A health care provider may disclose medical records or payment records, or the information contained in medical records or payment records, pursuant to written authorization signed by the patient or the patient's health care decision maker.

C. A health care provider may disclose medical records or payment records or the information contained in medical records or payment records and a clinical laboratory may disclose clinical laboratory results without the written authorization of the patient or the patient's health care decision maker as otherwise authorized by state or federal law, including the health insurance portability and accountability act privacy standards (45 Code of Federal Regulations part 160 and part 164, subpart E), or as follows:

1. To health care providers who are currently providing health care to the patient for the purpose of diagnosis or treatment of the patient.

2. To health care providers who have previously provided treatment to the patient, to the extent that the records pertain to the provided treatment.

3. To ambulance attendants as defined in section 36-2201 for the purpose of providing care to or transferring the patient whose records are requested.

4. To a private agency that accredits health care providers and with whom the health care provider has an agreement requiring the agency to protect the confidentiality of patient information.

5. To a health profession regulatory board as defined in section 32-3201.

6. To health care providers for the purpose of conducting utilization review, peer review and quality assurance pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

7. To a person or entity that provides services to the patient's health care providers or clinical laboratories and with whom the health care provider or clinical laboratory has an agreement requiring the person or entity to protect the confidentiality of patient information and as required by the health insurance portability and accountability act privacy standards, 45 Code of Federal Regulations part 164, subpart E.

8. To the legal representative of a health care provider in possession of the medical records or payment records for the purpose of securing legal advice.

9. To the patient's third party payor or the payor's contractor.

10. To the industrial commission of Arizona or parties to an industrial commission claim pursuant to title 23, chapter 6.

D. A health care provider may disclose a deceased patient's medical records or payment records or the

information contained in medical records or payment records to the patient's health care decision maker at the time of the patient's death. A health care provider also may disclose a deceased patient's medical records or payment records or the information contained in medical records or payment records to the personal representative or administrator of the estate of a deceased patient, or if a personal representative or administrator has not been appointed, to the following persons in the following order of priority, unless the deceased patient during the deceased patient's lifetime or a person in a higher order of priority has notified the health care provider in writing that the deceased patient opposed the release of the medical records or payment records:

1. The deceased patient's spouse, unless the patient and the patient's spouse were legally separated at the time of the patient's death.
2. The acting trustee of a trust created by the deceased patient either alone or with the deceased patient's spouse if the trust was a revocable inter vivos trust during the deceased patient's lifetime and the deceased patient was a beneficiary of the trust during the deceased patient's lifetime.
3. An adult child of the deceased patient.
4. A parent of the deceased patient.
5. An adult brother or sister of the deceased patient.
6. A guardian or conservator of the deceased patient at the time of the patient's death.

E. A person who receives medical records or payment records pursuant to this section shall not disclose those records without the written authorization of the patient or the patient's health care decision maker, unless otherwise authorized by law.

F. If a health care provider releases a patient's medical records or payment records to a contractor for the purpose of duplicating or disclosing the records on behalf of the health care provider, the contractor shall not disclose any part or all of a patient's medical records or payment records in its custody except as provided in this article. After duplicating or disclosing a patient's medical records or payment records on behalf of a health care provider, a contractor must return the records to the health care provider who released the medical records or payment records to the contractor.

#### **12-2294.01. Release of medical records or payment records to third parties pursuant to subpoena**

A. A subpoena seeking medical records or payment records shall be served on the health care provider and any party to the proceedings at least ten days before the production date on the subpoena.

B. A subpoena that seeks medical records or payments records must meet one of the following requirements:

1. The subpoena is accompanied by a written authorization signed by the patient or the patient's health care decision maker.
2. The subpoena is accompanied by a court or tribunal order that requires the release of the records to the party seeking the records or that meets the requirements for a qualified protective order under the health insurance portability and accountability act privacy standards (42 Code of Federal Regulations section 164.512(e)).
3. The subpoena is a grand jury subpoena issued in a criminal investigation.
4. The subpoena is issued by a health profession regulatory board as defined in section 32-3201.
5. The health care provider is required by another law to release the records to the party seeking the records.

C. If a subpoena does not meet one of the requirements of subsection B of this section, a health care provider shall not produce the medical records or payment records to the party seeking the records, but may either file the records under seal pursuant to subsection D of this section, object to production under subsection E of this section or file a motion to quash or modify the subpoena under rule 45 of the Arizona rules of civil procedure.

D. It is sufficient compliance with a subpoena issued in a court or tribunal proceeding if a health care

provider delivers the medical records or payment records under seal as follows:

1. The health care provider may deliver by certified mail or in person a copy of all the records described in the subpoena by the production date to the clerk of the court or tribunal or if there is no clerk then to the court or tribunal, together with the affidavit described in paragraph 4 of this subsection.
2. The health care provider shall separately enclose and seal a copy of the records in an inner envelope or wrapper, with the title and number of the action, name of the health care provider and date of the subpoena clearly inscribed on the copy of the records. The health care provider shall enclose the sealed envelope or wrapper in an outer envelope or wrapper that is sealed and directed to the clerk of the court or tribunal or if there is no clerk then to the court or tribunal.
3. The copy of the records shall remain sealed and shall be opened only on order of the court or tribunal conducting the proceeding.
4. The records shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:
  - (a) That the affiant is the duly authorized custodian of the records and has authority to certify the records.
  - (b) That the copy is a true complete copy of the records described in the subpoena.
  - (c) If applicable, that the health care provider is subject to the confidentiality requirements in 42 United States Code sections 290dd-3 and 290ee-3 and applicable regulations and that those confidentiality requirements may apply to the requested records. The affidavit shall request that the court make a determination, if required under applicable federal law and regulations, as to the confidentiality of the records submitted.
  - (d) If applicable, that the health care provider has none of the records described or only part of the records described in the subpoena.
5. The copy of the records is admissible in evidence as provided under rule 902(11), Arizona rules of evidence. The affidavit is admissible as evidence of the matters stated in the affidavit and the matters stated are presumed true. If more than one person has knowledge of the facts, more than one affidavit may be made. The presumption established by this paragraph is a presumption affecting the burden of producing evidence.
- E. If a subpoena does not meet one of the requirements of subsection B of this section or if grounds for objection exist under rule 45 of the Arizona rules of civil procedure, a health care provider may file with the court or tribunal an objection to the inspection or copying of any or all of the records as follows:
  1. On filing an objection, the health care provider shall send a copy of the objection to the patient at the patient's last known address, to the patient's attorney if known and to the party seeking the records, unless after reasonable inquiry the health care provider cannot determine the last known address of the patient.
  2. On filing the objection, the health care provider has no further obligation to assert a state or federal privilege pertaining to the records or to appear or respond to a motion to compel production of records, and may produce the records if ordered by a court or tribunal. If an objection is filed, the patient or the patient's attorney is responsible for asserting or waiving any state or federal privilege that pertains to the records.
  3. If an objection is filed, the party seeking production may request an order compelling production of the records. If the court or tribunal issues an order compelling production, a copy of the order shall be provided to the health care provider. On receipt of the order, the health care provider shall produce the records.
  4. If applicable, an objection shall state that the health care provider is subject to the confidentiality requirements in 42 United States Code sections 290dd-3 and 290ee-3, shall state that the records may be subject to those confidentiality requirements and shall request that the court make a determination, if required under applicable federal law and regulations, on whether the submitted records are subject to discovery.
- F. If a party seeking medical records or payment records wishes to examine the original records maintained by a health care provider, the health care provider may permit the party to examine the original records if

