

ARTICLE 1 BOARD OF PHARMACY:

32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by the practitioner's authorized agent or the patient or research subject at the direction of the practitioner.

2. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.

3. "Advisory letter" means a non-disciplinary letter to notify a licensee or permittee 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 or permittee.

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

(c) While the licensee or permittee has demonstrated substantial compliance through rehabilitation, remediation or reeducation 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 or permittee.

4. "Antiseptic", if a drug is represented as such on its label, means a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or other use that involves prolonged contact with the body.

5. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the state board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.

6. "Board" or "Board of Pharmacy" means the Arizona State Board of Pharmacy.

7. "Color additive" means a material that either:

(a) Is any dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

(b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material that has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

8. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug by a pharmacist or an intern or pharmacy technician under the pharmacist's supervision, for the purpose of dispensing to a patient

based on a valid prescription order. Compounding includes the preparation of drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and the preparation of drugs as an incident to research, teaching or chemical analysis or for administration by a medical practitioner to the medical practitioner's patient and not for sale or dispensing. Compounding does not include the preparation of commercially available products from bulk compounds or the preparation of drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

9. "Compressed medical gas distributor" means a person who holds a current permit issued by the board to distribute compressed medical gases pursuant to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

10. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

11. "Compressed medical gas supplier" means a person who holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

12. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

13. "Controlled substance" means a drug, substance or immediate precursor identified, defined or listed in title 36, chapter 27, article 2.

14. "Corrosive" means any substance that when it comes in contact with living tissue will cause destruction of tissue by chemical action.

15. "Counterfeit drug" means a drug that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness of these, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed that drug.

16. "Dangerous drug" has the same meaning prescribed in section 13-3401.

17. "Decree of censure" means an official action that is taken by the board and that may include a requirement for restitution of fees to a patient or consumer.

18. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

19. "Deputy Director" means a pharmacist who is employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

20. "Device", except as used in paragraph 15 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means instruments, apparatus and contrivances, including their components, parts and accessories, including all such items under the federal act, intended either:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

21. "Direct supervision of a pharmacist" means the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.
22. "Director" means the director of the division of narcotics enforcement and criminal investigation of the department of public safety.
23. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare for that delivery.
24. "Dispenser" means a practitioner who dispenses.
25. "Distribute" means to deliver, other than by administering or dispensing.
26. "Distributor" means a person who distributes.
27. "Drug" means:
- (a) Articles recognized, or for which standards or specifications are prescribed, in the official compendium.
- (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.
- (c) Articles other than food intended to affect the structure or any function of the human body or other animals.
- (d) Articles intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.
28. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.
29. "Drug or device manufacturing" means the production, preparation, propagation or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and the promotion and marketing of the same. Drug or device manufacturing does not include compounding.
30. "Economic poison" means any substance that alone, in chemical combination or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and that is used in the production, storage or transportation of raw agricultural commodities.
31. "Established name", with respect to a drug or ingredient of a drug, means any of the following:
- (a) The applicable official name.
- (b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, the official title in an official compendium.
- (c) If neither subdivision (a) nor (b) of this paragraph applies, the common or usual name of such drug.
32. "Executive Director" means the executive director of the board of pharmacy.
33. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are official at the time any drug, device, poison or hazardous substance is affected by this chapter.
34. "Full service wholesale permittee" means a permittee who may distribute prescription-only drugs and devices, controlled substances and over-the-counter drugs and devices to pharmacies or other legal outlets from a place devoted in whole or in part to wholesaling these items.
35. "Graduate intern" means a person who has graduated from a college, school or program of pharmacy approved by the board and who meets the qualifications and experience for a pharmacy intern as provided in section 32-1923.
36. "Highly toxic" means any substance that falls within any of the following categories:
- (a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered.
- (b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, if inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by humans if the substance is used in any reasonably foreseeable manner.
- (c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, if administered by continuous contact with the bare skin for twenty-four hours or less.
- If the board finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations prescribed in this paragraph, the human data shall take precedence.
37. "Hospital" means any institution for the care and treatment of the sick and injured that is approved and licensed as a hospital by the department of health services.
38. "Intern" means a pharmacy intern and a graduate intern.
39. "Internship" means the practical, experiential, hands-on training of a pharmacy intern under the supervision of a preceptor.
40. "Irritant" means any substance, other than a corrosive, that on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.
41. "Jurisprudence examination" means a board approved pharmacy law examination that is written and administered in cooperation with the National Association of Boards of Pharmacy (NABP) or another board approved pharmacy law examination. [MPJE]

42. "Label" means a display of written, printed or graphic matter on the immediate container of any article that, unless easily legible through the outside wrapper or container, also appears on the outside wrapper or container of the article's retail package. For the purposes of this paragraph, the immediate container does not include package liners.

43. "Labeling" means all labels and other written, printed or graphic matter either:

(a) On any article or any of its containers or wrappers.

(b) Accompanying that article.

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

45. "Limited service pharmacy" means a pharmacy that is approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

46. "Manufacture" or "manufacturer" means every person who prepares, derives, produces, compounds, processes, packages or repackages or labels any drug in a place, other than a pharmacy, devoted to manufacturing the drug.

47. "Marijuana" has the same meaning prescribed in section 13-3401.

48. "Medical practitioner" means any medical doctor, doctor of osteopathy, dentist, podiatrist, veterinarian or other person licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or animals or for the diagnosis or prevention of sickness in human beings or animals in this state or any state, territory or district of the United States.

49. "Medication order" means a written or verbal order from a medical practitioner or that person's authorized agent to administer a drug or device.

50. "Narcotic drug" has the same meaning prescribed in section 13-3401.

51. "New drug" means either:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling.

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in the investigations, been used to a material extent or for a material time under those conditions.

52. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and is prepackaged and labeled for use by the consumer in accordance with the requirements of the laws of this state and federal law. Nonprescription drug does not include:

(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only."

(d) A drug intended for human use by hypodermic injection.

53. "Nonprescription drug wholesale permittee" means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.

54. "Notice" means personal service or the mailing of a copy of the notice by certified mail addressed either to the person at the person's latest address of record in the board office or to the person's attorney.

55. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

56. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.

57. "Package" means a receptacle defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

58. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.

59. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

60. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.

61. "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

62. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice of pharmacy, the manufacturing of drugs and the distribution of drugs and devices.

63. "Pharmacist licensure examination" means a board approved examination that is written and administered in cooperation with the National Association of Boards of Pharmacy or any other board approved pharmacist licensure examination.

64. "Pharmacy" means any place:

(a) Where drugs, devices, poisons or related hazardous substances are offered for sale at retail.

(b) In which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(c) That has displayed on it or in it the words "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drugstore," "drugs" or "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or that is advertised by any sign containing any of these words.

(d) Where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited.

(e) Or a portion of any building or structure that is leased, used or controlled by the permittee to conduct the business authorized by the board at the address for which the permit was issued and that is enclosed and secured when a pharmacist is not in attendance.

65. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

66. "Pharmacy technician" means a person who is licensed pursuant to this chapter.

67. "Pharmacy technician trainee" means a person who is licensed pursuant to this chapter.

68. "Poison" or "hazardous substance" includes, but is not limited to, any of the following if intended and suitable for household use or use by children:

(a) Any substance that, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, if applied to, introduced into or developed within the body in relatively small quantities by its inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.

(d) A corrosive substance.

(e) An irritant.

(f) A strong sensitizer.

(g) A mixture of any of the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(h) A substance designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive substances, economic poisons subject to the federal insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article that is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but that is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing an economic poison or hazardous substance.

69. "Practice of pharmacy" means furnishing the following health care services as a medical professional:

(a) Interpreting, evaluating and dispensing prescription orders in the patient's best interests.

(b) Compounding drugs pursuant to or in anticipation of a prescription order.

(c) Labeling of drugs and devices in compliance with state and federal requirements.

(d) Participating in drug selection and drug utilization reviews, drug administration, drug or drug related research and drug therapy monitoring or management.

(e) Providing patient counseling necessary to provide pharmaceutical care.

(f) Properly and safely storing drugs and devices in anticipation of dispensing.

(g) Maintaining required records of drugs and devices.

(h) Offering or performing of acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

(i) Implementing, monitoring and modifying drug therapy pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 31-1970.

(j) Initiating and administering immunizations or vaccines pursuant to sections 32-1974.

70. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person who is licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state, or any pharmacy, hospital or other institution that is licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

71. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and complies with section 32-1923.

72. "Precursor chemical" means a substance that is:

(a) The principal compound that is commonly used or that is produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture

(b) Listed in section 13-3401, paragraph 26 or 27.

73. "Prescription" means either a prescription order or a prescription medication.

74. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

75. "Prescription-only device" includes:

(a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.

(b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

76. "Prescription-only drug" does not include a controlled substance but does include:

(a) Any drug that because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Rx only".

77. "Prescription order" means any of the following:

(a) An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

(b) An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964 and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

(c) An order initiated by a pharmacist pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970, or immunizations or vaccines administered by a pharmacist pursuant to section 32-1974.

78. "Professionally incompetent" means:

(a) Incompetence based on a variety of factors including a lack of sufficient pharmaceutical knowledge or skills or experience to a degree likely to endanger the health of patients.

(b) When considered with other indications of professional incompetence, a pharmacist, pharmacy intern or graduate intern who fails to obtain a passing score on a board approved pharmacist licensure examination or a pharmacy technician or pharmacy technician trainee who fails to obtain a passing score on a board approved pharmacy technician licensure examination.

79. "Radioactive substance" means a substance that emits ionizing radiation.

80. "Safely engage in employment duties" means that a permittee or the permittee's employee is able to safely engage in employment duties related to the manufacture, sale, distribution or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals.

81. "Symbol" means the characteristic symbols that have historically identified pharmacy, including "show globes", "mortar and pestle" and the sign "Rx".

82. "Toxic substance" means a substance, other than a radioactive substance, that has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

83. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.

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

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

1. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
2. Committing an act that is substantially related to the qualifications, functions or duties of a permittee and that demonstrates either a lack of good moral character or an actual or potential unfitness to hold a permit in light of the public's safety.
3. Working under the influence of alcohol or other drugs.
4. Addiction to the use of alcohol or other drugs to such a degree as to render the permittee unfit to perform the permittee's employment duties.
5. Violating a federal or state law or administrative rule relating to the manufacture, sale or distribution of drugs, devices, poisons, hazardous substances or precursor chemicals.
6. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals.
7. Violating state or federal reporting or record keeping requirements on transactions relating to precursor chemicals.
8. Failing to report in writing to the board any evidence that a pharmacist, pharmacy intern or graduate intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy.
9. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.
10. Failing to report in writing to the board any evidence that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties related to manufacturing, selling, distributing or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals or is or may be in violation of this chapter or a rule adopted under this chapter.
11. Intending to sell, transfer or distribute, or to offer for sale, transfer or distribution, or selling, transferring, distributing or dispensing or offering for sale, transfer or distribution an imitation controlled substance, imitation over-the-counter drug or imitation prescription-only drug as defined in section 13-3451.
12. Denial or discipline of a permittee's permit to manufacture, sell, distribute or dispense drugs, devices, poisons, hazardous substances or precursor chemicals in another jurisdiction and the permit was not reinstated.
13. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

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

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

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

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

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

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

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

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

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

23. Failing to promptly produce on the request of the official conducting a site investigation, inspection or audit any book, record or document.

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

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

26. Failing to maintain effective controls against the diversion of precursor chemicals to unauthorized persons or entities.

27. Fraudulently claiming to have performed a service.

28. Fraudulently charging a fee for a service.

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

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

1. Addiction to the use of alcohol or other drugs to such a degree as to render the licensee unfit to practice the profession of pharmacy.

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

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

4. Obtaining or attempting to obtain a license to practice pharmacy or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

5. Denial or discipline of a licensee's license to practice pharmacy in another jurisdiction and the license was not reinstated.

6. Claiming professional superiority in compounding or dispensing prescription orders.

7. Failing to comply with the mandatory continuing professional pharmacy education requirements of sections 32-1936 and 32-1937 and rules adopted by the board.

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

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

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

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

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

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

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

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

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

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

(f) Written or the prescription medications were issued for administration of immunizations or vaccines listed in the United States Centers for Disease Control and Prevention's recommended immunization schedule to a household member of a patient.

(g) For epinephrine auto-injectors that are written or dispensed for a school district or charter school and that are to be stocked for emergency use pursuant to section 15-157.

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

(i) Written pursuant to a physical or mental health status examination that was conducted during a real-time telemedicine encounter with audio and video capability that meets the elements required by the Centers for Medicare and Medicaid Services.

13. Failing to report in writing to the board any evidence that a pharmacist, pharmacy intern or graduate intern is or may be professionally 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 pharmacy.

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

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

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

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

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

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

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

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

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

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

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

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

26. Fraudulently claiming to have performed a professional service.

27. Fraudulently charging a fee for a professional service.

28. Failing to report a change of the licensee's home address or employer as required pursuant to section 32-1926.

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

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

1. Addiction to the use of alcohol or other drugs to such a degree as to render the licensee unfit to perform the licensee's employment duties.

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

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

4. Denial or discipline of a licensee's license to practice as a pharmacy technician in another jurisdiction and the license was not reinstated.

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

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

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

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

9. Failing to report in writing to the board any evidence that a pharmacist, pharmacy intern or graduate intern is or may be professionally 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 pharmacy.

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

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

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

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

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

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

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

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

18. Failing to report a change of the licensee's home address or employer as required pursuant to section 32-1926.

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

32-1902. Arizona State Board of Pharmacy; immunity

A. The Arizona State Board of Pharmacy is established consisting of the following members who are appointed by the governor:

1. Six pharmacists at least one of whom is a pharmacist employed by a licensed hospital and at least one of whom is employed by a community pharmacy and engaged in the day-to-day practice of pharmacy.

2. One pharmacy technician.

3. Two public members.

B. To be qualified for appointment:

1. A pharmacist must be licensed as a pharmacist in this state or any other jurisdiction for a period of at least ten years and licensed as a pharmacist and a resident in this state for a period of at least five years immediately before the date of appointment.

2. Each public member must be a resident of this state for a period of at least five years immediately before the date of appointment.

3. A pharmacy technician must be a practicing pharmacy technician in this state or any other jurisdiction for at least five years and be licensed as a pharmacy technician and a resident of this state for at least five years

immediately before the date of appointment. A pharmacy technician appointed before July 1, 2009 does not have to meet the minimum five year licensure requirement of this paragraph.

C. Each pharmacist and pharmacy technician member shall serve for a term of five years. Public members may serve for a term of five years unless removed by the governor. The public members shall after the first of every year present a written report to the governor. Vacancies occurring on the board other than by expiration of term of office shall be filled for the unexpired portion of the term only.

D. On or before January 15 of each year in which a pharmacist or a pharmacy technician is to be appointed, the executive director of the pharmacy association of Arizona may submit to the governor a list of the names of at least seven of its members who have been nominated by the association, and who meet the requirements as provided in this section for the next occurring vacancy on the board. The governor may make appointments of licensed pharmacists and pharmacy technicians to the board from the nominees on the list or from others having the necessary qualifications.

