House Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

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CHAPTER 25

HOUSE BILL 2180

AN ACT

AMENDING SECTIONS 13-3713, 32-1401 AND 32-1854, ARIZONA REVISED STATUTES; RELATING TO UNPROFESSIONAL CONDUCT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 13-3713, Arizona Revised Statutes, is amended to read:

13-3713. Consideration for referral of patient, client or customer; fraud; violation; classification

A. EXCEPT FOR PAYMENTS FROM A MEDICAL RESEARCHER TO A PHYSICIAN LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 IN CONNECTION WITH IDENTIFYING AND MONITORING PATIENTS FOR A CLINICAL TRIAL REGULATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, a person who knowingly offers, delivers, receives or accepts any rebate, refund, commission, preference or other consideration as compensation for referring a patient, client or customer to any individual, pharmacy, laboratory, clinic or health care institution providing medical or health-related services or items pursuant to title 11, chapter 2, article 7 or title 36, chapter 29, other than specifically provided for in accordance with title 11, chapter 2, article 7 or title 36, chapter 29, is guilty of:

1. A class 3 felony if the consideration had a value of one thousand dollars or more.

2. A class 4 felony if the consideration had a value of more than one hundred dollars but less than one thousand dollars.

3. A class 6 felony if the consideration had a value of one hundred dollars or less.

B. A person who knowingly presents false information or misrepresents or conceals a material fact on an application for medical or health coverage pursuant to title 36, chapter 29 or section 11-291 or who knowingly fails to notify the county of residence of a change in conditions ~~which~~ THAT, if notification had been made, would have resulted in termination of eligibility or change in eligibility status for medical or health coverage pursuant to title 36, chapter 29 or section 11-291 is guilty of a class 6 felony.

C. A person who knowingly obtains or attempts to obtain medical or health coverage pursuant to title 36, chapter 29 or section 11-291 by the use of any means of identification not authorized by the Arizona health care cost containment system administration or by the use of any means of identification authorized by the Arizona health care cost containment system administration ~~which~~ THAT has been or would have been fraudulently acquired is guilty of:

1. A class 5 felony if the value of the medical or health coverage or attempted coverage is one thousand dollars or more.

2. A class 6 felony if the value of the medical or health coverage or attempted coverage exceeds one hundred dollars but is less than one thousand dollars.

3. A class 1 misdemeanor if the value of the medical or health coverage or attempted coverage is one hundred dollars or less.

D. A person who knowingly counterfeits or alters any means of identification or uses, transfers, acquires or possesses counterfeited or

altered identification for the purpose of fraudulently obtaining medical or health coverage pursuant to title 36, chapter 29 or section 11-291 is guilty of a class 4 felony.

E. A person lawfully entitled to medical or health coverage pursuant to title 36, chapter 29 or section 11-291 who knowingly furnishes, gives or lends ~~his~~ THAT PERSON'S means of identification to any person for the purpose of fraudulently obtaining medical or health coverage pursuant to title 36, chapter 29 or section 11-291 is guilty of a class 6 felony.

F. A person who knowingly aids or abets another person ~~as prescribed by~~ PURSUANT TO section 13-301, 13-302 or 13-303 in the commission of an offense under this section or section 36-2905.04 is guilty of a class 5 felony.

G. The county attorney of the county in which the violation occurs and the attorney general have concurrent jurisdiction to prosecute all violations specified in this section.

Sec. 2. Section 32-1401, Arizona Revised Statutes, is amended to read:

32-1401. Definitions

In this chapter, unless the context otherwise requires:

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

2. "Adequate records" means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment.

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

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

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

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

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

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

6. "Board" means the Arizona medical board.

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

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

9. "Dispense" means the delivery by a doctor of medicine 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.

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

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

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

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

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

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

16. "Medical assistant" means an unlicensed person who meets the requirements of section 32-1456, has completed an education program approved by the board, assists in a medical practice under the supervision of a doctor

of medicine, physician assistant or nurse practitioner and performs delegated procedures commensurate with the assistant's education and training but does not diagnose, interpret, design or modify established treatment programs or perform any functions that would violate any statute applicable to the practice of medicine.

17. "Medical peer review" means:

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

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

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

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

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

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

20. "Physician" means a doctor of medicine licensed pursuant to this chapter.

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

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

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

24. "Teaching hospital's accredited graduate medical education program" means that the hospital is incorporated and has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American medical association, the

association of American medical colleges, the royal college of physicians and surgeons of Canada or a similar body in the United States or Canada approved by the board whose function is that of approving hospitals for internship, fellowship or residency training.

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

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

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

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

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

(d) 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 or a plea of no contest is conclusive evidence of the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) 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.