the subpoena meets one of the requirements of subsection B of this section. The party seeking the records also may petition a court or tribunal for an order directing the health care provider to allow the party to examine the original records or to file the original records under seal with the court or tribunal under subsection D of this section.

#### **12-2295. Charges**

A. Except as otherwise provided by law, a health care provider or contractor may charge a person who requests copies of medical records or payment records a reasonable fee for the production of the records. Except as necessary for continuity of care, a health care provider or contractor may require the payment of any fees in advance.

B. A health care provider or contractor shall not charge for the pertinent information contained in medical records provided to:

1. Another health care provider for the purpose of providing continuing care to the patient to whom the medical record pertains.
2. The patient to whom the medical record pertains for the demonstrated purpose of obtaining health care.
3. The health care decision maker of the patient to whom the medical record pertains for the demonstrated purpose of obtaining health care for the patient.
4. The Arizona medical board, the board of osteopathic examiners in medicine and surgery or an officer of the department of health services or the local health department requesting records pursuant to section 36-662.
5. The patient or the patient's legal representative for the purpose of appealing a denial of benefits under the social security act. Any additional request for medical records and a request for medical records that were previously provided free of charge in the same calendar year are subject to a reasonable fee pursuant to subsection A of this section, except that a fee may not be charged if no medical records are located in response to the request. A legal representative must provide an appointment of representative form SSA-1696 before obtaining a patient's medical records free of charge.

#### **12-2296. Immunity**

A health care provider, contractor or clinical laboratory that acts in good faith under this article is not liable for damages in any civil action for the disclosure of medical records, payment records or clinical laboratory results or information contained in medical records, payment records or clinical laboratory results that is made pursuant to this article or as otherwise provided by law. The health care provider, contractor or clinical laboratory is presumed to have acted in good faith. The presumption may be rebutted by clear and convincing evidence.

#### **12-2297. Retention of records**

A. Unless otherwise required by statute or by federal law, a health care provider shall retain the original or copies of a patient's medical records as follows:

1. If the patient is an adult, for at least six years after the last date the adult patient received medical or health care services from that provider.
2. If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least six years after the last date the child received medical or health care services from that provider, whichever date occurs later.
3. Source data may be maintained separately from the medical record and must be retained for six years from the date of collection of the source data.

B. When a health care provider retires or sells the provider's practice the provider shall take reasonable measures to ensure that the provider's records are retained pursuant to this section.

C. A person who is licensed pursuant to title 32 as an employee of a health care provider is not responsible



for storing or retaining medical records but shall compile and record the records in the customary manner. D. A nursing care institution as defined in section 36-401 shall retain patient records for six years after the date of the patient's discharge. For a minor, the nursing care institution shall retain the records for three years after the patient reaches eighteen years of age or for six years after the date of the patient's discharge, whichever date occurs last.

## **TITLE 13 – CRIMINAL CODE**

### **CHAPTER 9 – Probation and Restoration of Civil Rights**

#### **13-907. Automatic restoration of civil rights for first offenders; exception; definition**

- A. On final discharge, any person who has not previously been convicted of a felony offense shall automatically be restored any civil rights that were lost or suspended as a result of the conviction if the person pays any victim restitution imposed.
- B. A person who is entitled to the restoration of any civil rights pursuant to this section is not required to file an application pursuant to section 13-908.
- C. This section does not apply to a person's right to possess a firearm as defined in section 13-3101. The court may order the restoration of the right to possess a firearm pursuant to section 13-910.
- D. For the purposes of this section, "final discharge" means the completion of probation or the receipt of an absolute discharge from the state department of corrections or the United States bureau of prisons.

## **CHAPTER 36 – Family Offenses**

#### **13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions**

- A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer, to the department of child safety or to a tribal law enforcement or social services agency for any Indian minor who resides on an Indian reservation, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, a christian science practitioner or a priest who has received a confidential communication or a confession in that person's role as a member of the clergy, as a christian science practitioner or as a priest in the course of the discipline enjoined by the church to which the member of the clergy, the christian science practitioner or the priest belongs may withhold reporting of the communication or confession if the member of the clergy, the christian science practitioner or the priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, the christian science practitioner or the priest may otherwise make of the minor. For the purposes of this subsection, "person" means:
1. Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.
  2. Any peace officer, child welfare investigator, child safety worker, member of the clergy, priest or christian science practitioner.
  3. The parent, stepparent or guardian of the minor.



4. School personnel or domestic violence victim advocates who develop the reasonable belief in the course of their employment.

5. Any other person who has responsibility for the care or treatment of the minor.

6. Any person who is employed as the immediate or next higher level supervisor to or administrator of a person who is listed in paragraph 1, 2, 4 or 5 of this subsection and who develops the reasonable belief in the course of the supervisor's or administrator's employment, except that if the supervisor or administrator reasonably believes that the report has been made by a person who is required to report pursuant to paragraph 1, 2, 4 or of this subsection, the supervisor or administrator is not required to report pursuant to this paragraph

B. A report is not required under this section either:

1. For conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

2. If a minor is of elementary school age, the physical injury occurs accidentally in the course of typical playground activity during a school day, occurs on the premises of the school that the minor attends and is reported to the legal parent or guardian of the minor and the school maintains a written record of the incident.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D. Reports shall be made immediately either electronically or by telephone. The reports shall contain the following information, if known:

1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor.