E. Appointees to the board within thirty days after their appointment shall take and subscribe to an oath or affirmation, before a properly qualified officer, that they will faithfully and impartially perform the duties of their office. The executive director shall file the oath or affirmation with the secretary of state.

F. Members of the board are personally exempt from suit with respect to all acts done and actions taken in good faith and in furtherance of this chapter.

32-1903. Organization; meetings; quorum; compensation of board; executive director; compensation; powers and duties

A. The board shall annually elect a president and a vice-president from among its membership and select an executive director who may or may not be a member of the board. The executive director shall serve at the pleasure of the board.

B. The president of the board shall preside at all of its meetings. The vice-president shall act if the president is absent. A majority of the membership of the board constitutes a quorum.

C. The executive director is the executive officer in charge of the board's office and shall administer this chapter under the direction of the board. The executive director shall make, keep and be in charge of all records and record books required to be kept by the board, including a register of all licensees and registered businesses under this chapter. The executive director shall attend to the correspondence of the board and perform other duties the board requires. The executive director is eligible to receive compensation as determined pursuant to section 38-611.

D. Any member of the board or the executive director may administer oaths in connection with the duties of the board. The books, registers and records of the board as made and kept by the executive director or under the executive director's supervision are prima facie evidence of the matter therein recorded in any court of law. Members of the board are eligible to receive compensation in the amount of two hundred dollars for each day of actual service in the business of the board and reimbursement for all expenses necessarily and properly incurred in attending meetings of or for the board.

E. The executive director may designate the deputy director to sign claims and other documents in the executive director's absence. If the executive director dies, becomes incapacitated or resigns, the deputy director shall serve as the executive director until the board selects a new executive director.

F. The executive director may cause to be published reports summarizing judgments, decrees, court orders and board action that may have been rendered under this chapter, including the nature of charges and the disposition of the charges. The executive director may disseminate information regarding drugs, devices, poisons or hazardous substances in situations the executive director believes involve imminent danger to health or gross deception of the consumer and report the results of investigations carried out under this chapter.

32-1904. Powers and duties of board; immunity

A. The board shall:

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

2. Fix standards and requirements for the registration and reregistration of pharmacies, except as otherwise specified.

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

4. Enforce its rules. In so doing, the board or its agents have free access at all reasonable hours to any pharmacy, manufacturer, wholesaler, nonprescription drug permittee or other establishment in which drugs, devices, poisons or hazardous substances are manufactured, processed, packed or held, or to enter any vehicle being used to transport or hold such drugs, devices, poisons or hazardous substances for the purpose of:

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

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

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

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

6. Require each applicant for an initial license to submit to the board a full set of fingerprints 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. [Effective 07/22/2014]

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

8. Adopt rules for the rehabilitation of pharmacists and pharmacy interns as provided by this chapter.

9. At least once every three months, notify pharmacies regulated pursuant to this chapter of any modifications on prescription writing privileges of podiatrists, dentists, doctors of medicine, registered nurse practitioners, osteopathic physicians, veterinarians, physician assistants, optometrists and homeopathic physicians of which it receives notification from the board of podiatry examiners, board of dental examiners, Arizona medical board, board of nursing, board of osteopathic examiners in medicine and surgery,

veterinary medical examining board, Arizona regulatory board of physician assistants, board of optometry or board of homeopathic and integrated medicine examiners.

B. The board may:

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

2. Provide, by education of and information to the licensees and to the public, assistance in the curtailment of abuse in the use of drugs, devices, poisons and hazardous substances.

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

4. Accept monies and services to assist in the enforcement of this chapter from other than licensees:

(a) For performing inspections and other board functions.

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

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

6. Grant permission to deviate from a state requirement for experimentation and technological advances.

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

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

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

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

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

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

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

14. By rule, except from the application of all or any part of this chapter any material, compound, mixture or preparation containing any stimulant or depressant substance included in section 13-3401, paragraph 6, subdivision (c) or (d) from the definition of dangerous drug if the material, compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, provided that such admixtures are included in such combinations, quantity, proportion or

concentration as to vitiate the potential for abuse of the substances that do have a stimulant or depressant effect on the central nervous system.

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

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

32-1905. Meetings; time and place; annual report

A. The board of pharmacy shall hold meetings to consider license and permit applications and to transact other business legally coming before it. The board must hold at least four meetings in each fiscal year.

B. The board shall designate the time and place of its meetings at least thirty days before each meeting.

C. The board shall make an annual written report to the governor and to the Arizona pharmacy association, including the names of all pharmacists, interns, pharmacy technicians, pharmacy technician trainees, pharmacies, wholesalers and manufacturers authorized to practice under this chapter and a record of licenses, permits and renewals.

32-1906. Membership in national associations; official attendance at professional meetings

A. The board may join and subscribe to state, district, regional or national organizations or publications relating to and dealing with pharmacy and manufacturing, wholesaling, and distribution of drugs, devices, poisons, and hazardous substances.

B. Members of the board, the executive director and compliance officers, if authorized by the board, and subject to legislative appropriation therefor, may attend the state, district, regional and national meetings and other educational meetings relating to any of the subjects as provided in subsection A that, in the discretion of the board, are necessary and for its best interests.

32-1907. Arizona state board of pharmacy fund

A. Except as provided in section 32-1939, the executive director shall receive and receipt for all fees and other monies provided for in this chapter and shall deposit, pursuant to sections 35-146 and 35-147, ten per cent of such monies in the state general fund and ninety per cent in the Arizona state board of pharmacy fund. All monies derived from civil penalties collected pursuant to this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in the general fund.

B. Except as provided in subsection C of this section, monies deposited in the Arizona state board of pharmacy fund shall be subject to section 35-143.01.

C. From monies deposited in the Arizona state board of pharmacy fund pursuant to subsection A of this section, the executive director may transfer up to three hundred ninety-five thousand seven hundred ninety-five dollars annually to the controlled substances prescription monitoring program fund established by section 36-2605 for expenses related to the controlled substances prescription monitoring program as required by title 36, chapter 28.

32-1908. Scope of chapter

A. The provisions of this chapter regarding the selling of drugs, poisons, or hazardous substances shall be considered to include the sale, dispensing, furnishing or giving of any such article, or the supplying or applying of any such articles in the conduct of any drug, poison, or hazardous substance establishment.

B. Nothing in this chapter shall be construed to confer authority to license or regulate the collection, processing or distribution of whole human blood or its plasma, fractionations, products, derivatives or other human tissue procured, processed or distributed by federally licensed or regulated blood banks or tissue banks.

32-1909. Prescription medication donation program; distribution; immunity; rules

A. Pursuant to board rules and this section, the board shall establish a prescription medication donation program to accept and dispense prescription medications. Prescription medications may be donated at a physician's office, a pharmacy or a health care institution as defined in section 36-401 that elects to participate in the program and that meets the requirements of this section and board rules. Prescription medications shall be accepted or dispensed under the prescription medication donation program only in their original sealed and tamper-evident unit dose packaging. Prescription medication that is packaged in single unit doses may be accepted and dispensed even if the outside packaging is opened if the single unit dose packaging is undisturbed. The program shall not accept a donation of a prescription medication that either:

1. Expires within six months after the donation.
2. Is deemed adulterated pursuant to section 32-1966.

B. A person, manufacturer or health care institution may donate prescription medication to a physician's office, pharmacy, hospital or health care institution that volunteers to participate in the program and that meets the requirements prescribed by the board.

C. A physician's office, pharmacy, hospital or health care institution that participates in the program shall dispense donated prescription medication:

1. Either directly or through participating governmental or nonprofit private entities.
2. Only pursuant to a prescription order.
3. Only to a recipient who is a resident of this state and who meets the eligibility standards prescribed by the board by rule.

D. Before dispensing donated prescription medication, the physician's office, pharmacy, hospital or health care institutions participating in the program:

1. Shall comply with all applicable federal laws and the laws of this state dealing with the storage and distribution of dangerous drugs.
2. Shall examine the donated prescription medication to determine that it has not been adulterated and certify that the medication has been stored in compliance with the requirements of the product label.
3. May charge persons receiving donated prescription medication pursuant to this section a handling fee as prescribed by the board by rule to cover the costs of inspection, stocking and dispensing the prescription medication.

E. A pharmaceutical manufacturer is not liable for any claim or injury arising from the transfer of any prescription medication pursuant to this section including liability for failure to transfer or communicate product or consumer information regarding the transferred prescription medication, including the expiration date of the transferred prescription medication.

F. Persons and entities participating in the program as prescribed by this section and board rules are not subject to civil liability or professional disciplinary action.

G. In consultation with the director of the department of health services, the board shall adopt rules prescribing the following:

1. Eligibility criteria for physicians' offices, pharmacies, hospitals and health care institutions to receive and dispense donated prescription medication.
2. Standards and procedures for accepting, storing and dispensing donated prescription medication.
3. Standards and procedures for inspecting donated prescription medication to determine that the original unit dose packaging is sealed and tamper-evident and that the donated prescription medication is unadulterated, safe and suitable for dispensing.
4. Eligibility standards, based on economic need, for persons receiving donated prescription medication.
5. A means, such as an identification card, by which persons prove that they are eligible to receive donated prescription medication.
6. A form that each recipient shall sign before the recipient may receive donated prescription medication to confirm that the recipient understands the immunity provisions of the program.
7. A formula to determine the amount of the handling fee that a physician's office, pharmacy, hospital or health care institution may charge recipients.
8. A list of prescription medication, arranged either by category or by individual drug, that the program may accept from individuals.
9. A list of prescription medication, arranged either by category or by individual drug, that the program shall not accept from individuals.
10. A form each individual shall sign stating that the donor is the owner of the prescription medication and wishes to voluntarily donate the prescription medication to the program.
11. A list of prescription medication, arranged either by category or by individual drug, that the program may accept from a health care institution.
12. A list of prescription medication, arranged either by category or by individual drug, that the program shall not accept from a health care institution. The list shall include a statement as to why the prescription medication is ineligible for donation.
13. Any other standards the board determines are necessary and appropriate.

H. Notwithstanding any other law, a dispenser of donated prescription medication pursuant to this section shall not submit a claim or otherwise seek reimbursement from a public or private third party payor for the donation and a public or private third party payor shall not provide reimbursement for donations made pursuant to this section.

32-1910. Emergencies; continued provision of services

A. If a natural disaster or terrorist attack occurs and, as a consequence of the natural disaster or terrorist attack, a state of emergency is declared by the governor or by a county, city or town pursuant to its authority and the declared state of emergency results in individuals being unable to refill existing prescriptions, the board shall cooperate with this state and the county, city or town to ensure the provision of drugs, devices and professional services to the public.

B. If a natural disaster or terrorist attack occurs in another state and, as a consequence of the natural disaster or terrorist attack, a state of emergency is declared by the governor of that state and the declared state of emergency results in individuals being temporarily relocated to Arizona and unable to refill existing prescriptions, the board shall cooperate with this state to ensure the provision of drugs, devices and professional services to the relocated individuals.

C. When a state of emergency has been declared pursuant to this section, a pharmacist may work in the affected county, city or town and may dispense a one-time emergency refill prescription of up to a thirty-day supply of a prescribed medication if both of the following apply:

1. In the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy.
2. The pharmacist makes a good faith effort to reduce the information to a written prescription marked "emergency prescription" and then files and maintains the prescription as required by law.

D. If the state of emergency declared pursuant to this section continues for at least twenty-one days after the pharmacist dispenses an emergency prescription pursuant to subsection C, the pharmacist may dispense one additional emergency refill prescription of up to a thirty day supply of the prescribed medication.

E. A pharmacist who is not licensed in this state, but who is currently licensed in another state, may dispense prescription medications in those affected counties, cities or towns in this state during the time that a declared state of emergency exists pursuant to this section if both of the following apply:

1. The pharmacist has proof of licensure in another state.
2. The pharmacist is engaged in a legitimate relief effort during the period of time an emergency has been declared pursuant to this section.

F. The board may adopt rules for the provision of pharmaceutical care and drug and device delivery during a declared emergency that is the consequence of a natural disaster or terrorist attack, including the use of temporary or mobile pharmacy facilities and nonresident licensed pharmacy professionals.

G. A pharmacist's authority to dispense prescriptions pursuant to this section ends when the declared state of emergency is terminated.

ARTICLE 2 LICENSURE AND PERMITS:

32-1921. Exempted acts; exemption from registration fees; definition

A. This chapter does not prevent:

1. The prescription and dispensing of drugs or prescription medications by a registered nurse practitioner pursuant to rules adopted by the board of nursing in consultation with the Arizona medical board, the board of osteopathic examiners in medicine and surgery and the board of pharmacy.

2. The sale of nonprescription drugs that are sold at retail in original packages by a person holding a permit issued by the board under this chapter.

3. The sale of drugs at wholesale by a wholesaler or manufacturer that holds the required permit issued by the board to a person who holds the required permit issued under this chapter.

4. The manufacturing of drugs by a person who is not a pharmacist and who holds the required permit issued by the board under this chapter.

5. The following health professionals from dispensing or personally administering drugs or devices to a patient for a condition being treated by the health professional:

(a) A doctor of medicine licensed pursuant to chapter 13 of this title.

(b) An osteopathic physician licensed pursuant to chapter 17 of this title.

(c) A homeopathic physician licensed pursuant to chapter 29 of this title.

(d) A podiatrist licensed pursuant to chapter 7 of this title.

(e) A dentist licensed pursuant to chapter 11 of this title.

(f) A doctor of naturopathic medicine who is authorized to prescribe natural substances, drugs or devices and who is licensed pursuant to chapter 14 of this title.

(g) An optometrist who is licensed pursuant to chapter 16 of this title and who is certified for topical or oral pharmaceutical agents.

6. A veterinarian licensed pursuant to chapter 21 of this title from dispensing or administering drugs to an animal or from dispensing or administering devices to an animal being treated by the veterinarian.

7. The use of any pesticide chemical, soil or plant nutrient or other agricultural chemical that is a color additive solely because of its effect in aiding, retarding or otherwise affecting directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color whether before or after harvest.

8. A licensed practical or registered nurse employed by a person licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title from assisting in the delivery of drugs and devices to patients, in accordance with chapter 7, 11, 13, 14, 17 or 29 of this title.

9. The use of any mechanical device or vending machine in connection with the sale of any nonprescription drug, including proprietary and patent medicine. The board may adopt rules to prescribe conditions under which nonprescription drugs may be dispensed pursuant to this paragraph.

B. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title and who employs a licensed practical or registered nurse who in the course of employment assists in the delivery of drugs and devices is responsible for the dispensing process.

C. Pursuant to a prescription order written by a physician for the physician's patients and dispensed by a licensed pharmacist, a physical therapist licensed pursuant to chapter 19 of this title, an occupational therapist licensed pursuant to chapter 34 of this title or an athletic trainer licensed pursuant to chapter 41 of this title may procure, store and administer nonscheduled legend and topical anti-inflammatories and topical anesthetics for use in

phonophoresis and iontophoresis procedures and within the scope of practice of physical or occupational therapy or athletic training.

D. A public health facility operated by this state or a county and a qualifying community health center may dispense medication or devices to patients at no cost without providing a written prescription if the public health facility or the qualifying community health center meets all storage, labeling, safety and record keeping rules adopted by the board of pharmacy.

E. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title, who is practicing at a public health facility or a qualifying community health center and who is involved in the dispensing of medication or devices only at a facility or center, whether for a charge or at no cost, shall register to dispense with the appropriate licensing board but is exempt from paying registration fees.

F. For the purposes of this section, "qualifying community health center" means a primary care clinic that is recognized as nonprofit under section 501(c)(3) of the United States internal revenue code and whose board of directors includes patients of the center and residents of the center's service area.

32-1922. Qualifications of applicant; reciprocity; preliminary equivalency examination; honorary certificate; fee

A. An applicant for licensure as a pharmacist shall:

1. Be of good moral character.

2. Be a graduate of a school or college of pharmacy or department of pharmacy of a university recognized by the board or the accreditation council for pharmacy education, or qualify under subsection D of this section.

3. Have successfully completed, as substantiated by proper affidavits, a program of practical experience under the direct supervision of a licensed pharmacist approved by the board.

4. Pass the pharmacist licensure examination and jurisprudence examination approved by the board. An applicant who fails an examination three times shall petition the board for permission before retaking the examination. The board shall evaluate the petition and determine whether to require additional educational training before approving each additional retake of the examination.

5. Pay an application fee prescribed by the board of not more than five hundred dollars. An applicant for reciprocal licensure shall pay the fee prescribed in section 32-1924, subsection D.

B. The board may license as a pharmacist, without a pharmacist licensure examination, a person who is licensed as a pharmacist by a pharmacist licensure examination in some other jurisdiction if that person:

1. Produces satisfactory evidence to the board of having had the required secondary and professional education and training.

2. Is possessed of good morals as demanded of applicants for licensure and relicensure under this chapter.

3. Presents proof to the board's satisfaction of licensure by a pharmacist licensure examination equivalent to the pharmacist licensure examination required by the board and that the applicant has held the license in good standing for at least one year. If the applicant was examined after June 1, 1979, the applicant must present proof to the board's satisfaction of having passed the national association of boards of pharmacy licensure examination or the North American pharmacist licensure examination.

4. Presents proof to the board's satisfaction that any other license granted to the applicant by any other jurisdiction has not been suspended, revoked or otherwise restricted for any reason except nonrenewal or for failure to obtain the required continuing education credits in any jurisdiction where the applicant is currently licensed but not engaged in the practice of pharmacy.

5. Passes a board approved jurisprudence examination.

C. Subsection B of this section applies only if the jurisdiction in which the person is licensed grants, under like conditions, reciprocal licensure as a pharmacist to a pharmacist licensed by examination in this state and the applicant has held a license in good standing for at least one year issued by an active member board of the national association of boards of pharmacy.

D. If an applicant for licensure is a graduate of a pharmacy degree program at a school or college of pharmacy that was not recognized by the board at the time of the person's graduation, the applicant shall pass a preliminary equivalency examination approved by the board in order to qualify to take the examinations prescribed in subsection A of this section.

E. The preliminary equivalency examination required pursuant to subsection D of this section shall cover proficiency in English and academic areas the board deems essential to a satisfactory pharmacy curriculum.

F. An applicant who fails the preliminary equivalency examination required pursuant to subsection D of this section shall not retake the preliminary equivalency examination until the applicant files written proof with the board that the applicant has completed additional remedial academic work previously approved by the board to correct deficiencies in the applicant's education that were indicated by the results of the applicant's last preliminary equivalency examination.

G. A pharmacist who has been licensed in this state for at least fifty years shall be granted an honorary certificate of licensure by the board without the payment of the usual renewal fee, but that certificate of licensure does not confer an exemption from any other requirement of this chapter.

H. The board may require a pharmacist who has not been actively engaged in the practice of pharmacy for over one year to serve not more than four hundred hours in an internship training program approved by the board or its designee before the pharmacist may resume the active practice of pharmacy.

I. An applicant must complete the application process within twelve months after submitting the application.

32-1923. Interns and intern preceptors; qualifications; licensure; purpose of internship

A. A pharmacist who meets the qualifications established by the board to supervise the training of a pharmacy intern or a graduate intern shall comply with the rules of the board and be known as a pharmacy intern preceptor.

B. A person shall not act as a pharmacy intern until that person is licensed by the board. An employer shall verify that a person is currently licensed as a pharmacy intern before the employer allows that person to act as a pharmacy intern.

C. The board shall establish the preliminary educational qualifications for all pharmacy interns which may include enrollment and attendance in a school or college of pharmacy approved by the board. The board or its designee may license as a graduate intern a graduate of a board approved college, school or program of pharmacy.

D. A pharmacy intern who is currently licensed may be employed in a pharmacy or any other place approved and authorized by the board for training interns and shall receive instruction in the practice of pharmacy, including manufacturing, wholesaling, dispensing of drugs and devices, compounding and dispensing prescription orders, clinical pharmacy, providing drug information, keeping records and making reports required by state and federal laws and other experience that, in the discretion of the board, provides the intern with the necessary experience to practice the profession of pharmacy. Pharmacy interns may compound, dispense and sell drugs, devices and poisons or perform other duties of a pharmacist only in the presence and under the immediate personal supervision of a pharmacist.

E. Intern training and licensure as a pharmacy intern under this section are for the purpose of acquiring practical experience in the practice of the profession of pharmacy before becoming licensed as a pharmacist and are not for the purpose of continued licensure under the pharmacy laws. If a pharmacy intern fails to complete pharmacy education within a period of six years, the intern is not eligible for re-licensure as an intern, without acceptable explanation to the board that the intern intends to be and is working toward becoming a pharmacist.

F. The board may accept the experience of a pharmacy intern acquired in another jurisdiction upon proper certification by the other jurisdiction.

32-1923.01. Pharmacy technicians; pharmacy technician trainees; qualifications

A. An applicant for licensure as a pharmacy technician must:

1. Be of good moral character.
2. Be at least eighteen years of age.
3. Have a high school diploma or the equivalent of a high school diploma.
4. Complete a training program prescribed by board rules.
5. Pass a board approved pharmacy technician examination.

B. An applicant for licensure as a pharmacy technician trainee must:

1. Be of good moral character.
2. Be at least eighteen years of age.
3. Have a high school diploma or the equivalent of a high school diploma.

32-1924. Licenses; fees; signatures

A. An applicant for licensure as a pharmacist who passes the board approved examinations shall pay the board an initial licensure fee of not more than five hundred dollars.

B. An applicant for licensure as a pharmacist, intern, pharmacy technician or pharmacy technician trainee shall pay a fee prescribed by the board that does not exceed fifty dollars for issuance of a wall license. On payment of a fee of not more than fifty dollars, the board may issue a replacement wall license to a licensee who requests a replacement because the original was damaged or destroyed, because of a change of name or for other good cause as prescribed by the board.

C. An applicant for licensure as an intern shall pay a fee of not more than seventy-five dollars. A license issued pursuant to this subsection expires five years after it is issued. The board shall adopt rules to prescribe the requirements for the renewal of a license that expires before the pharmacy intern completes the education or training required for licensure as a pharmacist.

D. An applicant for reciprocal licensure as a pharmacist shall pay a fee of not more than five hundred dollars for the application and expense of making an investigation of the applicant's character, general reputation and pharmaceutical standing in the jurisdiction in which the applicant is licensed.

E. All pharmacist licenses shall bear the signatures of the executive director and a majority of the members of the board.

F. An applicant for licensure as a pharmacy technician trainee shall submit with the application a fee prescribed by the board that does not exceed one hundred dollars. A license issued pursuant to this subsection expires twenty-four months after it is issued. The board shall adopt rules to allow a pharmacy technician trainee who is licensed pursuant to this chapter and who does not complete the training program and pass a board approved pharmacy technician licensure examination within the licensure period to reapply for licensure not more than one time.

G. An applicant for licensure as a pharmacy technician shall submit with the application a fee prescribed by the board that does not exceed one hundred dollars.

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

A. Except for interns and pharmacy technician trainees, the board shall assign all persons licensed under this chapter to one of two license renewal groups. Except as provided in section 32-4301, a holder of a license certificate ending in an even number shall renew it biennially on or before November 1 of the even numbered year, two years from the last renewal date. Except as provided in section 32-4301, a holder of a license certificate ending in an odd number shall renew it biennially on or before November 1 of the odd numbered year, two years from the last renewal date. Failure to renew and pay all required fees on or before November 1 of the year in which the renewal is due suspends the license. The board shall vacate a suspension when the licensee pays all past due fees and penalties. Penalties shall not exceed three hundred fifty dollars. The board may waive collection of a fee or penalty due after suspension under conditions established by a majority of the board.

B. The board shall prorate the fee for a new license for the remaining full calendar months of the respective group to which the licensee is assigned.

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

D. A person who is licensed as a pharmacist or a pharmacy technician and who has not renewed the license for five consecutive years shall furnish to the board satisfactory proof of fitness to be licensed as a pharmacist or a pharmacy technician, in addition to the payment of all past due fees and penalties before being reinstated.

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

1. For a pharmacist, two hundred fifty dollars.
2. For a pharmacy technician, one hundred dollars.
3. For a duplicate renewal license, twenty-five dollars.

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

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

H. The board shall prescribe intern licensure renewal fees that do not exceed seventy-five dollars. The license of an intern who does not receive specific

board approval to renew the intern license or who receives board approval to renew but who does not renew and pay all required fees before the license expiration date is suspended after the license expiration date. The board shall vacate a suspension if the licensee pays all past due fees and penalties. Penalties shall not exceed three hundred fifty dollars. The board may waive collection of a fee or penalty due after suspension under conditions established by the board.

I. The board shall not renew a license for a pharmacy technician unless that person has a current board approved license and has complied with board approved mandatory continuing professional education requirements.

32-1926. Notice of change of employer or home address; termination of responsibility

A. Except as prescribed in subsection B, a pharmacist, intern, pharmacy technician or pharmacy technician trainee within ten days after changing that person's employer or home address shall give written notice to the executive director of the new employer or new home address.

B. Pursuant to board rule, a pharmacist designated as the pharmacist in charge for a permit issued under this chapter shall give immediate notice of the initiation and termination of such responsibility.

32-1926.01. Change in residency status; duty to report

A. A licensee shall give written notice to the executive director of a change in the licensee's residency status authorized by the United States immigration and naturalization service.

B. If the licensee's residency status ceases to be authorized by the United States immigration and naturalization service, the licensee shall give notice to the executive director that the licensee voluntarily terminates the license.

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

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

1. The board determines that the licensee has committed an act of unprofessional conduct.
2. The licensee is found by psychiatric examination to be mentally unfit to practice the profession of pharmacy.
3. The licensee is found to be physically or mentally incapacitated to such a degree as to render the licensee unfit to practice the profession of pharmacy.
4. The licensee is found to be professionally incompetent to such a degree as to render the licensee unfit to practice the profession of pharmacy.
5. The license was issued through error.

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

1. A civil penalty of not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.
2. A letter of reprimand.
3. A decree of censure.
4. Completion of board designated continuing pharmaceutical education courses.

5. Probation.

6. Suspension or revocation of the license.

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

D. The board on its own motion may investigate any evidence that appears to show that a pharmacist, pharmacy intern or graduate intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy. Any person may, and a licensee or permittee of the board must, report to the board any information that appears to show that a pharmacist, pharmacy intern or graduate intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy. The board or the executive director shall notify the pharmacist, pharmacy intern or graduate intern as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. It is an act of unprofessional conduct for any pharmacist, pharmacy intern or graduate intern to fail to report as required by this subsection.

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

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

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

1. Dismiss if the complaint is without merit.

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

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

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

I. If after completing its investigation the board believes that the information is or may be true, it may request a conference with the pharmacist, pharmacy intern or graduate intern. If the pharmacist, pharmacy intern or graduate intern refuses the invitation for a conference and the investigation

indicates that grounds may exist for revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, the board shall issue a formal notice that a hearing be held pursuant to title 41, chapter 6, article 10.

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

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

1. Dismiss if the information is without merit.

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

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

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

1. Dismiss if the information is without merit.

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

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

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

(a) Issuance of a letter of reprimand.

(b) Issuance of a decree of censure.

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

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

(i) Board approved community service.

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

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

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

(e) A civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.

(f) A period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee concerned. Probation may

include temporary suspension and any or all of the disciplinary actions, practice or professional restrictions, rehabilitative, retraining or assessment programs listed in this section or any other program agreed to by the board and the licensee.

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

N. If the licensee wishes to be present at the formal hearing in person or by representation, or both, the licensee must file with the board an answer to the charges in the notice of hearing. The answer must be in writing, be verified under oath and be filed within thirty days after service of the notice of hearing. Failure to answer the board's notice of hearing is deemed an admission of the charges in the notice of hearing.

O. An advisory letter is a nondisciplinary public document.

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

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

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

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

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

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

1. The board determines that the licensee has committed an act of unprofessional conduct.
2. The licensee is found by psychiatric examination to be mentally unfit to safely perform the licensee's employment duties.
3. The licensee is found to be physically or mentally incapacitated to such a degree as to render the licensee unfit to safely perform the licensee's employment duties.
4. The licensee is found to be professionally incompetent to such a degree as to render the licensee unfit to safely perform the licensee's employment duties.
5. The license was issued through error.

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

1. A civil penalty of not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.
2. A letter of reprimand.

3. A decree of censure.

4. Completion of board designated continuing education courses.

5. Probation.

6. Suspension or revocation of the license.

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

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

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

F. The board or, if delegated by the board, the executive director shall require any combination of mental, physical, psychological, psychiatric or medical competency examinations or pharmacy technician licensure examinations and conduct necessary investigations including investigational interviews between representatives of the board and the pharmacy technician or pharmacy technician trainee to fully inform itself about any information filed with the board pursuant to this section. These examinations may also include biological fluid testing. The board may require the licensee, at that person's expense, to undergo assessment by a board approved substance abuse treatment and rehabilitation program.

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

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

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

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

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

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

1. Dismiss if the information is without merit.
2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.
3. Require the licensee to complete board designated continuing pharmaceutical education courses.

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

1. Dismiss if the information is without merit.
2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.
3. Require the licensee to complete board designated continuing pharmaceutical education courses.
4. Enter into an agreement with the licensee to discipline the licensee, restrict the licensee's practice or professional activities or rehabilitate, retrain or assess the licensee in order to protect the public and ensure the licensee's ability to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee. The agreement may include at least the following:

- (a) Issuance of a letter of reprimand.
- (b) Issuance of a decree of censure.
- (c) Practice or professional restrictions, such as doing the following only under pharmacist supervision:
 - (i) Entering prescription or patient data.
 - (ii) Initiating or accepting verbal refill authorization.
 - (iii) Counting, pouring, packaging or labeling prescription medication.
 - (iv) Compounding, reconstituting, prepackaging or repackaging drugs.
- (d) Rehabilitative, retraining or assessment programs, including:

(i) Board approved community service.

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

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

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

(e) A civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.

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

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

N. If the licensee wishes to be present at the formal hearing in person or by representation, or both, the licensee must file with the board an answer to the charges in the notice of hearing. The answer must be in writing, be verified under oath and be filed within thirty days after service of the notice of hearing. Failure to answer the board's notice of hearing is deemed an admission of the charges in the notice of hearing.