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

(u) Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement that has the same effect. THIS SUBDIVISION DOES NOT APPLY TO PAYMENTS FROM A MEDICAL RESEARCHER TO A PHYSICIAN IN CONNECTION WITH IDENTIFYING AND MONITORING PATIENTS FOR A CLINICAL TRIAL REGULATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

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

(w) Charging or collecting a clearly excessive fee. In determining if a fee is clearly excessive, the board shall consider the fee or range of fees customarily charged in the state for similar services 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 subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that has been entered into before the provision of service.

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

(y) The use of experimental forms of diagnosis and treatment without adequate informed patient consent, and without conforming to generally

accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee as approved by the federal food and drug administration or its successor agency.

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

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

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

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

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

(bb) Representing or holding oneself out as being a medical specialist when such is not the fact.

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

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

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

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

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

(i) Adequate informed patient consent.

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

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

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

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

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

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

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

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

(nn) Refusing to submit to a body fluid examination as required by the board pursuant to section 32-1452 or pursuant to a board investigation into a doctor of medicine's alleged substance abuse.

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

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

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

(rr) Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, osteopathic physician or homeopathic physician licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper authorization to do so from the patient, a minor patient's parent, the

patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

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

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

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

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

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

Sec. 3. Section 32-1854, Arizona Revised Statutes, is amended to read:

32-1854. Definition of unprofessional conduct

"Unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

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

2. 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 of the commission.

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

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

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

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

7. Impersonating another physician.

8. Acting or assuming to act as a member of the board if this is not true.

9. Procuring or attempting to procure a license to practice osteopathic medicine by fraud or misrepresentation.

10. Having professional connection with or lending one's name to an illegal practitioner of osteopathic medicine or any of the other healing arts.

11. Representing that a manifestly incurable disease, injury, ailment or infirmity can be permanently cured or that a curable disease, injury, ailment or infirmity can be cured within a stated time, if this is not true.

12. Failing to reasonably disclose and inform the patient or the patient's representative of the method, device or instrumentality the licensee uses to treat the patient's disease, injury, ailment or infirmity.

13. Refusing to divulge to the board on demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment or infirmity.

14. Charging a fee for services not rendered or dividing a professional fee for patient referrals. THIS PARAGRAPH DOES NOT APPLY TO PAYMENTS FROM A MEDICAL RESEARCHER TO A PHYSICIAN IN CONNECTION WITH IDENTIFYING AND MONITORING PATIENTS FOR A CLINICAL TRIAL REGULATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

15. Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine except as the same may be necessary for accepted therapeutic purposes.

16. Advertising in a false, deceptive or misleading manner.

17. Representing or holding oneself out as being an osteopathic medical specialist if the physician has not satisfied the applicable requirements of this chapter or board rules.

18. The refusal, revocation or suspension of a license by any other state, territory, district or country, unless it can be shown that this occurred for reasons that did not relate to the person's ability to safely and skillfully practice osteopathic medicine or to any act of unprofessional conduct as provided in this section.

19. Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.

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

21. Failing or refusing to maintain adequate records on a patient as follows:

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

(b) If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least seven years after the last

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

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

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

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

24. Prescribing, dispensing or administering schedule II controlled substances as defined in section 36-2513 including amphetamines and similar schedule II sympathomimetic drugs in the treatment of exogenous obesity for a period in excess of thirty days in any one year.

25. Nontherapeutic use of injectable amphetamines.

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

27. Charging or collecting an inappropriate fee. This paragraph does not apply to a fee ~~which~~ THAT is fixed in a written contract between the physician and the patient and entered into before treatment begins.

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

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

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

31. Signing a blank, undated or predated prescription form.

32. Obtaining a fee by fraud, deceit or misrepresentation.

33. Falsely claiming attendance at continuing medical education programs to meet license renewal requirements.

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

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

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

37. Violating a federal law, a state law or a rule applicable to the practice of medicine.

38. Prescribing or dispensing controlled substances or prescription-only medications without maintaining adequate and appropriate patient records.

39. Failing to dispense drugs and devices in compliance with article 4 of this chapter.

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

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

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

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

44. Sexual intimacies with a patient.

45. Fetal experiments conducted in violation of section 36-2302.

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

47. Conduct in the practice of medicine ~~which~~ THAT evidences moral unfitness to practice medicine.

48. Wilfully harassing, abusing or intimidating a patient either physically or verbally.

49. Failing to furnish legally requested information to the board or its investigators in a timely manner.

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

within a group of licensees who practice together. A licensee meets the disclosure requirements of this paragraph if all of the following are true:

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

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

51. Prescribing, dispensing or furnishing a prescription medication or a prescription-only device to a person if the licensee has not conducted a physical examination of that person or has not previously established a physician-patient relationship. This paragraph does not apply to emergencies.

52. Failing to inform the board in writing within ten days after any change of the licensee's address of record.

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

APPROVED BY THE GOVERNOR APRIL 1, 2004.

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