2. The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.

3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made, to the department of child safety. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to the department of child safety, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer, child welfare investigator or child safety worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer, child welfare investigator or child safety worker. Records disclosed pursuant to this subsection are confidential and may be used only in

a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When reports are received by a peace officer, the officer shall immediately notify the department of child safety. Notwithstanding any other statute, when the department receives these reports, it shall immediately notify a peace officer in the appropriate jurisdiction.

I. Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the involved minor may be performed.

J. A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:

1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.
2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.
3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or the department of child safety.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a christian science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a christian science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. This subsection does not discharge a member of the clergy, a christian science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.
2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, on application of a peace officer, child welfare investigator or child safety worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer, child welfare investigator or child safety worker investigating the abuse, child abuse, physical injury or neglect.

O. A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P. For the purposes of this section:

1. "Abuse" has the same meaning prescribed in section 8-201.
2. "Child abuse" means child abuse pursuant to section 13-3623.
3. "Neglect" has the same meaning prescribed in section 8-201.
4. "Reportable offense" means any of the following:
  - (a) Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.
  - (b) Surreptitious photographing, videotaping, filming or digitally recording or viewing a minor pursuant to

section 13-3019.

(c) Child sex trafficking pursuant to section 13-3212.

(d) Incest pursuant to section 13-3608.

(e) Unlawful mutilation pursuant to section 13-1214.

## **TITLE 32 – PROFESSIONS AND OCCUPATIONS**

### **CHAPTER 31 – Regulation of Health Professions**

#### **Article 1 – General Provisions**

#### **32-3101. Definitions**

In this chapter, unless the context otherwise requires:

1. "Certification" means a voluntary process by which a regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by that regulatory entity and who may assume or use the word "certified" in a title or designation to perform prescribed health professional tasks.

2. "Grandfather clause" means a provision applicable to practitioners actively engaged in the regulated health profession before the effective date of a law that exempts the practitioners from meeting the prerequisite qualifications set forth in the law to perform prescribed occupational tasks.

3. "Health professional group" means any health professional group or organization, any individual or any other interested party that proposes that any health professional group not presently regulated by regulated or that proposes to increase the scope of practice of a health profession.

4. "Health professions" means professions regulated pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39 or 41 of this title, title 36, chapter 6, article 7 or title 36, chapter 17.

5. "Increase the scope of practice" means to engage in conduct beyond the authority granted to a health profession by law.

6. "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety and welfare.

7. "Licensure" or "license" means an individual, nontransferable authorization to carry on a health activity that would otherwise be unlawful in this state in the absence of the permission, and that is based on qualifications that include graduation from an accredited or approved program and acceptable performance on a qualifying examination or a series of examinations.

8. "Practitioner" means an individual who has achieved knowledge and skill by practice and who is actively engaged in a specified health profession.

9. "Public member" means an individual who is not and never has been a member or spouse of a member of the health profession being regulated and who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

10. "Registration" means the formal notification that, before rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner, the location, nature and operation of the health activity to be practiced and, if required by a regulatory entity, a description of the service to be provided.

11. "Regulatory entity" means any board, commission, agency or department of this state that regulates one or more health professions in this state.

12. "State agency" means any department, board, commission or agency of this state.

#### **32-3102. Nonapplicability of chapter**

This chapter does not:

1. Apply to any regulatory entity or increase in scope of practice legislatively enacted before the effective date of this chapter, except as provided in this chapter.
2. Apply to or interfere in any way with the practice of religion or any kind of treatment by prayer.
3. Apply to any remedial or technical amendments to any legislation.

### **32-3103. Regulation of health profession legislation**

A. Regulation shall not be imposed on any unregulated health profession for the purpose of prohibiting competition, but only for the exclusive purpose of protecting the public interest. All proposed legislation to regulate a health profession for the first time shall be reviewed according to the following criteria. A health profession shall be regulated by this state only if:

1. There is credible evidence that the unregulated practice of that health profession can clearly harm or endanger the public health, safety or welfare and the potential for harm is easily recognizable and not remote or dependent on tenuous argument.
2. The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability.
3. The public cannot be effectively protected by other means in a more cost beneficial manner.

B. After evaluating the criteria prescribed in subsection A and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a health profession not previously regulated by law, the least restrictive alternative method of regulation shall be implemented, consistent with the public interest and the following:

1. If existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation shall provide for stricter civil actions and criminal prohibitions.
2. If a service is being performed for individuals which involves a hazard to the public health, safety or welfare, the regulation shall impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court.
3. If the threat to the public health, safety or economic well-being is relatively small as a result of the operation of the health profession, the regulation shall implement a system of registration.
4. If the consumer may have a substantial basis for relying on the services of a practitioner, the regulation shall implement a system of certification.
5. If it is apparent that adequate regulation cannot be achieved by means other than licensing, the regulation shall implement a system of licensing.

### **32-3104. Health professional groups; written report; legislative informational hearings; proposed legislation**

A. A health professional group shall submit a written report explaining the factors prescribed in section 32-3105 or 32-3106 to the president of the senate and the speaker of the house of representatives. The report shall be submitted on or before November 1 before the start of the legislative session for which the legislation is proposed, and the health professional group may request informational hearings pursuant to this section. The president of the senate or the speaker of the house of representatives shall assign the written report to the health committee of the house of representatives and the health and human services committee of the senate, or their respective successor committees, and the legislative committees may conduct informational hearings on the written report before the legislative session convenes. The report may be amended after it has been filed but before any hearing on the report. The committees shall study the written report and may take public comment on the report at the informational hearings but shall not vote whether to accept or reject the report filed by the health professional group. If a health professional group proposes to increase the scope of practice of its profession, the health professional group may send copies of the written report to the regulatory board of the health profession and the department of health

services for review and comment. A health professional group may seek to introduce legislation in the legislative session regardless of comments, if any, from the informational hearings.