O. An advisory letter is a nondisciplinary public document.

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

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

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

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

32-1927.02. Permittees; disciplinary action

A. The board may discipline a permittee if:

1. The board determines that the permittee or permittee's employee is guilty of unethical conduct pursuant to section 32-1901.01, subsection A.
2. Pursuant to a psychiatric examination, the permittee or the permittee's employee is found to be mentally unfit to safely engage in employment duties.
3. The board determines that the permittee or the permittee's employee is physically or mentally incapacitated to such a degree as to render the permittee or permittee's employee unfit to safely engage in employment duties.
4. The permit was issued through error.

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

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

1. A civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.
2. A letter of reprimand.
3. A decree of censure.
4. Completion of board designated pharmacy law continuing education courses.
5. Probation.
6. Suspension or revocation of the permit.

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

D. The board on its own motion may investigate any evidence that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties or is or may be in violation of this chapter or a rule adopted under this chapter. Any person may, and any licensee or permittee must, report to the board any information that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties or is or may be in violation of this chapter or a rule adopted under this chapter. The board or the executive director shall notify the permittee as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. It is an act of unethical conduct for any permittee to fail to report as required by this subsection.

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

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

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

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

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

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

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

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

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

1. Dismiss if the information is without merit.
2. File an advisory letter. The permittee may file a written response with the board within thirty days after the permittee receives the advisory letter.
3. Require the permittee to complete board designated pharmacy law continuing education courses.
4. Enter into an agreement with the permittee to discipline the permittee, restrict the permittee's business activities or rehabilitate or assess the permittee in order to protect the public and ensure the permittee's ability to safely engage in employment duties. The agreement may include, at a minimum, the following disciplinary actions, business activity restrictions and rehabilitative or assessment programs:

(a) Issuance of a letter of reprimand.

(b) Issuance of a decree of censure.

(c) Business activity restrictions, including limitations on the number, type, classification or schedule of drug, device, poison, hazardous substance, controlled substance or precursor chemical that may be manufactured, sold, distributed or dispensed.

(d) Successful completion of board designated pharmacy law continuing education courses.

(e) Rehabilitative or assessment programs, including board approved community service or successful completion of a board approved substance abuse treatment and rehabilitation program at the permittee's own expense.

(f) A civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.

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

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

M. If the permittee wishes to be present at the formal hearing in person or by representation, or both, the permittee must file with the board an answer to the charges in the notice of hearing. The answer must be in writing, be verified under oath and be filed within thirty days after service of the notice of hearing. Failure to answer the board's notice of hearing is deemed an admission of the charges in the notice of hearing.

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

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

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

32-1928. Hearings; restraining order; judicial review

A. Except as provided in subsection B of this section, a license shall be denied, revoked or suspended or a pharmacist or pharmacy intern shall be placed on probation or censured and a civil penalty imposed only after due notice and a hearing pursuant to title 41, chapter 6, article 10. A licensee shall respond in writing to the board when the licensee receives notice of the hearing.

B. If the board has reasonable grounds to believe and finds that the licensee has been guilty of deliberate and willful violations, or that the public health, safety and welfare imperatively require immediate action, and incorporates a finding to that effect in its order, the board may order a summary suspension of the license pending a hearing. If the board issues an order of summary suspension, it shall serve the licensee with written notice of the complaint and hearing setting forth the charges and informing the licensee of the licensee's right to the hearing. The board shall institute the hearing within ten days after ordering the summary suspension. Service shall be by personal service as provided by the Arizona rules of civil procedure.

C. 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.

D. With or without conditions, the board may reinstate the license of any pharmacist or pharmacy intern that it has placed on probation or whose license it has suspended or revoked.

32-1929. Biennial registration of pharmacies, wholesalers, manufacturers and similar places; application

A. Except as provided in section 32-4301, the board shall require and provide for biennial registration of every pharmacy, wholesaler and manufacturer and any other place in which or from which drugs are sold, compounded, dispensed, stocked, exposed, manufactured or offered for sale.

B. Any person desiring to operate, maintain, open or establish a pharmacy, wholesaling firm or manufacturing plant, or any other place in which or from which drugs are manufactured, compounded, dispensed, stocked, exposed, sold or offered for sale, shall apply to the board for a permit before engaging in any such activity.

C. The application for a permit to operate a pharmacy, drug manufacturing facility or wholesaling facility in this state shall be made on a form prescribed and furnished by the board which, when properly executed, indicates the ownership, trustee, receiver or other person or persons desiring the permit, including the pharmacist responsible to the board for the operation of a pharmacy or drug manufacturing facility, or other individual approved by and responsible to the board for the operation of wholesaling facilities, as well as the location, including the street name and number, and such other information as required by the board to establish identity, exact location and extent of activities, in which or from which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale.

D. The application for a permit to operate a pharmacy, drug manufacturing facility or wholesaling facility outside of this state that will dispense, sell, transfer or distribute drugs into the state shall be made on a form prescribed and furnished by the board, which, when properly executed, indicates the ownership, trustee, receiver or other person or persons desiring the permit, including the individual approved by and responsible to the board for the operation of the pharmacy, drug manufacturing facility or wholesaling facility, as well as the location including the street name and number, and such other information as required by the board to establish the identity, exact location and extent of activities, in which or from which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale.

E. If it is desired to operate, maintain, open or establish more than one pharmacy, or any other place of business in which or from which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale, a separate application shall be made and a separate permit shall be issued for each place, business or outlet.

32-1930. Types of permits; restrictions on permits; discontinuance of pharmacy permit

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

1. A nonprescription drug permit to sell, retail, stock, expose or offer for sale at retail nonprescription drugs in the original package. A permittee is not required to conduct business in any fixed place.

2. If approved by the board, a pharmacy, limited service pharmacy, full service wholesale drug, nonprescription drug wholesale and drug manufacturer's permit.

3. Drug packager or drug pre-packager permit to an individual or establishment that is currently listed by the United States federal food and drug administration and has met the requirements of that agency to purchase, repackage, re-label or otherwise alter the manufacturer's original package of an approved drug product with the intent of reselling these items to persons or businesses authorized to possess or resell the repackaged, prepackaged or relabeled drug.

4. A compressed medical gas distributor permit and a durable medical equipment and compressed medical gas supplier permit.

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

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

32-1931. Permit fees; issuance; expiration; renewals

A. The board shall assign the permit of all persons or firms issued under this chapter to one of two permit renewal groups. Except as provided in section 32-4301, a holder of a permit ending in an even number shall renew it biennially on or before November 1 of the even numbered year, two years from the last renewal date. Except as provided in section 32-4301, a holder of a permit ending in an odd number shall renew it biennially on or before November 1 of the odd numbered year, two years from the last renewal date. Failure to renew and pay all required fees on or before November 1 of the year in which the renewal is due suspends the permit. The board shall vacate a suspension when the permittee pays penalties of not to exceed three hundred fifty dollars and all past due fees. The board may waive collection of a fee or penalty due after suspension under conditions established by a majority of the board.

B. The board shall prorate the fee for new permits for the remaining full calendar months of the respective group to which the permit is assigned.

C. Permit fees that are designated to be not more than a maximum amount shall be set by the board for the following two fiscal years beginning November 1. The board shall establish the fees approximately proportionate to the maximum fee allowed to cover the board's anticipated expenditures for the following two fiscal years. Variation in a fee is not effective except at the expiration date of the permit.

D. Applications for permits shall be accompanied by the following biennial fees as determined by subsection C of this section:

1. A nonprescription drug permit, not more than two hundred dollars. Permittees stocking thirty different nonprescription drug products or less shall be classified as category I retailers. Permittees stocking more than thirty different nonprescription drug products shall be classified as category II retailers. Both categories are subject to biennial permit fees established by the board pursuant to this chapter.

2. A drug manufacturer's permit, not more than one thousand dollars.

3. A pharmacy permit, not more than five hundred dollars.

4. A limited service pharmacy permit, not more than five hundred dollars.

5. A full service wholesale drug permit, not more than one thousand dollars.

6. A nonprescription drug wholesale permit, not more than five hundred dollars.

7. A drug repackager's permit, not more than one thousand dollars.

8. A compressed medical gas distributor permit, not more than two hundred dollars.

9. A durable medical equipment and compressed medical gas supplier permit, not more than one hundred dollars.

E. If an applicant is found to be satisfactory to the board, the executive director shall issue to the applicant a permit for each pharmacy, manufacturer, wholesaler or other place of business in which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale, for which application is made.

F. Permits issued under this section are not transferable.

G. If a permittee does not apply for renewal, the permit expires pursuant to subsection A of this section. A person may activate and renew an expired permit by filing the required application and fee. Renewal thirty days after the expiration date of a permit may be made only on payment of the required biennial renewal fee, all past due fees and a penalty of one-half of the amount of the applicable biennial renewal fee. The board may waive the collection of a fee or penalty due after suspension pursuant to conditions prescribed by the board.

32-1932.01. Substance abuse treatment and rehabilitation program; private contract; funding

A. The board may establish a program for the treatment and rehabilitation of licensees who are impaired by alcohol or drug abuse. This program shall include education, intervention, therapeutic treatment and post treatment monitoring and support.

B. The board may contract with other organizations to operate the program established pursuant to subsection A of this section. A contract with a private organization shall include the following requirements:

1. Periodic reports to the board regarding treatment program activity.

2. Pursuant to a written request by the board or its executive director, release of all treatment records.

3. Quarterly reports to the board, by case number, regarding each participant's diagnosis, prognosis and recommendations for continuing care, treatment and supervision.

4. Immediate reporting to the board of the name of an impaired licensee who the treating organization believes to be a danger to self or others.

5. Reports to the board, as soon as possible, of the name of a participant who refuses to submit to treatment or whose impairment is not substantially alleviated through treatment.

C. The board may allocate an amount of not to exceed twenty dollars from each fee it collects from biennial renewal licenses pursuant to section 32-1925 for the operation of the program established by this section.

D. A licensee who is impaired by alcohol or drug abuse may enter into a stipulation order with the board, or the licensee may be placed on probation or be subject to other action as provided by law.

32-1933. Display of license or permit

A. The holder of a permit granted under this chapter shall conspicuously display it in the location to which it applies.

B. A licensee shall maintain the licensee's current renewal license or duplicate current renewal license, if practicing in more than one location, in the practice site for inspection by the board or its designee or review by the public.

C. If a licensee practices in more than one place, the board may issue one or more duplicate current renewal licenses to the licensee on payment of a fee of not more than twenty-five dollars for each duplicate current renewal license.

32-1934. Pharmacy operated by hospital

A. A pharmacy operating in connection with a hospital shall comply with all the provisions of this chapter requiring registration and regulation of pharmacies and with board rules.

B. A pharmacy operating in connection with a hospital shall also meet the following requirements:

1. In hospitals with fifty beds or more, the pharmacy shall be under the continuous supervision of a pharmacist during the time it is open for pharmacy services, except that the board by rule may establish requirements to allow a pharmacist who is engaged in hospital business to be in other areas of the hospital that are located outside the pharmacy.

2. In hospitals with less than fifty beds, with the written approval and recommendations of the board, the services of a pharmacist shall be required on a part-time basis according to the needs of the hospital, provided that this approval does not permit the compounding, manufacturing, dispensing, labeling, packaging or processing of drugs by other than a pharmacist.

3. In the pharmacist's absence from the hospital, the supervisory registered nurse may obtain from the pharmacy necessary doses of drugs that are ordered by a medical practitioner and that are needed by a patient in an emergency, according to procedures recommended and approved by the board for each hospital.

4. All drugs and medications furnished from the pharmacy to patients on discharge from the hospital shall be dispensed by a pharmacist and the medication shall be properly labeled.

5. The pharmacist in charge shall initiate procedures to provide for the administrative and technical guidance in all matters pertaining to the acquiring, stocking, record keeping and dispensing of drugs and devices.

32-1935. Approval of schools and colleges of pharmacy

The board of pharmacy shall adopt and promulgate standards and requirements for approval of schools and colleges of pharmacy.

32-1936. Mandatory continuing professional pharmacy education

A. All pharmacists licensed in this state shall satisfactorily complete approved courses of continuing professional pharmacy education or continue their education by other means in accordance with rules adopted by the board before renewing a license.

B. The board by rule shall establish the form and content of courses for continuing professional pharmacy education and the number of hours required for renewal of a license.

32-1937. Exceptions to continuing education requirements

A. The requirements of continuing professional pharmacy education provided in section 32-1936 do not apply to licensees during the year of their graduation from an accredited college of pharmacy.

B. The board may make exceptions from the requirements of section 32-1936 in emergency or hardship cases or for good cause shown based on a written request for an exception from the requirements.

C. Pharmacists who are exempted from the requirements of continuing professional pharmacy education pursuant to subsection B of this section shall satisfactorily pass a written examination approved by the board for such purpose prior to license renewal.

32-1939. Condition of probation; repayment of inspection costs

A. As a condition of probation, the board may require that a licensee or permittee be subject to additional compliance inspections or audits and pay the reasonable costs of these inspections and audits. These costs shall not exceed one thousand dollars. The board shall limit these additional inspections to no more than two per year.

B. Monies received pursuant to subsection A of this section shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona state board of pharmacy fund.

C. If a licensee or permittee fails to comply with a board order regarding the costs of additional inspections and audits, the board may enforce its order in the superior court in Maricopa County. The board may also impose additional sanctions against the licensee or permittee.

32-1940. Investigations; hearings; conferences; records; confidentiality

A. Information received and records kept by the board in connection with investigations conducted pursuant to this chapter before a public hearing or conference are confidential and are not open to the public or subject to civil discovery.

B. Notwithstanding any other law or code of ethics regarding practitioner confidences, the physician-patient privilege between a medical practitioner and a patient, both as it relates to the competency of the witness and to the exclusion of confidential communications, does not pertain to any board investigations or other proceedings conducted pursuant to this chapter to the extent necessary to determine if a violation of this chapter has occurred. Communications or 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, investigation or hearing required or authorized under this chapter.

C. The board, its employees and agents and any other person receiving this information shall keep the identity of the patient confidential at all times.

D. The board shall report evidence of a crime uncovered during an investigation to the appropriate criminal justice agency.

E. This section does not prevent the board from disclosing investigative materials concerning a licensee's alleged violation of this chapter to the licensee or the licensee's attorney.

ARTICLE 3 REGULATION:

32-1961. Limitation on dispensing, compounding and sale of drugs

A. It is unlawful for any person to compound, sell or dispense any drugs or to dispense or compound the prescription orders of a medical practitioner, unless that person is a pharmacist or a pharmacy intern acting under the direct supervision of a pharmacist, except as provided in section 32-1921. This subsection does not prevent a pharmacy technician or support personnel from assisting in the dispensing of drugs if this is done pursuant to rules adopted by the board and under the direct supervision of a licensed pharmacist.

B. It is unlawful for any person, without placing a pharmacist in active personal charge at each place of business, to:

1. Open, advertise or conduct a pharmacy.
2. Stock, expose or offer drugs for sale at retail, except as otherwise specifically provided.
3. Use or exhibit the title "drugs", "drugstore", "drug shop", "pharmacy", "apothecary" or any combination of these words or titles or any title, symbol or description of like import or any other term designed to take its place.

32-1962. New drug; compliance with federal act; exception

A. No person shall manufacture, sell, offer or hold for sale or give away any new drug or device unless it fully complies with the provisions of the federal act.

B. This section shall not apply to the nutritional supplement amygdalin, a cyano-genetic glycoside, also known as laetrile and vitamin B-17, which is processed from the seeds of certain fruits including apricots, peaches and plums.

32-1963. Liability of manager, proprietor or pharmacist in charge of a pharmacy; variances in quality of drugs or devices prohibited

A. The proprietor, manager, and pharmacist in charge of a pharmacy shall be responsible for the quality of drugs and devices sold or dispensed in the pharmacy, except those sold in original packages of the manufacturer.

B. No pharmacist or other person shall manufacture, compound, dispense, or offer for sale or cause to be manufactured, compounded, dispensed, or offered for sale any drug or device under or by a name recognized in the official compendium or the federal act which differs from the standard of strength, purity and quality specified therein as official at the time of manufacture, compounding, dispensing, or offering for sale, nor shall a pharmacist or other person manufacture, compound, dispense, or offer for sale, or cause to be manufactured, compounded, dispensed, or offered for sale, any drug or device, the strength, purity or quality of which falls below the required strength, purity or quality under which it is sold.

C. Within four working days of receiving a request, the proprietor, manager or pharmacist in charge shall provide the following documents relating to the acquisition or disposal of prescription-only and controlled substance medication if this information is requested by an authorized board agent in the course of his official duties:

1. Invoices.
2. Stock transfer documents.
3. Merchandise return memos.
4. Other related documentation.

32-1963.01. Substitution for prescription drugs; requirements; label; definitions

A. If a medical practitioner prescribes a brand name drug and does not indicate an intent to prevent substitution as prescribed in subsection D of this section, a pharmacist may fill the prescription with a generic equivalent drug.

B. Any pharmacy personnel shall notify the person presenting the prescription of the amount of the price difference between the brand name drug prescribed and the generic equivalent drug, if both of the following apply:

1. The medical practitioner does not indicate an intent to prevent substitution with a generic equivalent drug.
2. The transaction is not subject to third party reimbursement.

C. The pharmacist shall place on the container the name of the drug dispensed followed by the words "generic equivalent for" followed by the brand or trade name of the product that is being replaced by the generic equivalent. The pharmacist shall include the brand or trade name on the container or label of any contact lenses dispensed pursuant to this chapter.

D. A prescription generated in this state must be dispensed as written only if the prescriber writes or clearly displays "DAW", "Dispense as written", "do not substitute", "medically necessary" or any statement by the prescriber that clearly indicates an intent to prevent substitution on the face of the prescription form. A prescription from out of state or from agencies of the United States government must be dispensed as written only if the prescriber writes or clearly displays "do not substitute", "dispense as written" or "medically necessary" or any statement by the prescriber that clearly indicates an intent to prevent substitution on the face of the prescription form.

E. This section applies to all prescriptions, including those presented by or on behalf of persons receiving state or federal assistance payments.

F. An employer or agent of an employer of a pharmacist shall not require the pharmacist to dispense any specific generic equivalent drug or substitute any specific generic equivalent drug for a brand name drug against the professional judgment of the pharmacist or the order of the prescriber.

G. The liability of a pharmacist in substituting according to this section shall be no greater than that which is incurred in the filling of a generically written prescription. This subsection does not limit or diminish the responsibility for the strength, purity or quality of drugs provided in section 32-1963. The failure of a prescriber to specify that no substitution is authorized does not constitute evidence of negligence.

H. A pharmacist may not make a substitution pursuant to this section unless the manufacturer or distributor of the generic drug has shown that:

1. All products dispensed have an expiration date on the original package.
2. The manufacturer or distributor maintains recall and return capabilities for unsafe or defective drugs.

I. The labeling and oral notification requirements of this section do not apply to pharmacies serving patients in a health care institution as defined in section 36-401. However, in order for this exemption to apply to hospitals, the hospital must have a formulary to which all medical practitioners of that hospital have agreed and that is available for inspection by the board.

J. For the purposes of this section:

1. "Brand name drug" means a drug with a proprietary name assigned to it by the manufacturer or distributor.
2. "Formulary" means a list of medicinal drugs.

3. "Generic equivalent" or "generically equivalent" means a drug that has an identical amount of the same active chemical ingredients in the same dosage form, that meets applicable standards of strength, quality and purity according to the United States pharmacopeia or other nationally recognized compendium and that, if administered in the same amounts, will provide comparable therapeutic effects. Generic equivalent or generically equivalent does not include a drug that is listed by the federal food and drug administration as having unresolved bioequivalence concerns according to the administration's most recent publication of approved drug products with therapeutic equivalence evaluations.

32-1964. Record of prescription orders; inspections; confidentiality

A. Every proprietor, manager or pharmacist in charge of a pharmacy shall keep in the pharmacy a book or file in which that person places the original of every prescription order of drugs, devices or replacement soft contact lenses that are compounded or dispensed at the pharmacy. This information shall be serially numbered, dated and filed in the order in which the drugs, devices or replacement soft contact lenses were compounded or dispensed. A prescription order shall be kept for at least seven years. The proprietor, manager or pharmacist shall produce this book or file in court or before any grand jury on lawful order. The book or file of original prescription orders is open for inspection at all times by the prescribing medical practitioner, the board and its agents and officers of the law in performance of their duties.

B. The board, by rule, shall permit pharmacies to maintain the book or file of all original prescription orders by means of electronic media or image of the original prescription order maintained in a retrievable format in a form that contains information the board requires to provide an adequate record of drugs, devices or replacement soft contact lenses compounded or dispensed.

C. The board, by rule, shall require a similar book or file for a hospital pharmacy in a form that contains information the board requires to provide an adequate record of drugs compounded or dispensed. A prescription order or medication order must be kept for at least seven years. The administrator, manager or pharmacist must produce this book or file in court or before any grand jury on lawful order. The book or file of original prescription orders or medication orders is open for inspection at all times by the prescribing medical practitioner, the board and its agents and officers of the law in performance of their duties.

D. A pharmacist, pharmacy permittee or pharmacist in charge shall comply with applicable state and federal privacy statutes and regulations when releasing patient prescription information.

32-1965. Prohibited acts

The following acts or the causing of any thereof, in addition to any others so specified in this chapter, are prohibited:

1. The manufacture, sale, holding or offering for sale of any drug, device, poison, or hazardous substance that is adulterated or misbranded.
2. The adulteration or misbranding of any drug, device, poison, or hazardous substance.
3. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a drug, device, poison, or hazardous substance, if such act is done while such article is held for sale and results in such article being adulterated or misbranded.
4. The manufacture, sale, holding or offering for sale of a counterfeit drug or forging, counterfeiting, simulating, or falsely representing or without proper authority using any mark, stamp, tag, label, or other identification device

authorized or required by rules adopted under the provisions of this chapter, or of the federal act.

5. The using, on the labeling of any drug or device, or in any advertisement, relating to such drug or device, of any representation or suggestion that such drug or device complies with the provisions of this chapter.

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

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

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

32-1966. Acts constituting adulteration of a drug or device

A drug or device shall be deemed to be adulterated:

1. If it consists in whole or in part of any filthy, putrid or decomposed substance.
2. If it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth, or is not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contamination, or whereby it may have been rendered injurious to health.
3. If the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug or device meets the requirements of this chapter as to safety and has the identity and strength, and meets the quality, which it is represented to possess.
4. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.
5. If:
 - (a) It bears or contains a color additive which is unsafe within the meaning of the federal act.
 - (b) It is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, and is unsafe within the meaning of the federal act.
6. If it is a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label.
7. If it is not subject to the provisions of paragraph 6 of this section and its strength differs from, or its purity or quality falls below that which it purports or is represented to possess.

8. If it is a drug or device to which any substance has been mixed or packed therewith so as to reduce its quality or strength, or to be substituted for it in whole or in part.

32-1967. Acts constituting misbranding of a drug or device; exceptions; interpretation of misleading label

A. A drug or device is misbranded:

1. If its labeling is false or misleading in any particular.

2. If in package form unless it bears a label containing both:

(a) The name and place of business of the manufacturer, packer or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure or numerical count.

3. If any word, statement or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling. Compliance with the federal act shall be deemed compliance with this chapter except for compliance with paragraph 16 of this subsection.

4. If it is for use by humans and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote or sulfonylmethane, or any chemical derivative of such substance, which derivative or other substance has been found to be habit-forming, unless its label bears the name and quantity or proportion of such substance or derivative.

5. If it is a drug unless its label bears, to the exclusion of any other nonproprietary name, both:

(a) The established name of the drug, if there is an established name.

(b) In case it is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, atropine, hyoscyne, hyoscyamine, arsenic, digitalis, digitalis glycosides, mercury, strychnine or thyroid, or derivative or preparation of any such substances, provided that the requirements for stating the quantity of the active ingredients, other than those specifically named in this subdivision, apply only to prescription drugs.

6. Unless its labeling bears both:

(a) Adequate directions for use.

(b) Adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health or against unsafe dosage or methods or duration of administration or application, in a manner and form as are necessary for the protection of users.

7. If it is recognized in an official compendium, unless it is packed and labeled as prescribed in such compendium, provided that the method of packing may be modified with the consent of the board.

8. If it has been found by the board to be a drug or device liable to deterioration, unless it is packaged in that form and manner, and its label

bears a statement of such precautions, as the rules issued by the board require as necessary for the protection of public health.

9. If its container is so made, formed or filled as to be misleading.

10. If it is an imitation of another drug or device.

11. If it is offered for sale under the name of another drug or device.

12. If it is dangerous to health when used in the dosage, manner or with the frequency or duration prescribed, recommended or suggested in the labeling of the drug or device.

13. If it is a color additive, the intended use of which in or on drugs or devices is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive in the federal act or board rule.

14. In the case of any prescription-only drug or controlled substance distributed or offered for sale in this state, unless the manufacturer, packer or distributor of such drug or substance includes in all advertisements and other printed matter with respect to that drug a true statement of:

(a) The established name.

(b) The formula showing quantitatively each ingredient.

(c) Other information in brief summary relating to side effects, contraindications or effectiveness as required in board rules or the federal act.

15. If a trademark, trade name or other identifying mark, imprint or device of another drug or device or any likeness of another drug or device has been placed on the drug or device or on its container with intent to defraud.

16. In the case of any prescription-only drug or controlled substance if in final dosage form unless it bears a label containing both:

(a) The name and place of business of the manufacturer, and if different, the packer or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure or numerical count.

B. Drugs and devices which are to be processed, labeled or repacked at establishments other than those where originally processed or packed are exempt from any labeling or packaging requirements of this chapter, provided that such drugs and devices are being delivered, manufactured, processed, labeled, repacked or otherwise held in compliance with board rules or under the federal act.

C. If an article is alleged to be misbranded because the labeling is misleading, then in determining whether the labeling is misleading there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device or any combination of them, but also the extent to which the labeling fails to reveal facts material in the light of such representations, or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual.

32-1968. Dispensing prescription-only drug; prescription orders; refills; labels; misbranding; dispensing soft contact lenses

A. A prescription-only drug shall be dispensed only under one of the following conditions:

1. By a medical practitioner in conformance with section 32-1921.
2. On a written prescription order bearing the prescribing medical practitioner's manual signature.
3. On an electronically transmitted prescription order containing the prescribing medical practitioner's electronic or digital signature that is reduced promptly to writing and filed by the pharmacist.
4. On a written prescription order generated from electronic media containing the prescribing medical practitioner's electronic or manual signature. A prescription order that contains only an electronic signature must be applied to paper that uses security features that will ensure the prescription order is not subject to any form of copying or alteration.
5. On an oral prescription order that is reduced promptly to writing and filed by the pharmacist.
6. By refilling any written, electronically transmitted or oral prescription order if a refill is authorized by the prescriber either in the original prescription order, by an electronically transmitted refill order that is documented promptly and filed by the pharmacist or by an oral refill or
7. On a prescription order that the prescribing medical practitioner or the prescribing medical practitioner's agent transmits by fax or electronic mail.
8. On a prescription order that the patient transmits by fax or by email if the patient presents a written prescription order bearing the prescribing medical practitioner's manual signature when the prescription-only drug is picked up at the pharmacy.

REMEMBER: IT IS IMPERATIVE THAT THE ORIGINAL SIGNED COPY OF THE RX BE COLLECTED BEFORE DISPENSING

B. A prescription order shall not be refilled if it is either:

1. Ordered by the prescriber not to be refilled.
2. More than one year since it was originally ordered.

C. A prescription order shall contain the date it was issued, the name and address of the person for whom or owner of the animal for which the drug is ordered, refills authorized, if any, the legibly printed name, address and telephone number of the prescribing medical practitioner, the name, strength, dosage form and quantity of the drug ordered and directions for its use.

D. Any drug dispensed in accordance with subsection A of this section is exempt from the requirements of section 32-1967, except subsection A, paragraphs 1, 10 and 11 and the packaging requirements of subsection A, paragraphs 7 and 8, if the drug container bears a label containing the name and address of the dispenser, serial number, date of dispensing, name of the prescriber, name of the patient, or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the order. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or the internet or to a drug dispensed in violation of subsection A of this section.

E. The board may also by rule require additional information on the label of prescription medication that the board believes to be necessary for the best interest of the public's health and welfare.

F. A prescription-only drug or a controlled substance that requires a prescription order is deemed to be misbranded if, at any time before dispensing, its label fails to bear the statement "Rx only". A drug to which subsection A of this section does not apply is deemed to be misbranded if, at any time before dispensing, its label bears the caution statement quoted in this subsection.

G. A pharmacist may fill a prescription order for soft contact lenses only as provided in this chapter.

32-1969. Filling Mexican and Canadian prescription orders; records; exception

[Effective to 07/21/2014. Statute change, see below.]

A. This chapter does not prohibit a pharmacist or an intern under a pharmacist's supervision from filling a new written prescription order for a drug or device issued by a medical practitioner licensed by the appropriate licensing board of Canada or the Republic of Mexico.

B. The proprietor, manager or pharmacist in charge of a pharmacy shall keep a separate record of prescriptions filled pursuant to this section.

C. A pharmacist or intern shall not fill a prescription order issued by a medical practitioner licensed by the appropriate licensing board of Canada or the Republic of Mexico for a controlled substance as defined pursuant to title 36, chapter 27, article 2.

32-1969. Filling foreign prescription orders; records; exception

[Signed by Gov. J. Brewer 04/23/2014. Effective 07/22/2014.]

A. This chapter does not prohibit a pharmacist or an intern under a pharmacist's supervision from filling a new written prescription order for a drug or device issued by a medical practitioner licensed by the appropriate licensing board of a foreign country.

B. The proprietor, manager or pharmacist in charge of a pharmacy shall keep a separate record of prescriptions filled pursuant to this section.

C. A pharmacist or intern shall not fill a prescription order issued by a medical practitioner licensed by the appropriate licensing board of a foreign country for a controlled substance as defined pursuant to title 36, chapter 27, article 2.