B. If a health professional group's report is not heard by a legislative committee pursuant to subsection A of this section, the health professional group may seek to have legislation introduced in the legislative session for certification, registration or licensure or to increase the scope of practice of an existing regulated health profession. The lack of a hearing shall not be considered as either support or rejection of the health professional group's proposed legislation.

C. Unless there is a material change in the proposed increased scope of practice, a health professional group is not required to refile a report if the health professional group filed the report within the previous five years. On or before November 1, the health professional group shall notify in writing the speaker of the house of representatives, the president of the senate and the chairpersons of the respective health committees if the health professional group intends to pursue the proposed increased scope of practice during the next legislative session and shall reference the specific report that was previously filed on which the health professional group is relying.

### **32-3105. Health professional groups; proposed regulation; factors**

A health professional group that is seeking regulation shall explain each of the following factors to the extent requested by the legislative committees:

1. Why regulation is necessary, including:

(a) The nature of the potential harm to the public if the health profession is not regulated and the extent to which there is a threat to public health and safety.

(b) The extent to which consumers need and will benefit from a method of regulation, identifying competent practitioners and indicating typical employers, if any, of practitioners in the health profession.

(c) The extent of autonomy a practitioner has, as indicated by the following:

(i) The extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment.

(ii) The extent to which practitioners are supervised.

2. The efforts made to address the problem, including:

(a) Voluntary efforts, if any, by members of the health profession to either:

(i) Establish a code of ethics.

(ii) Help resolve disputes between health practitioners and consumers.

(b) Recourse to and the extent of use of applicable law and whether it could be amended to control the problem.

3. The alternatives considered, including:

(a) Regulation of business employers or practitioners rather than employee practitioners.

(b) Regulation of the program or service rather than the individual practitioners.

(c) Registration of all practitioners.

(d) Certification of all practitioners.

(e) Other alternatives.

(f) Why the use of the alternatives specified in this paragraph would not be adequate to protect the public interest.

(g) Why licensing would serve to protect the public interest.

4. The benefit to the public if regulation is granted, including:

(a) The extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation.

(b) Whether the public can identify qualified practitioners.

(c) The extent to which the public can be confident that qualified practitioners are competent, including:

- (i) Whether the proposed regulatory entity would be a board composed of members of the profession and public members or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification or licensure, including the composition of the board and the number of public members, if any, the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension and nonrenewal of registrations, certificates or licenses, the adoption of rules and canons of ethics, the conduct of inspections, the receipt of complaints and disciplinary action taken against practitioners and how fees would be levied and collected to pay for the expenses of administering and operating the regulatory system.
  - (ii) If there is a grandfather clause, whether grandfathered practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date.
  - (iii) The nature of the standards proposed for registration, certification or licensure as compared with the standards of other jurisdictions.
  - (iv) Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions.
  - (v) The nature and duration of any training, including whether the training includes a substantial amount of supervised field experience, whether training programs exist in this state, if there will be an experience requirement, whether the experience must be acquired under a registered, certified or licensed practitioner, whether there are alternative routes of entry or methods of meeting the prerequisite qualifications, whether all applicants will be required to pass an examination, and if an examination is required, by whom it will be developed and how the costs of development will be met.
  - (d) Assurance of the public that practitioners have maintained their competence, including:
    - (i) Whether the registration, certification or licensure will carry an expiration date.
    - (ii) Whether renewal will be based only on payment of a fee or whether renewal will involve reexamination, peer review or other enforcement.
5. The extent to which regulation might harm the public, including:
- (a) The extent to which regulation will restrict entry into the health profession, including:
    - (i) Whether the proposed standards are more restrictive than necessary to ensure safe and effective performance.
    - (ii) Whether the proposed legislation requires registered, certified or licensed practitioners in other jurisdictions who relocate to this state to qualify in the same manner as state applicants for registration, certification and licensure if the other jurisdiction has substantially equivalent requirements for registration, certification or licensure as those in this state.
  - (b) Whether there are professions similar to that of the health professional group that should be included in, or portions of the health professional group that should be excluded from, the proposed legislation.
6. The maintenance of standards, including:
- (a) Whether effective quality assurance standards exist in the health profession, such as legal requirements associated with specific programs that define or enforce standards or a code of ethics.
  - (b) How the proposed legislation will ensure quality, including:
    - (i) The extent to which a code of ethics, if any, will be adopted.
    - (ii) The grounds for suspension or revocation of registration, certification or licensure.
7. A description of the group proposed for regulation, including a list of associations, organizations and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group and whether the groups represent different levels of practice.
8. The expected costs of regulation, including:
- (a) The impact that registration, certification or licensure will have on the costs of the services to the public.
  - (b) The cost to this state and to the public of implementing the proposed legislation.

**32-3106. Health professional groups; proposed increased scope of practice; factors; legislation**

A. A health professional group that is seeking an increased scope of practice shall explain each of the following factors:

1. Why an increased scope of practice is beneficial, including the extent to which health care consumers need and will benefit from safe, quality care from practitioners with this scope of practice.
2. Whether those health professionals seeking an increased scope of practice currently have or will be required to have didactic and clinical education from accredited professional schools or training from recognized programs that prepare them to perform the proposed scope of practice, and details on what that education or training includes for that proposed scope of practice.
3. Whether the subject matter of the proposed increased scope of practice is currently tested by nationally recognized and accepted examinations for applicants for professional licensure and the details of the examination relating to the increased scope of practice.
4. The extent to which the proposed increased scope of practice will impact the practice of those who are currently licensed in this state or the entry into practice of those individuals who have relocated from other states with substantially equivalent requirements for registration, certification or licensure as this state.
5. The extent to which implementing the proposed increased scope of practice may result in savings or a cost to this state and to the public.
6. The relevant health profession licensure laws, if any, in this or other states.
7. Recommendations, if any, from the applicable regulatory entity or entities, from the department of health services and from accredited educational or training programs.

B. The legislature shall review any legislation to increase the scope of practice according to the following criteria:

1. Any limit on a health profession's scope of practice must be only for the purpose of protecting the public from a specific harm or danger.
2. Whether the addition of adequately trained health professionals providing an expanded range of professional health care services will have a beneficial effect to the public and increase access to safe, quality care.
3. Whether any changes in the health profession's regulatory entity are necessary to adequately protect the public.