32-1970. Implementing, monitoring and modifying drug therapy and use; conditions; definitions

A. A pharmacist licensed pursuant to this chapter may implement, monitor and modify drug therapy and use only under the following circumstances:

1. The patient's drug therapy and use are pursuant to a diagnosis by a physician licensed pursuant to chapter 13 or 17 of this title in an inpatient setting except for health care provided pursuant to paragraph 4, subdivisions (b) and (d) of this subsection.
2. The pharmacist complies with rules adopted by the state board of pharmacy that have been approved by the Arizona medical board and the board of osteopathic examiners in medicine and surgery.
3. The pharmacist follows the written drug therapy management protocols prescribed by the physician who made the diagnosis.

4. The pharmacist implements, monitors or modifies a person's drug therapy and use only in the following health care institutions:

(a) A hospital as defined in section 32-1901.

(b) A staff model of a health care services organization.

(c) A nursing care institution that has a contractual relationship between a limited service pharmacy or a long-term care consultant pharmacist or has an on-site pharmacy.

(d) A qualifying community health center as defined in section 32-1921 that has an on-site pharmacy.

5. The pharmacist includes the approved guidelines and protocols in the patient's chart or file and makes the chart or file available for review by the patient's other health care providers.

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

C. A pharmacist is responsible for the pharmacist's negligent acts that are the result of the pharmacist's change of medication or that relate to patient drug usage pursuant to drug therapy management protocols. This subsection does not limit a physician's liability for negligent acts that are not related to a pharmacist's change of medication pursuant to the protocols.

D. For the purposes of this section:

1. "Implement, monitor and modify" means that a pharmacist may perform specific acts as authorized by a physician pursuant to written guidelines and protocols. This does not include the selection of drug products not prescribed by the physician unless selection of the specific drug product is authorized by the written guidelines and protocols.

2. "Long-term care consultant pharmacist" means a pharmacist providing consulting services to a long-term care facility.

3. "Protocol" means a physician's written order, written standing medical order or other written order of protocol as defined by rules adopted by the Arizona medical board and the board of osteopathic examiners in medicine and surgery and that are patient, physician and pharmacist specific for prescriptions or orders given by the physician authorizing the written protocol.

4. "Staff model of a health care services organization" means an organization that is licensed pursuant to title 20 and that employs its health care providers.

32-1971. Single active ingredient pseudoephedrine products; location

A permittee under this chapter shall keep products in which pseudoephedrine is the single active ingredient behind a store counter or in a locked facility that is inaccessible to customers without the assistance of the permittee or an employee of the permittee, except that this restriction does not apply to liquid, liquid capsule or gel capsule forms of these products.

32-1972. Poison or hazardous substances; misbranding and labeling; prohibitions; exemption

A. A poison or hazardous substance shall be misbranded unless the label bears, and accompanied information that it includes or bears, any directions for use which states conspicuously:

1. The name and address of the manufacturer or seller.

2. The common or usual name or the chemical name, if there is no common or usual name, of the poison or hazardous substance or of each component which contributes substantially to its poisonous or hazardous property, unless the board by rule permits or requires the use of a recognized generic name.

3. The signal words "poison" and "danger" and the skull and crossbones symbol on poisons or hazardous substances which are highly toxic.

4. The signal word "danger" on poisons or hazardous substances that are corrosive.

5. The signal word "warning" or "caution" on all other poisons or hazardous substances.

6. An affirmative statement as to the principal poisonous property, such as "flammable", "vapor harmful", "causes burns", "absorbed through skin", or similar wording descriptive of the poison or hazardous substance.

7. Precautionary measures describing the action to be followed or avoided.

8. Instruction, when necessary or appropriate, for first-aid treatment.

9. Instructions for handling and storage of packages which require special care in handling or storage.

10. The statement "keep out of reach of children" or its practical equivalent, or, if the poison or hazardous substance is intended for use by children, adequate directions for the protection of children from the poison or hazardous substance.

11. Directions for using the poison or hazardous substance.

B. A poison or hazardous substance is also misbranded by the reuse of a food, drug or cosmetic container, or in a container which, though not reused, is identifiable as a food, drug or cosmetic container by its labeling or by other identification, as a container for the poison or hazardous substance.

C. Any statement required on the label of a poison or hazardous substance under subsection A shall be:

1. Located prominently.

2. In the English language.

3. In conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.

D. If the board finds that the requirements of subsections A and B are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular poison or hazardous substance, it may establish by rule such reasonable variations or additional label requirements as it finds necessary, and any such poison or hazardous substance intended, or packaged in a form suitable, for use in the household or by children which fails to bear a label in accordance with such rules shall be deemed to be a misbranded poison or hazardous substance.

E. If the board finds that, because of the size of the package involved or because of the minor hazard presented by the poison or hazardous substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this section is impracticable or is not necessary for the adequate protection of the public health and safety, the board shall adopt rules exempting such poisons or hazardous substances

from these requirements to the extent they determine to be consistent with adequate protection of the public health and safety.

F. If the board finds that the poisonous or hazardous nature of a poison or hazardous substance subject to this section is such that the labeling adequate to protect the public health and safety cannot be devised, or the poison or hazardous substance presents an imminent danger to the public health and safety, the board by rule may restrict the sale of such poison or hazardous substance or declare it to be banned and require its removal from commerce.

G. The board shall conform the rules adopted under this section as far as practicable with the regulations established pursuant to the federal hazardous substances act.

32-1973. Pharmacies; quality assurance

A. As prescribed by the board by rule, each pharmacy shall implement or participate in a continuous quality assurance program to review pharmacy procedures in order to identify methods for addressing pharmacy medication errors. The rules shall prescribe requirements to document compliance and any other provisions necessary for the administration of the program.

B. Records that are generated as a component of a pharmacy's ongoing quality assurance program and that are maintained for that program are peer review documents and are not subject to subpoena or discovery in an arbitration or civil proceeding. This subsection does not prohibit a patient from accessing the patient's prescription records or affect the discoverability of any records that are not generated only as a component of a pharmacy's ongoing quality assurance program and maintained only for that program.

C. A pharmacy meets the requirements of this section if it holds a current general, special or rural general hospital license from the department of health services and is any of the following:

1. Certified by the Centers for Medicare and Medicaid services to participate in the Medicare or Medicaid programs.
2. Accredited by the joint commission on the accreditation of health care organizations.
3. Accredited by the American Osteopathic Association.

32-1974. Pharmacists; administration of immunizations, vaccines and emergency medications; certification; reporting requirements; advisory committee; definition

A. Except as prescribed pursuant to subsection I of this section, a pharmacist who is licensed pursuant to this chapter and who meets the requirements of this section may administer the following to adults without a prescription order pursuant to rules and protocols adopted by the board pursuant to this section:

1. Immunizations or vaccines listed in the United States Centers for Disease Control and prevention's recommended adult immunization schedule.
2. Immunizations or vaccines recommended by the United States Centers for Disease control and prevention's health information for international travel.

<http://www.cdc.gov/vaccines/>

B. A pharmacist who is licensed pursuant to this chapter and who meets the requirements of this section may administer the following to a person who is at least six years of age but under eighteen years of age without a prescription order pursuant to rules and protocols adopted by the board

pursuant to this section:

1. Immunizations or vaccines for influenza.
2. Immunizations or vaccines in response to a public health emergency declared by the governor pursuant to section 36-787.

C. Pursuant to a prescription order, a pharmacist who is licensed pursuant to this chapter and who meets the requirements of this section may administer immunizations and vaccines to a person who is at least six years of age but under eighteen years of age pursuant to rules and protocols adopted by the board pursuant to this section.

D. A pharmacist who wishes to administer immunizations and vaccines pursuant to this section must be certified to do so by the board. The board shall issue a certificate to a pharmacist who meets board requirements for certification as prescribed by the board by rule.

E. A pharmacist who is certified to administer immunizations and vaccines pursuant to this section may administer emergency medication to manage an acute allergic reaction to an immunization or vaccine.

F. A pharmacist who administers an immunization, vaccine or emergency medication pursuant to this section must:

1. Report the administration to the person's primary care provider or physician, if the primary care provider or physician is available, within forty-eight hours after administering the immunization, vaccine or emergency medication and as prescribed by the board by rule.
2. Report information to any adult immunization information system or vaccine registry established by the department of health services.

3. Maintain a record of the immunization pursuant to title 12, chapter 13, article 7.1 and as prescribed by the board by rule.

4. Participate in any federal vaccine adverse event reporting system or successor database.

G. This section does not establish a cause of action against a patient's primary care provider for any adverse reaction, complication or negative outcome arising from the administration of any immunization, vaccine or emergency medication by a pharmacist to a patient pursuant to this section if it is administered without a prescription written by the patient's primary care provider.

H. The board shall adopt rules for the administration of vaccines or immunizations pursuant to this section regarding:

1. Protocols that are based on protocols approved by the United States centers for disease control and prevention and any advisory committee appointed by the board for the purpose of recommending protocols.
2. Record keeping and reporting requirements.
3. Requirements and qualifications for pharmacist certification pursuant to this section.
4. Vaccine information and educational materials for those requesting vaccines and immunizations.
5. The administration of emergency medication pursuant to this section.

I. The department of health services, by rule, shall establish and maintain a list of immunizations or vaccines that may be administered to adults by a pharmacist only pursuant to a prescription order. In adopting and maintaining this list, the department is exempt from the rule making requirements of title 41, chapter 6. The department shall adopt its initial rules within six months after receipt of the recommendations of the advisory committee appointed by the board and shall hold one public hearing before implementing the rules and any amendments to the rules. The list shall include those immunizations or vaccines

listed in the United States centers for disease control and prevention's recommended adult immunization schedule or recommended by the United States centers for disease control and prevention's health information for international travel that have adverse reactions that could cause significant harm to a patient's health. A pharmacist may not administer immunizations or vaccines without a prescription order pursuant to this section before the department has established the list pursuant to this subsection. The board may not authorize a pharmacist to administer new immunizations or vaccines without a prescription order pursuant to this section until the department reviews the new immunizations and vaccines to determine if they should be added to the list established pursuant to this subsection.

J. The board may appoint an advisory committee to assist the board in adopting and amending rules and developing protocols relating to the administration of immunizations, vaccines and emergency medications and certification requirements.

K. A pharmacy intern who is certified by the board to administer immunizations and vaccines pursuant to this section may do so only in the presence and under the immediate personal supervision of a pharmacist certified as prescribed in this section.

L. This section does not prevent a pharmacist who administers an immunization or vaccine from participating in the federal vaccines for children program.

M. A pharmacist may not administer an immunization or vaccine to a minor pursuant to subsection B or C of this section without the consent of the minor's parent or guardian.

N. For the purposes of this section, "emergency medication" means emergency epinephrine and diphenhydramine.

32-1975. Legend drug products; listing; code identification; exemption; definitions

A. A legend drug product in finished solid dosage form shall not be manufactured or commercially distributed within this state unless it is clearly or prominently marked or imprinted with a code imprint identifying the drug product and the manufacturer or distributor of the drug.

B. All manufacturers or distributors of legend drugs in solid dosage form shall make available on request to the board a listing of all such legend drugs identifying by code imprint the manufacturer or distributor and the specific type of drug. The listing shall at all times be kept current by all manufacturers and distributors subject to this section.

C. The board may grant exemptions from the requirements of this section on application of any drug manufacturer or distributor showing size, physical characteristics or other unique characteristics that render the application of a code imprint to a legend drug subject to this section impractical or impossible. Any exemption granted by the board shall be included by the manufacturer or distributor in the listing required by subsection B of this section, describing the physical characteristics and type of drug to which the exemption relates.

D. This section does not apply to drug products compounded by a pharmacist licensed under section 32-1924 in a pharmacy operating under a permit issued by the board.

E. For the purposes of this section:

1. "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug or marks or monograms unique to the manufacturer or distributor of the drug, or both.

2. "Distributor" means a person who distributes for resale a drug in solid dosage form under that person's own label even if that person is not the actual manufacturer of the drug.

3. "Legend drug" means any drug defined by section 503(b) of the federal food, drug and cosmetic act and under which definition its label is required to bear the statement "RX only".

4. "Solid dosage form" means capsules or tablets intended for oral use.

32-1976. Dispensing replacement soft contact lenses; prescription

A. A prescription order for replacement soft contact lenses may be dispensed under the following conditions:

1. The prescription order shall be in the form required by this chapter and shall include the name of the prescribing physician or optometrist.

2. The prescription order contains the date of issuance.

3. The prescription order for contact lenses includes the lens brand name, type, tint and all other specifications necessary to accurately dispense the prescription.

B. The prescription shall be dispensed with the exact lenses prescribed and no substitutions shall be made. The expiration date of the prescription shall be the earlier of the expiration date provided by the prescribing physician or optometrist or one year after the date of issuance. A refill of a prescription that is within sixty days of its expiration date shall be filled with no more than the sufficient quantity of replacement soft contact lenses needed through the expiration date.

C. The prescription shall be dispensed with a written notice containing the following wording or its substantial equivalent:

Warning: If you are having any unexplained eye discomfort, watering, vision change or redness, remove your lenses immediately and consult your eye care practitioner before wearing your lenses again.

D. Any advertisement by a pharmacy or pharmacist for replacement soft contact lenses shall include all charges associated with the purchase of replacement soft contact lenses from the pharmacy or pharmacist.

32-1977. Sale of methamphetamine precursors; electronic sales tracking system; violation; classification; state preemption

A. A retailer shall not sell to the same person, and a person shall not purchase, products containing more than three and six-tenths grams per day or more than nine grams per thirty-day period of ephedrine or pseudoephedrine base, or their salts, isomers or salts of isomers. These limits apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not to the overall weight of the products.

B. The retailer must keep nonprescription products containing pseudoephedrine or ephedrine behind the counter or in a locked case where a customer does not have direct access.

C. The retailer shall require a person purchasing a nonprescription product that contains pseudoephedrine or ephedrine to present valid government issued photo identification at the point of sale. The retailer shall record all of the following:

1. The name and address of the purchaser.

2. The name and quantity of product purchased.

3. The date and time of purchase.

4. Purchaser identification type and number.

D. Beginning January 1, 2013, before completing a sale pursuant to this section, a retailer must use an electronic sales tracking system and electronically submit the required information to the national precursor log exchange administered by the national association of drug diversion investigators if the system is available to retailers without a charge for access. For the purposes of this subsection, "available to retailers without a charge for access":

1. Includes:

(a) Access to the web-based electronic sales tracking software, including inputting and retrieving data free of charge.

(b) Training free of charge.

(c) Technical support to integrate to point of sale vendors without a charge, if necessary.

2. Does not include:

(a) Costs relating to required Internet access.

(b) Optional hardware that a pharmacy may choose to purchase for workflow purposes.

(c) Other equipment.

E. If a retailer that sells a nonprescription product containing pseudoephedrine or ephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirements of this section, the retailer must maintain a written log or an alternative electronic recordkeeping mechanism until the retailer is able to comply with the electronic sales tracking system requirements. A retailer that does not have Internet access to the electronic sales tracking system is compliant with the requirements of this section if the retailer maintains a written log or an alternative electronic recordkeeping mechanism.

F. The national association of drug diversion investigators shall forward state transaction records in the national precursor log exchange to the board of pharmacy each week and provide real-time access to the national precursor log exchange information through the national precursor log exchange online portal to law enforcement in this state as authorized by the board of pharmacy.