C. The legislature shall not consider either of the following in its review of legislation to increase the scope of practice:

1. Competition from or with other licensed professions.
2. The ability or inability to obtain health insurance coverage for the proposed increased scope of practice.

**32-3107. Continuing education requirements; evidence of effectiveness**

Any legislative proposal which contains a continuing education requirement for a health profession shall be accompanied by evidence that such a requirement has been proven effective for the health profession.

**32-3108. Grievance process; public testimony**

Notwithstanding any law to the contrary, a regulatory entity shall allow a person or a representative of a person who has made a complaint or a person or a representative of a person against whom a complaint has been made attending a board disciplinary meeting open to the public to address the board on that complaint on the agenda by filling out a request form before or at the time of the meeting.



**TITLE 32 – PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 32 – Health Professionals**  
**Article 1 – General Provisions**

**32-3201. Definitions**

In this chapter, unless the context otherwise requires:

1. "Health profession regulatory board" means any board that regulates one or more health professionals in this state.
2. "Health professional" means a person who is certified or licensed pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41 or 42 of this title, title 36, chapter 4, article 6, title 36, chapter 6, article 7 or title 36, chapter 17.
3. "Medical record" has the same meaning prescribed in section 12-2291 but does not include prescription orders.

**32-3202. License or certificate suspension**

The certificate or license of a health professional who does not renew the certificate or license as prescribed by statute and who has been advised in writing that an investigation is pending at the time the certificate or license is due to expire or terminate does not expire or terminate until the investigation is resolved. The license is suspended on the date it would otherwise expire or terminate and the health professional shall not practice in this state until the investigation is resolved. The certificate is suspended on the date it would otherwise expire or terminate and the health professional shall not practice as a certified health professional in this state until the investigation is resolved.

**32-3203. Malpractice claim investigation**

On receipt of a malpractice report and a copy of a malpractice complaint as provided in section 12-570, the health profession regulatory board shall initiate an investigation into the matter to determine if the licensee is in violation of the statutes or rules governing licensure.

**32-3204. Experimental diagnosis, therapy or treatment; implied consent; definition**

- A. Notwithstanding any provision of this title to the contrary, a health professional, within the scope of that person's profession, may use an experimental diagnosis, therapy or treatment on a patient who is unable to make or communicate health care decisions and who has an emergent life threatening condition if the requirements of 21 Code of Federal Regulations parts 50, 56, 312, 314, 601, 812 and 814 have been met.
- B. A health professional who performs an experimental diagnosis, therapy or treatment pursuant to this section is deemed to have obtained the patient's implied consent for the purposes of title 12, chapter 5.1, article 1.
- C. For purposes of this section, "experimental diagnosis" means the pharmaceuticals, devices and technology used to diagnose patients.

**32-3205. Board disciplinary action; voting requirements**

If a disciplinary action requires a vote of board members, a health profession regulatory board shall conduct that vote by roll call. The board shall maintain a record of each member's vote. This section does not prohibit a board from using a consent agenda.

**32-3206. Disciplinary action; information; disclosure**

- A. At least ten business days before a meeting of a health profession regulatory board to review the status of an investigation, the board shall provide notice of the meeting to the health professional, including



notice of the opportunity for the health professional to request a copy of the report concerning the investigation.

B. At least ten business days before a disciplinary interview or a hearing, if the board does not hold a disciplinary interview, the health profession regulatory board shall notify the health professional and, at that person's request, the board shall provide the health professional or the health professional's attorney with the information listed in this section. The board shall provide the following information:

1. Any review conducted by an expert or consultant providing an evaluation of or opinion on the allegations.
2. Any records on the patient obtained by the board from other health care providers.
3. The results of any evaluations or tests of the health professional conducted at the board's direction.
4. Any other factual information that the board will use in making its determination.

C. A person who obtains information from the board pursuant to this section may not release it to any other person or entity or use it in any proceeding or action except in connection with the board's review of the investigation, the disciplinary interview and any administrative proceedings or appeals related to the disciplinary interview or hearing. A person who violates this subsection commits an act of unprofessional conduct.

D. The board may charge the health professional or the health professional's attorney for the cost of providing the information received up to the fee for making a copy of each page as prescribed by section 12-284, subsection A.

### **32-3207. Health professionals disease hazard; testing; petition; definition**

A. A health professional may petition the court to allow for the testing of a patient or deceased person if there is probable cause to believe that in the course of that health professional's practice there was a significant exposure.

B. The court shall hear the petition promptly. If the court finds that probable cause exists to believe that significant exposure occurred between the patient or deceased person and the health professional, the court shall order that either:

1. The person who transferred blood or bodily fluids onto the health professional provide two specimens of blood for testing.
2. If the person is deceased, the medical examiner draw two specimens of blood for testing.

C. On written notice from the employer of the health professional, the medical examiner is authorized to draw two specimens of blood for testing during the autopsy or other examination of the deceased person's body. The medical examiner shall release the specimen to the employing agency or entity for testing only after the court issues its order pursuant to subsection B. If the court does not issue an order within thirty days after the medical examiner collects the specimen, the medical examiner shall destroy the specimen.

D. Notice of the test results shall be provided as prescribed by the department of health services to the person tested, the health professional named in the petition and the health professional's employer. If the person is incarcerated or detained, the notice shall also be provided to the chief medical officer of the facility in which the person is incarcerated or detained.

E. For the purposes of this section, "significant exposure" means contact of a person's ruptured or broken skin or mucous membranes with another person's blood or bodily fluid, other than tears, saliva or perspiration, of a magnitude that the centers for disease control of the United States public health service have epidemiologically demonstrated can result in the transmission of blood borne or bodily fluid carried diseases.

**32-3208. Criminal charges; mandatory reporting requirements; civil penalty**

- A. A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed.
- B. An applicant for licensure or certification as a health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after submitting the application must notify the regulatory board in writing within ten working days after the charge is filed.
- C. On receipt of this information the regulatory board may conduct an investigation.
- D. A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary action it takes.
- E. The regulatory board may deny the application of an applicant who does not comply with the notification requirements of this section.
- F. On request a health profession regulatory board shall provide an applicant or health professional with a list of misdemeanors that the applicant or health professional must report.

**32-3209. Release of information; fees**

- A. On request of any person, a health profession regulatory board must provide the following information to that person:
  - 1. A copy of the minutes of any specified board meeting.
  - 2. A copy of a board action concerning a person regulated by the board.
  - 3. A copy of the final adjudication of a complaint against a person regulated by the board. For the purposes of this paragraph, final adjudication of a complaint does not include any complaint that was dismissed or terminated more than five years before the request was submitted.
  - 4. The name and primary practice address of a person regulated by the board.
- B. A health regulatory board may charge a fee for copies of any of the information in subsection A.

**32-3210. Billing for laboratory costs; unprofessional conduct; definition**

- A. It is an act of unprofessional conduct for a health professional to request a laboratory that provides anatomic pathology services at the health professional's orders to submit a bill for anatomic pathology services, whether occurring in this state or elsewhere, to any person or entity other than the following:
  - 1. The patient.
  - 2. The responsible insurer or other third party payor.
  - 3. The health care institution.
  - 4. A referring laboratory, excluding the laboratory of the health professional who ordered the test.
  - 5. A governmental agency or the agency's public or private agent, agency or organization that is acting on behalf of the recipient of the services.
- B. For the purposes of this section, "anatomic pathology services" includes cytology services, molecular pathology services, hematopathology, histopathology, surgical pathology, and blood banking services performed by a pathologist. Anatomic pathology services does not include the collection, packaging and transportation of the specimen.

**32-3211. Medical records; protocol; unprofessional conduct; corrective action; exemptions**

- A. A health professional must prepare a written protocol for the secure storage, transfer and access of the medical records of the health professional's patients. At a minimum the protocol must specify:
  - 1. If the health professional terminates or sells the health professional's practice and the patient's medical records will not remain in the same physical location, the procedure by which the health professional shall notify each patient in a timely manner before the health professional terminates or sells the health

professional's practice in order to inform the patient regarding the future location of the patient's medical records and how the patient can access those records.

2. The procedure by which the health professional may dispose of unclaimed medical records after a specified period of time and after the health professional has made good faith efforts to contact the patient.

3. How the health professional shall timely respond to requests from patients for copies of their medical records or to access their medical records.

B. The protocol prescribed in subsection A of this section must comply with the relevant requirements of title 12, chapter 13, article 7.1 regarding medical records.

C. A health professional shall indicate compliance with the requirements of this section on the health professional's application for relicensure in a manner prescribed by the health professional's regulatory board.

D. A health professional who does not comply with this section commits an act of unprofessional conduct.

E. In addition to taking disciplinary action against a health professional who does not comply with this section, the health professional's regulatory board may take corrective action regarding the proper storage, transfer and access of the medical records of the health professional's patients. For the purposes of this subsection, corrective action does not include taking possession or management of the medical records.

F. For the purposes of this section, health professional does not include a veterinarian.

G. This section does not apply to a health professional who is employed by a health care institution as defined in section 36-401 that is responsible for the maintenance of the medical records.

### **32-3213. Health professionals; disclosure; unprofessional conduct; definition**

A. An advertisement for health care services that includes a health professional's name shall identify the title and type of license the health professional holds and under which the health professional is practicing.

B. A health professional who violates this section commits an act of unprofessional conduct.

C. For the purposes of this section, "advertisement" includes billboards, brochures, pamphlets, radio and television scripts, electronic media, printed telephone directories, telephone and direct mail solicitations and any other means of promotion intended to directly or indirectly induce any person to enter into an agreement for services with the health professional. Advertisement does not include materials that provide information about network providers and that are created by an entity regulated under title 20.

### **32-3215. Medical marijuana; unprofessional conduct; annual reports; identifying information**

A. It is an act of unprofessional conduct for a health professional who is licensed pursuant to chapter 13, 14, 17 or 29 of this title to recommend medical marijuana pursuant to title 36, chapter 28.1 for other than a debilitating medical condition as defined in section 36-2801.

B. The Arizona medical board, the Arizona board of osteopathic examiners in medicine and surgery, the naturopathic physicians medical board and the board of homeopathic and integrated medicine examiners shall each submit an annual report on or before November 15 to the governor, the president of the senate, the speaker of the house of representatives and the director of the department of health services that includes at least the following information:

1. The number of notifications received from the department of health services and from the public of suspected unprofessional conduct that relate to medical marijuana recommendations issued pursuant to title 36, chapter 28.1.

2. The number of investigations conducted as a result of information received pursuant to paragraph 1 and the outcome of those investigations.

C. Annual reports filed pursuant to subsection B of this section shall not include identifying information about a physician.

**32-3216. Health care providers; charges; public availability; direct payment; notice; definitions**

A. A health care provider must make available on request or online the direct pay price for at least the twenty-five most commonly provided services, if applicable, for the health care provider. The services may be identified by a common procedural terminology code or by a plain-English description. The direct pay prices must be updated at least annually and must be based on the services from a twelve-month period that occurred within the eighteen-month period preceding the annual update. The direct pay price must be for the standard treatment provided for the service and may include the cost of treatment for complications or exceptional treatment. Health care providers who are owners or employees of a legal entity with fewer than three licensed health care providers are exempt from the requirements of this subsection.

B. Subsection A of this section does not apply to emergency services.

C. The health care services provided by health care providers in veterans administration facilities, health facilities on military bases, Indian health services hospitals and other Indian health service facilities, tribal owned clinics, the Arizona state hospital and any health care facility determined to be exempt pursuant to section 36-437, subsection D, are exempt from the requirements of this section.

D. Subsection A of this section does not prevent a health care provider from offering either additional discounts or additional lawful health care services for an additional cost to a person or an employer paying directly.

E. A health care provider is not required to report the direct pay prices to a government agency or department or to a government-authorized or government-created entity for review or filing. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider's direct pay price for services. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider's ability to change the published or posted direct pay price for services.

F. A health care system may not punish a person or employer for paying directly for lawful health care services or a health care provider for accepting direct payment from a person or employer for lawful health care services.