G. The system prescribed in this section must be capable of generating a stop sale alert notification that completion of the sale would result in the retailer or purchaser violating the quantity limits prescribed in this section. The retailer may not complete the sale if the system generates a stop sale alert. The electronic sales tracking system prescribed in this section must contain an override function that may be used by dispensers of ephedrine or pseudoephedrine who have a reasonable fear of imminent bodily harm if they do not complete a sale. The system must log each instance that a retailer uses the override function.

H. A person who violates this section is guilty of a class 3 misdemeanor, punishable by fine only.

I. This section does not apply to a person who obtains the product pursuant to a valid prescription order.

J. The reporting of sales of ephedrine or pseudoephedrine products is of statewide concern. The regulation of sales pursuant to this section is not subject to further regulation by a county, city, town or other political subdivision of this state.

32-1978. Sale of dextromethorphan; age requirement; exception; violation; civil penalty; definitions

[Signed by Gov. J. Brewer 04/23/2014. Effective 07/22/2014.]

A. It is prohibited for:

1. Any commercial entity to knowingly or wilfully sell or trade a finished drug product containing any quantity of dextromethorphan to a person who is under eighteen years of age.

2. Any person who is under eighteen years of age to purchase a finished drug product containing any quantity of dextromethorphan.

3. Any person to possess, receive or distribute unfinished dextromethorphan, unless the person is registered pursuant to the federal food, drug, and cosmetic act or is appropriately licensed with the board.

B. A person making a retail sale of a finished drug product containing any quantity of dextromethorphan must require and obtain proof of age from the purchaser before completing the sale, unless the person making the sale reasonably presumes the purchaser to be at least twenty-five years of age based on the purchaser's outward appearance.

C. Subsection A of this section does not apply to common carriers that possess, receive or distribute unfinished dextromethorphan for purposes of distributing such unfinished dextromethorphan between persons that are registered under section 510 of the federal food, drug, and cosmetic act or that are appropriately licensed with the board.

D. This section does not impose any compliance requirement on a retail entity other than manually obtaining and verifying proof of age as a condition of sale, including placement of products in a specific place within a store, other restrictions on a consumer's direct access to finished drug products or the maintenance of transaction records.

E. A person who sells or trades a finished drug product containing any quantity of dextromethorphan to a person who is under eighteen years of age shall receive a warning for a first offense and shall pay a civil penalty of fifty dollars for a second offense, unless the person provides documentation that there is an employee training program in place.

F. This section does not apply to a medication containing dextromethorphan that is sold pursuant to a valid prescription.

G. For the purposes of this section:

1. "Common carrier" means any person that holds itself out to the general public as a provider for hire of the transportation of merchandise, whether or not the person actually operates the vehicle by which the transportation is provided within, to or from the United States.

2. "Finished drug product" means a drug that is legally marketed under the federal food, drug, and cosmetic act and that is in finished dosage form.

3. "Unfinished dextromethorphan" means dextromethorphan in any form, compound, mixture or preparation that is not a finished drug product.

ARTICLE 3.1 REGULATION OF FULL SERVICE WHOLESALE PERMITTEES

32-1981. Definitions

In this article, unless the context otherwise requires:

1. "Chain pharmacy warehouse" means a physical location for prescription-only drugs that acts as a central warehouse and that performs intracompany sales or transfers of the prescription-only drugs to a group of pharmacies that are under common ownership or control. A chain pharmacy warehouse is not limited to the distribution of prescription-only drugs under this article.

2. "Company under common ownership" has the same meaning as affiliated group as defined in 26 United States Code section 1504.

3. "Intracompany transaction" means any sale, transfer or trade between a division, subsidiary, parent or affiliated or related company under the common ownership of a person.

4. "Normal distribution channel" means the chain of custody for a prescription-only drug that begins with the delivery of the drug by a manufacturer to a wholesale distributor who then delivers the drug to a pharmacy or a practitioner for final receipt by a patient. Normal distribution channel includes the receipt of a prescription-only drug by a common carrier or other delivery service that delivers the drug at the direction of a manufacturer, full service wholesale permittee or pharmacy and that does not purchase, sell, trade or take title to any prescription-only drug.

5. "Pedigree" means a document or electronic file that contains information that records each wholesale distribution of any given prescription-only drug, from sale by a pharmaceutical manufacturer, through acquisition and sale by any wholesale distributor or repackager and until final sale to a pharmacy or other person dispensing or administering the prescription-only drug.

6. "Third party logistics provider" means a person who receives prescription-only drugs only from the original manufacturer, who delivers the prescription-only drugs at the direction of that manufacturer and who does not purchase, sell, trade or take title to prescription-only drugs.

7. "Wholesale distribution" means distribution of a drug to a person other than a consumer or patient. Wholesale distribution does not include:

(a) Any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity.

(b) Selling, purchasing, distributing, transferring or trading a drug or offering to sell, purchase, distribute, transfer or trade a drug for emergency medical reasons. For the purposes of this subdivision, "emergency medical reasons" includes transferring a prescription drug by a community pharmacy or hospital pharmacy to another community pharmacy or hospital pharmacy to alleviate a temporary shortage.

(c) Drug returns if conducted by a hospital, health care entity, retail pharmacy or charitable institution in accordance with 21 Code of Federal Regulations section 203.23.

(d) The sale of prescription drugs by a pharmacy, not to exceed five per cent of the pharmacy's gross sales, to practitioners for office use.

(e) Dispensing by a retail pharmacy of prescription drugs to a patient or patient's agent pursuant to the lawful order of a practitioner.

(f) Distributing a drug sample by a manufacturer's representative.

(g) Selling, purchasing or trading blood or blood components intended for transfusion.

32-1982. Full service wholesale permittees; bonds; designated representatives; application

A. A full service wholesale permittee that engages in the wholesale distribution of prescription-only drugs into, within or from this state must maintain a bond and have a designated representative.

B. The designated representative of a full service wholesale permittee must:

1. Be at least twenty-one years of age.

2. Have been employed full time for at least three years in a pharmacy or with a full service wholesale permittee in a capacity related to the dispensing and distribution of, and record keeping relating to, prescription-only drugs.

3. Be employed by the full service wholesale permittee in a managerial level position.

4. Be actively involved in the daily operation of the wholesale distribution of prescription-only drugs.

5. Be physically present at the full service wholesale permittee facility during regular business hours unless the absence of the designated representative is authorized.

6. Serve as a designated representative for only one full service wholesale permittee.

7. Not have any criminal convictions under any federal, state or local laws relating to wholesale or retail prescription-only drug distribution or distribution of controlled substances.

C. The board may require the applicant's designated representative to submit a full set of fingerprints to the board. The board shall submit the fingerprints to the department of public safety 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 the fingerprint data with the federal bureau of investigation. The board may charge each applicant a fee determined by the department of public safety. The board shall forward this fee to the department of public safety.

D. The board shall require every full service wholesale permittee that is applying for an initial permit or renewal of a permit to submit a bond of at least one hundred thousand dollars or other equivalent means of security acceptable to the board. The board may use this bond to secure payment of any fines or penalties that are imposed by the board and any fees or costs that are incurred by the board regarding the permit authorized by law and that the permittee fails to pay within thirty days after the fine, penalty or cost becomes final. The bond must cover all permits held by the permittee in this state.

E. The board may waive the bond requirement if the full service wholesale permittee has previously obtained a comparable surety bond or other equivalent means of security for the purpose of licensure in another state where the full service wholesale permittee possesses a valid license in good standing.

F. For the purposes of this article, a full service wholesale permittee does not include a hospital, chain pharmacy warehouse or third party logistics provider.

32-1983. Restrictions on transactions

A. A full service wholesale permittee may accept prescription-only drug returns or exchanges from a pharmacy or chain pharmacy warehouse pursuant to the terms of an agreement between the full service wholesale permittee and the pharmacy or chain pharmacy warehouse. The full service wholesale permittee shall not accept as returns or exchanges from the pharmacy or chain pharmacy warehouse:

1. Adulterated or counterfeited prescription-only drugs.
2. An amount or quantity of a prescription-only drug that exceeds the amount or quantity that the full service wholesale permittee or another full service wholesale permittee under common ownership sold to the pharmacy or chain pharmacy warehouse.

B. A full service wholesale permittee may furnish prescription-only drugs only to a pharmacy or medical practitioner. The full service wholesale permittee must first verify that person holds a valid license or permit.

C. The full service wholesale permittee must deliver prescription-only drugs only to the premises listed on the license or permit. A full service wholesale permittee may furnish prescription-only drugs to an authorized person or agent of that premises if:

1. The full service wholesale permittee properly establishes the person's identity and authority.
2. Delivery to an authorized person or agent is used only to meet the immediate needs of a particular patient of the authorized person.

D. A full service wholesale permittee may furnish prescription-only drugs to a pharmacy receiving area if a pharmacist or authorized receiving personnel sign, at the time of delivery, a receipt showing the type and quantity of the prescription-only drug received. Any discrepancy between receipt and the type and quantity of the prescription-only drug actually received must be reported to the full service wholesale permittee by the next business day after the delivery to the pharmacy receiving area.

E. A full service wholesale permittee shall not accept payment for or allow the use of a person or entity's credit to establish an account for the purchase of prescription-only drugs from any person other than the owner of record, the chief executive officer or the chief financial officer listed on the license or permit of a person or entity legally authorized to receive prescription-only drugs. Any account established for the purchase of prescription-only drugs must bear the name of the licensee or permittee.

32-1984. Pedigrees; electronic files

A. Each full service wholesale permittee must establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of prescription-only drugs, including pedigrees for all prescription-only drugs that leave the normal distribution channel.

B. A retail pharmacy or chain pharmacy warehouse must comply with this section if the pharmacy or chain pharmacy warehouse engages in the wholesale distribution of prescription-only drugs.

C. Subsection A does not apply to:

1. The original manufacturer of the finished form of the prescription-only drug.

2. The sale, trade or transfer of a prescription-only drug between pharmacies with a common ownership or as required by an emergency.

3. Intracompany transactions.

4. The sale, trade or transfer of a prescription-only drug by a full service wholesale permittee to an entity that assists in the administration of pharmacy benefits under contracts with insurers or to a company under common ownership with that entity.

5. The sale, trade or transfer of a prescription-only drug to a pharmacy or practitioner by an entity that assists in the administration of pharmacy benefits under contracts with insurers or by a company under common ownership with that entity.

D. Each person who is engaged in the wholesale distribution of a prescription-only drug, who is in the possession of a pedigree and who attempts to further distribute that prescription-only drug must verify before any distribution of that drug occurs that each transaction listed on the pedigree has occurred.

E. The pedigree must include:

1. The name of the prescription-only drug.
2. The dosage form and strength of the prescription-only drug.
3. The size of the container.
4. The number of containers.
5. The lot number of the prescription-only drug.
6. The name of the manufacturer of the finished dosage form.
7. All necessary identifying information concerning each sale in the chain of distribution of the product from the manufacturer through acquisition and sale by any full service wholesale permittee and until final sale to a pharmacy or other person dispensing or administering the drug. At a minimum this information must include:

(a) The name, address, telephone number and, if available, the e-mail address of each owner of the prescription-only drug and each full service wholesale permittee that does not take title to the prescription-only drug.

(b) The name and address of each location from which the product was shipped, if different from the owner's.

(c) Transaction dates.

(d) Certification that each recipient has authenticated the pedigree.

8. Any other information required by the board.

F. Except as provided in subsection B, the purchaser and full service wholesale permittee must keep the information prescribed by this section for at least three years.

G. The information prescribed by this section shall be available to the board of pharmacy on request.

32-1985. Injunctive relief

The board, through the appropriate county attorney or the office of the attorney general, may apply for injunctive relief in any court of competent jurisdiction or enjoin any person from committing any act in violation of this article. Injunctive proceedings are in addition to all penalties and other remedies prescribed in this chapter.

ARTICLE 4 ENFORCEMENT OF CHAPTER; PENALTIES

32-1991. Enforcement of chapter

The state board of pharmacy, the division of narcotics enforcement and criminal intelligence within the department of public safety, all officers exercising police powers, and county attorneys shall enforce the provisions of this chapter, unless such enforcement is otherwise specifically delegated, and they shall cooperate with all officers and agencies charged with enforcement of laws of other states and the United States pertaining to the subject matter of this chapter.

32-1992. Provisions of marijuana, prescription-only drugs, narcotics, dangerous drugs or controlled substances laws not invalidated by this chapter; medicated feed not included

A. Nothing in this chapter shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to marijuana, prescription-only drugs, narcotics, dangerous drugs or controlled substances as defined in the applicable federal and state laws relating to these drugs or substances.

B. Nothing in this chapter shall be interpreted to include medicated feed for veterinary use.

32-1993. Authorization to seize certain drugs, counterfeit drugs and equipment; disposition of seized equipment

A. The following may be seized by the division of narcotics enforcement and criminal intelligence within the department of public safety and its designated agents and all officers exercising police powers when they have reasonable grounds to believe it is:

1. A drug that is a counterfeit.
2. A container of such counterfeit drug.
3. Equipment used in manufacturing, compounding, or processing a drug with respect to which drug a prohibited act within the meaning of section 32-1965 has occurred.
4. Any punch, die, plate, stone, labeling, container or other thing used or designed for use in making a counterfeit drug.
5. Any conveyance being used to transport, carry or hold a counterfeit drug in violation of section 32-1965, paragraph 4.

B. When any article, equipment, conveyance, or other thing is seized pursuant to this chapter the peace officer shall, within five days thereafter, cause to be filed in the proper court in whose jurisdiction the merchandise is seized or detained a complaint for condemnation of such merchandise as provided in this chapter.

C. Any person, firm, or corporation having an interest in the alleged article, equipment, or other thing proceeded against, or any person, firm or corporation against whom a civil or criminal liability would exist if the

merchandise is in violation of section 32-1965, paragraph 4 may, within twenty days following the seizure, serve and file an answer or responsive pleading to the complaint which shall allege the interest or liability of the party filing it.

D. Any article, equipment, conveyance or other thing condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds thereof, if sold, less the legal costs and other charges shall be deposited, pursuant to sections 35-146 and 35-147, with the state treasurer.

32-1994. Authorization to embargo adulterated or misbranded drugs or devices; condemnation; destruction; costs

A. When the board or its authorized agent finds or has probable cause to believe that any drug, device, poison, or hazardous substance is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, he shall affix to such article an appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons it is unlawful to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the board or the court.

B. When an article detained or embargoed under subsection A of this section has been found by the board to be adulterated or misbranded, it shall petition the court in whose jurisdiction the article is detained or embargoed for condemnation of such article, or if feasible, the board may permit the article to be brought into compliance with this chapter.

C. If the court finds that a detained or embargoed article is adulterated or misbranded, and it is not feasible to bring it into compliance with this chapter, such article shall be destroyed at the expense of the claimant who shall also pay all court costs, fees, storage and other proper expenses.

32-1995. Injunctions; restraining orders

In addition to other remedies provided, the board may apply to the proper court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary restraining order, or a temporary or permanent injunction restraining any person from violating any provision of this chapter.

32-1996. Violations; classification

[Section 'G' signed by Gov. J. Brewer 04/23/2014. Effective 07/22/2014.]

A. Except as provided in this section, a person who violates this chapter:

1. Without the intent to defraud or mislead is guilty of a class 2 misdemeanor.
2. With the intent to defraud or mislead is guilty of a class 5 felony.