G. Except as provided in subsection N of this section, a health care provider who receives direct payment from a person or employer for a lawful health care service is deemed paid in full if the entire fee for the service is paid and shall not submit a claim for payment or reimbursement for the service to any health care system. This subsection does not prevent a health care provider from pursuing a health care lien for customary charges pursuant to title 33. This subsection does not affect the ability of a health care provider to submit claims for the same service provided on other occasions to the same or a different person if no direct payment occurs. This subsection does not require a health care provider to refund or adjust any capitated payment, bundled payment or other form of prepayment or global payment made by a health care system to the health care provider for lawful health care services to be provided by the health care provider for the person who makes, or on whose behalf an employer makes, direct payment to the health care provider.

H. Before a health care provider who is contracted as a network provider for a health care system accepts direct payment from a person or an employer, and the person is an enrollee of the same health care system, the health care provider shall obtain the person's or employer's signature on a notice in a form that is substantially similar to the following:

Important notice about direct payment  
for your health care services

The Arizona Constitution permits you to pay a health care provider directly for health care services. Before you make any agreement to do so, please read the following important information:

If you are an enrollee of a health care system (more commonly referred to as a health insurance plan) and your health care provider is contracted with the health insurance plan, the following apply:

1. You may not be required to pay the health care provider directly for the services covered by your plan, except for cost share amounts that you are obligated to pay under your plan, such as copayments, coinsurance and deductible amounts.
  2. Your provider's agreement with the health insurance plan may prevent the health care provider from billing you for the difference between the provider's billed charges and the amount allowed by your health insurance plan for covered services.
  3. If you pay directly for a health care service, your health care provider will not be responsible for submitting claim documentation to your health insurance plan for that claim. Before paying your claim, your health insurance plan may require you to provide information and submit documentation necessary to determine whether the services are covered under your plan.
  4. If you do not pay directly for a health care service, your health care provider may be responsible for submitting claim documentation to your health insurance plan for the health care service.
- Your signature below acknowledges that you received this notice before paying directly for a health care service.

I. A health care provider who receives direct payment for a lawful health care service and who complies with subsection H of this section is not responsible for submitting documentation of any kind for purposes of reimbursement to any health care system for that claim if the failure to submit such documentation does not conflict with the terms of any federal or state contracts to which the health care system is a party and the health care provider has agreed to serve patients under or with applicable state or federal programs in which a health care provider and health care system participate.

J. A health care provider who receives direct payment pursuant to this section shall provide the person making the direct payment with a receipt that includes the following information:

1. The amount of the direct payment.
2. The applicable procedure and diagnosis codes for the services rendered.
3. A clear notation that the services were subject to direct payment under this section.

K. If an enrollee pays to a health care provider who is an out-of-network provider the direct pay price for a lawful health care service that is covered under the enrollee's health care plan, pursuant to the requirements of this section, the amount paid by the enrollee shall be applied first to the enrollee's in-network deductible with any remaining monies being applied to the enrollee's out-of-network deductible, if applicable. The amount applied to the in-network deductible shall be the amount paid directly or the insurer's prevailing contracted commercial rate for the enrollee's health care plan in this state for the service or services. If the service or services do not match standard codes or bundled payment programs in use in this state by the insurer, the amount applied to the in-network deductible shall be the amount paid directly. For the purposes of this subsection, "prevailing contracted commercial rate" means the most usual and customary rate that an insurer offers as payment for a specific service under a specific health care plan, not including a plan offered under medicare or medicaid or on a health insurance exchange.

L. If an enrollee is enrolled in a high deductible plan that qualifies the enrollee for a health savings account as defined in 26 United States Code section 223, the health care system is not liable if the enrollee submits a claim for deductible application of a direct pay amount pursuant to subsection K of this section that jeopardizes the enrollee's status as an individual eligible for favorable tax treatment of the health savings account.

M. This section does not create any private right or cause of action for or on behalf of any person against the health insurer. This section provides solely an administrative remedy for any violation of this section or any related rule.

N. This section does not impair the provisions of a health care system's private health care network provider contract, except that a health care provider may accept direct payment from a person or employer or may decline to bill the health care system directly for services paid directly by a person or employer if the health care provider has complied with subsection H of this section and the health care provider's

receipt of direct payment and the declination to bill the health care system do not conflict with the terms of any federal or state contract to which the health care system is a party and the health care provider has agreed to serve patients under or with applicable state or federal programs in which both a health care provider and health care system participate.

O. A health care provider who does not comply with the requirements of this section commits unprofessional conduct. Any disciplinary action taken by the health professional's licensing board may not include revocation of the health care provider's license.

P. For the purposes of this section:

1. "Direct pay price" means the price that will be charged by a health care provider for a lawful health care service, regardless of the health insurance status of the person, if the entire fee for the service is paid in full directly to a health care provider by the person, including the person's health savings account, or by the person's employer and that does not prohibit a provider from establishing a payment plan with the person paying directly for services.

2. "Emergency services" means lawful health care services needed to evaluate and stabilize an emergency medical condition as defined in 42 United States Code section 1396u-2(b)(2)(C).

3. "Enrollee" means a person who is enrolled in a health care plan provided by a health insurer.

4. "Health care plan" means a policy, contract or evidence of coverage issued to an enrollee. Health care plan does not include limited benefit coverage as defined in section 20-1137.

5. "Health care provider" means a person who is licensed pursuant to chapter 7, 8, 13, 16, 17, 19 or 34 of this title.

6. "Health care system" means a public or private entity whose function or purpose is the management, processing or enrollment of individuals or the payment, in full or in part, of health care services.

7. "Health insurer":

(a) Means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital and medical service corporation as defined in title 20.

(b) Does not include a governmental plan as defined in the employee retirement income security act of 1974 (P.L. 93-406; 88 Stat. 829; 29 United States Code section 1002).

8. "Lawful health care services" means any health-related service or treatment, to the extent that the service or treatment is permitted or not prohibited by law or regulation, that may be provided by persons or businesses otherwise permitted to offer the services or treatments.

9. "Punish" means to impose any penalty, surcharge or named fee with a similar effect that is used to discourage the exercise of rights under this section.

## **TITLE 32 – PROFESSIONS AND OCCUPATIONS**

### **CHAPTER 43 – License, Certificate or Registration Renewals for Military Members**

#### **Article 1 – General Provisions**

#### **32-4301. License, certificate or registration expiration; military active duty; one hundred eighty day extension**

A. Except as otherwise provided in this section, a license, certificate or registration issued pursuant to this title to any member of the Arizona national guard or the United States armed forces reserves shall not expire while the member is serving on federal active duty and shall be extended one hundred eighty days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the license, certificate or registration issuing authority of the federal active duty status of the member. A license, certificate or registration issued pursuant to this title to any member serving in the regular component of the United States armed forces shall be extended one hundred eighty days from the date of expiration, provided that the member, or the legal representative of the member, notifies the



license, certificate or registration issuing authority of the federal active duty status of the member.

B. A license, certificate or registration issued pursuant to this title to any member of the Arizona national guard, the United States armed forces reserves or the regular component of the United States armed forces shall not expire and shall be extended one hundred eighty days from the date the military member is able to perform activities necessary under the license, certificate or registration if the member both:

1. Is released from active duty service.
2. Suffers an injury as a result of active duty service that temporarily prevents the member from being able to perform activities necessary under the license, certificate or registration.

C. If the license, certificate or registration is renewed during the applicable extended time period after the member returns from federal active duty, the member is responsible only for normal fees and activities relating to renewal of the license, certificate or registration and shall not be charged any additional costs such as late fees or delinquency fees.

D. The member, or the legal representative of the member, shall present to the authority issuing the license, certificate or registration a copy of the member's official military orders, a redacted military identification card or a written verification from the member's commanding officer before the end of the applicable extended time period in order to qualify for the extension.

E. This section does not apply to licenses issued pursuant to chapter 10 of this title if a person other than the person who is a member of the Arizona national guard, the United States armed forces reserves or the regular component of the United States armed forces as described in subsection A is authorized to renew the license.

F. A license or certificate issued pursuant to chapter 36 of this title to any member of the Arizona national guard, the United States armed forces reserves or the regular component of the United States armed forces shall be placed in active status for ninety days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the state board of appraisal of the federal active duty status of the member.

### **32-4302. Out-of-state applicants; military spouses; reciprocity**

A. Notwithstanding any other law, an occupational or professional license or certificate shall be issued, in the discipline applied for and at the same practice level as determined by the regulating entity, pursuant to this title to a person who establishes residence in this state or without an examination to a person who is married to an active duty member of the armed forces of the United States and who is accompanying the member to an official permanent change of state to a military installation located in this state if all of the following apply:

1. The person is currently licensed or certified in at least one other state in the discipline applied for and at the same practice level as determined by the regulating entity and the license or certification is in good standing in all states in which the person holds a license or certification.
2. The person has been licensed or certified by another state for at least one year.
3. When the person was licensed or certified by another state there were minimum education requirements and, if applicable, work experience and clinical supervision requirements in effect and the other state verifies that the person met those requirements in order to be licensed or certified in that state.
4. The person previously passed an examination required for the license or certification if required by the other state.
5. The person has not had a license or certificate revoked and has not voluntarily surrendered a license or certificate in any other state or country while under investigation for unprofessional conduct.
6. The person has not had discipline imposed by any other regulating entity. If another jurisdiction has taken disciplinary action against the person, the regulating entity shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that jurisdiction, the regulating entity may not issue or deny a license until the matter is resolved.

7. The person does not have a complaint, allegation or investigation pending before another regulating entity in another state or country that relates to unprofessional conduct. If an applicant has any complaints, allegations or investigations pending, the regulating entity in this state shall suspend the application process and may not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved.

8. The person pays all applicable fees.

9. The person does not have a disqualifying criminal history as determined by the regulating entity pursuant to section 41-1093.04.

B. This section does not prevent a regulating entity under this title from entering into a reciprocity agreement with another state or jurisdiction for persons married to active duty members of the armed forces of the United States, except that the agreement may not allow out-of-state licensees or certificate holders to obtain a license or certificate by reciprocity in this state if the applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the regulating entity on a case-by-case basis.

C. Except as provided in subsection A of this section, a regulating entity that administers an examination on laws of this state as part of its license or certificate application requirement may require an applicant to take and pass an examination specific to the laws of this state.

D. A person who is licensed pursuant to this title is subject to the laws regulating the person's practice in this state and is subject to the regulating entity's jurisdiction.

E. This section does not apply to:

1. A license or registration certificate that is issued pursuant to chapter 24 or 26 of this title.
2. Requirements for a fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1
3. Criteria for a license, permit or certificate of eligibility that is established by an interstate compact.
4. The ability of a regulating entity under this title to require an applicant to submit fingerprints in Order to access state and federal criminal records information for noncriminal justice purposes.

F. A license or certificate issued pursuant to this section is valid only in this state and does not make the person eligible to be part of an interstate compact. A regulating entity under this title may determine eligibility for an applicant to be licensed or certified under this section if the applicant is not part of an interstate compact.

## **TITLE 32 – PROFESSIONS AND OCCUPATIONS**

### **CHAPTER 37 – Child Support Obligations**

#### **Article 1 – General Provisions**

#### **32-3701. Child support arrearages; suspension of license or certificate; applicability; definition**

A. A licensing board or agency shall suspend a license within thirty days after receiving a certificate of noncompliance from the court pursuant to section 25-518. The licensing board or agency shall not lift the suspension until it receives a certificate of compliance from the court.

B. The licensing board or agency shall notify the department of economic security within thirty days in writing, or by any other means prescribed by the department, of all license suspensions pursuant to this section. The information shall include the person's name, address, date of birth and social security number.

C. This section applies to support obligations ordered by any state, territory or district of the United States.

D. For purposes of this section, "license" means any license, certificate, registration, permit or other authorization that:

1. Is issued by an agency or regulatory board.
2. Is subject before expiration to suspension, revocation, forfeiture or termination by the issuing board or



agency.

3. A person must obtain to practice or engage in a particular business, occupation or profession.

**TITLE 32 – PROFESSIONS AND OCCUPATION**

**CHAPTER 38 – Privacy Rights**

**Article 1 – General Provisions**

**32-3801. Personal information maintained by professional boards; confidentiality**

Notwithstanding any law to the contrary, except as provided in section 32-3226, a professional's residential address and residential telephone number or numbers maintained by a regulatory entity established pursuant to this title are not available to the public unless they are the only address and numbers of record