B. A person who violates section 32-1965, paragraph 4 or article 3.1 of this chapter, is guilty of a class 2 felony.

C. Any person who secures a license or permit for that person or for another person by knowingly making a false representation, who fraudulently claims to be licensed as a pharmacist or pharmacy intern within the meaning of this chapter or who knowingly engages in the practice of pharmacy without a license is guilty of a class 2 misdemeanor.

D. A person who secures a license as a pharmacy technician or a pharmacy technician trainee for that person or for another person by knowingly making a false representation, who fraudulently claims to be licensed as a pharmacy technician or a pharmacy technician trainee or who knowingly performs the

duties of a pharmacy technician or a pharmacy technician trainee without a license is guilty of a class 2 misdemeanor.

E. A person who dispenses a human growth hormone in violation of this chapter is guilty of a class 6 felony.

F. A court convicting any person for a violation of this chapter shall, immediately after the date of conviction, send a complete copy of the record of the conviction, including the person's name and offense committed, to the executive director of the board.

G. A person who violates section 32-1978 shall be issued a civil penalty only as set forth in that section.

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UNIFORM CONTROLLED SUBSTANCES ACT: TITLE 36 – CHAPTER 27

Article 1 General Provisions:

36-2501 Definitions

Article 2 Schedules:

36-2511 Nomenclature

36-2512 Substances in schedule I *REVISED*

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ARTICLE 1 GENERAL PROVISIONS:

36-2501. Definitions

A. In this chapter, unless the context otherwise requires:

1. "Board" means the Arizona state board of pharmacy.

2. "Cannabis" means the following substances under whatever names they may be designated:

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(a) Marijuana.

(b) All parts of any plant of the genus cannabis, whether growing or not, its seeds, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of such plant which is incapable of germination.

(c) Every compound, manufacture, salt, derivative, mixture or preparation of such resin, tetrahydrocannabinol (T.H.C.), or of such plants from which the resin has not been extracted.

3. "Controlled substance" means a drug, substance or immediate precursor in schedules I through V of article 2 of this chapter.

4. "Department" means the department of public safety.

5. "Drug dependent person" means a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuing basis in order to experience its psychic effects or to avoid the discomfort caused by its absence.

6. "Drug enforcement administration" means the drug enforcement administration of the department of justice of the United States or its successor agency.

7. "Immediate precursor" means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

8. "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivation or preparation of opium or opiate.

(b) Any salt, compound, isomer, derivative or preparation which is chemically equivalent or identical with any of the substances referred to in subdivision (a) of this paragraph but not including the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, compound, derivation or preparation of coca leaves including cocaine and its optical isomers and any salt, compound, isomer, derivation or preparation which is chemically equivalent or identical with any of these substances but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(e) Cannabis.

9. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

10. "Opium poppy" means the plant of the genus papaver, except its seeds.

11. "Poppy straw" means all parts, except the seeds, of the opium poppy after mowing.

12. "Production" means the manufacture, planting, cultivating, growing or harvesting of a controlled substance.

13. "Registrant" means a person registered under the provisions of the federal controlled substances act (P.L. 91-513; 84 Stat. 1242; 21 U.S.C. sec. 801 et seq.).

14. "Schedule I controlled substances" means the controlled substances identified, defined or listed in section 36-2512.

15. "Schedule II controlled substances" means the controlled substances identified, defined or listed in section 36-2513.

16. "Schedule III controlled substances" means the controlled substances identified, defined or listed in section 36-2514.

17. "Schedule IV controlled substances" means the controlled substances identified, defined or listed in section 36-2515.

18. "Schedule V controlled substances" means the controlled substances identified, defined or listed in section 36-2516.

19. "Scientific purpose" means research, teaching or chemical analysis.

20. "State", when applied to a part of the United States, means any state, district, commonwealth, territory or insular possession of the United States and any area subject to the legal authority of the United States of America.

B. Words or phrases in this chapter, if not defined in subsection A of this section, have the definitions given them in title 32, chapter 18, article 1, unless the context otherwise requires.

ARTICLE 2 SCHEDULES:

36-2511. Nomenclature

The controlled substances listed or to be listed in the schedules in sections 36-2512 through 36-2516 are included by whatever official, common, usual, chemical or trade name designated.

36-2512. Substances in schedule I

A. The following controlled substances, unless specifically excepted, are included in schedule I:

1. Any of the following, including opiates and their isomers, esters, ethers, salts and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl-alpha-methylfentanyl.

(b) Allylprodine.

(c) Alpha-methylthiofentanyl.

(d) Alphacetylmethadol.

(e) Alphameprodine.

(f) Alphamethadol.

(g) Alpha-methylfentanyl.

(h) Benzethidine.

(i) Benzylfentanyl and its optical isomers, salts and salts of isomers.

(j) Beta-hydroxyfentanyl.

(k) Beta-hydroxy-3-methylfentanyl.

(l) Betacetylmethadol.

(m) Betameprodine.

(n) Betamethadol.

(o) Betaprodine.

(p) Clonitazene.

(q) Dextromoramide.

(r) Diampromide.

(s) Diethylthiambutene.

(t) Difenoxin.

(u) Dimenoxadol.

(v) Dimepheptanol.

(w) Dimethylthiambutene.

(x) Dioxaphetyl butyrate.

(y) Dipipanone.

(z) Ethylmethylthiambutene.

(aa) Etonitazene.

(bb) Etoxidine.

(cc) 4-methylaminorex.

(dd) Furethidine.

(ee) Hydroxypethidine.

(ff) Ketobemidone.

(gg) Levomoramide.

(hh) Levophenacymorphan.

(ii) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine).

(jj) Morpheridine.

(kk) Noracymethadol.

(ll) Norlevorphanol.

(mm) Normethadone.

(nn) Norpipanone.

(oo) Para-fluorofentanyl.

(pp) Pepap (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine).

(qq) Phenadoxone.

(rr) Phenampromide.

(ss) Phenomorphan.

(tt) Phenoperidine.

(uu) Piritramide.

(vv) Proheptazine.

(ww) Properidine.

(xx) Propiram.

(yy) Racemoramide.

(zz) Thenylfentanyl and its optical isomers, salts and salts of isomers.

(aaa) Thiofentanyl.

(bbb) 3-methylfentanyl.

(ccc) 3-methylthiofentanyl.

(ddd) Tilidine.

(eee) Trimeperidine.

2. Any of the following opium derivatives and their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Acetorphine.

(b) Acetyldihydrocodeine.

(c) Benzylmorphine.

(d) Codeine methylbromide.

(e) Codeine-n-oxide.

(f) Cyrenorphine.

(g) Desomorphine.

(h) Dihydromorphine.

(i) Drotebanol.

(j) Etorphine, except hydrochloride salt.

(k) Heroin.

(l) Hydromorphinol.

(m) Methyldesorphine.

(n) Methyldihydromorphine.

(o) Morphine methylbromide.

(p) Morphine methylsulfonate.

(q) Morphine-n-oxide.

(r) Myrophine.

(s) Nicocodeine.

(t) Nicomorphine.

(u) Normorphine.

(v) Pholcodeine.

(w) Thebacon.

3. Any material, compound, mixture or preparation that contains any quantity of the following hallucinogenic substances and their salts, isomers and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation (for the purposes of this paragraph, "isomer" includes the optical, position and geometric isomers):

(a) 4-bromo-2, 5-dimethoxyamphetamine.

(b) 2, 5-dimethoxyamphetamine.

(c) 4-methoxyamphetamine.

(d) 5-methoxy-3, 4-methylenedioxyamphetamine.

(e) 4-methyl-2, 5-dimethoxyamphetamine.

(f) 3, 4-methylenedioxymethamphetamine (MDMA).

- (g) 3, 4-methylenedioxy amphetamine.
- (h) 3, 4, 5-trimethoxy amphetamine.
- (i) alpha-ethyltryptamine.
- (j) Bufotenine.
- (k) Diethyltryptamine.
- (l) Dimethyltryptamine.
- (m) Ibogaine.
- (n) Lysergic acid diethylamide.
- (o) Cannabis, except the synthetic isomer of delta-9-tetrahydrocannabinol.
- (p) Mescaline.
- (q) Parahexyl.
- (r) Peyote.
- (s) N-ethyl-3-piperidyl benzilate.
- (t) N-methyl-3-piperidyl benzilate.
- (u) N-hydroxy-3,4-methylenedioxyamphetamine.
- (v) N,N-Dimethylamphetamine.
- (w) 3, 4-methylenedioxy-n-ethylamphetamine.
- (x) Psilocybin.
- (y) Psilocyn.
- (z) Ethylamine analog of phencyclidine.
- (aa) Pyrrolidine analog of phencyclidine.
- (bb) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine.
- (cc) Thiophene analog of phencyclidine.
- (dd) Aminorex.
- (ee) 4-bromo-2,5-dimethoxyphenethylamine.
- (ff) 1-pentyl-3-(naphthoyl)indole (JWH-018 and isomers).
- (gg) 1-butyl-3-(naphthoyl)indole (JWH-073 and isomers).
- (hh) 1-hexyl-3-(naphthoyl)indole (JWH-019 and isomers).
- (ii) 1-pentyl-3-(4-chloro naphthoyl)indole (JWH-398 and isomers).
- (jj) 1-(2-(4-(morpholinyl)ethyl))-3-(naphthoyl)indole (JWH-200 and isomers).
- (kk) 1-pentyl-3-(methoxyphenylacetyl)indole (JWH-250 and isomers).
- (ll) (2-methyl-1-propyl-1h-indol-3-yl)-1-naphthalenyl-methanone (JWH-015 and isomers).
- (mm) (6ar,10ar)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (hu-210).
- (nn) 5-(1,1-dimethylheptyl)-2-(3-hydroxycyclohexyl)-phenol (cp 47,497 and isomers).
- (oo) 5-(1,1-dimethyloctyl)-2-(3-hydroxycyclohexyl)-phenol (cannabicyclohexanol, cp-47,497 c8 homologue and isomers).
- (pp) Any material, compound, mixture or preparation which contains any quantity of cannabimimetic substances and their salts, isomers, whether optical, positional or geometric, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation. For the purposes of this subdivision, "Cannabimimetic substances" means any substances within the following structural classes:
- (i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent. Substances in the 2-(3-hydroxycyclohexyl)phenol generic definition include CP-47,497, CP-47,497 C8-Homolog, CP-55,940 and CP-56,667.
- (ii) 3-(naphthoyl)indole or 3-(naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent. Substances in the 3-(naphthoyl)indole generic definition include AM-678, AM-2201, JWH-004, JWH-007, JWH-009, JWH-015, JWH-016, JWH-018, JWH-019, JWH-020, JWH-046, JWH-047, JWH-048, JWH-049, JWH-050, JWH-070, JWH-071, JWH-072, JWH-073, JWH-076, JWH-079, JWH-080, JWH-081, JWH-082, JWH-094, JWH-096, JWH-098, JWH-116, JWH-120, JWH-122, JWH-148, JWH-149, JWH-175, JWH-180, JWH-181, JWH-182, JWH-184, JWH-185, JWH-189, JWH-192, JWH-193, JWH-194, JWH-195, JWH-196, JWH-197, JWH-199, JWH-200, JWH-210, JWH-211, JWH-212, JWH-213, JWH-234, JWH-235, JWH-236, JWH-239, JWH-240, JWH-241, JWH-242, JWH-262, JWH-386, JWH-387, JWH-394, JWH-395, JWH-397, JWH-398, JWH-399, JWH-400, JWH-412, JWH-413, JWH-414 and JWH-415.
- (iii) 3-(naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent. Substances in the 3-(naphthoyl)pyrrole generic definition include JWH-030, JWH-145, JWH-146, JWH-147, JWH-150, JWH-156, JWH-243, JWH-244, JWH-245, JWH-246, JWH-292, JWH-293, JWH-307, JWH-308, JWH-346, JWH-348, JWH-363, JWH-364, JWH-365, JWH-367, JWH-368, JWH-369, JWH-370, JWH-371, JWH-373 and JWH-392.
- (iv) 1-(naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent. Substances in the 1-(naphthylmethylene)indene generic definition include JWH-176.
- (v) 3-(phenylacetyl)indole or 3-(benzoyl)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent. Substances in the 3-(phenylacetyl)indole generic definition include AM-694, AM-2233, JWH-167, JWH-201, JWH-202, JWH-203, JWH-204, JWH-205, JWH-

206, JWH-207, JWH-208, JWH-209, JWH-237, JWH-248, JWH-250, JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305, JWH-306, JWH-311, JWH-312, JWH-313, JWH-314, JWH-315, JWH-316, RCS-4, RCS-8, SR-18 and SR-19.

(vi) 3-(cyclopropylmethanone) indole or 3-(cyclobutylmethanone) indole or 3-(cyclopentylmethanone) indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the cyclopropyl, cyclobutyl or cyclopentyl rings to any extent. Substances in the 3-(cyclopropylmethanone) indole generic definition include UR-144, Fluoro-UR-144 and XLR-11.

4. Any of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers, unless specifically excepted or listed in another schedule, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Mecloqualone.

(b) Methaqualone.

5. Gamma-hydroxybutyric acid, any salt, hydroxybutyric compound, derivative or preparation of gamma-hydroxybutyric acid, including any isomers, esters and ethers and salts of isomers, esters and ethers of gamma-hydroxybutyric acid, except gamma-butyrolactone if the existence of the isomers, esters and salts is possible within the specific chemical designation. Notwithstanding any other provision of the federal food, drug and cosmetic act, for purposes of security requirements imposed by law or regulation on registered distributors and registered manufacturers, this substance if manufactured, distributed or processed in accordance with an exemption approved under section 505 of the federal food, drug and cosmetic act is a controlled substance in schedule III pursuant to section 36-2514.

6. Any of the following stimulants including their salts, isomers and salts of isomers, unless specifically excepted or listed in another schedule, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Alpha-pyrrolidinobutiophenone (Alpha-PBP).

(b) Alpha-pyrrolidinopropiophenone (Alpha-PPP).

(c) Alpha-pyrrolidinovalerophenone (Alpha-PVP).

(d) Beta-keto-n-methylbenzodioxolylbutanamine (Butylone).

(e) Beta-keto-n-methylbenzodioxolylpentanamine (Pentylone).

(f) Cathinone mimetic substances which are any substances derived from cathinone, (2-amino-1-phenyl-1-propanone) by any substitution at the phenyl ring, any substitution at the 3 position, any substitution at the nitrogen atom or any combination of the above substitutions.

(g) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C).

(h) (+)cis-4-methylaminorex((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).

(i) Dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (MDAI).

(j) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).

(k) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D).

(l) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N).

(m) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).

(n) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H).

(o) Dimethylcathinone (Metamfepramone).

(p) Ethcathinone.

(q) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2).

(r) Fenethylamine.

(s) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I).

(t) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4).

(u) Methcathinone.

(v) Methoxy-alpha-pyrrolidinopropiophenone (MOPPP).

(w) Methoxyphenethylamine mimetic substances which are any substances derived from 2, 5-dimethoxy-phenethylamine by any substitution at the phenyl ring, any substitution at the nitrogen atom or any combination of the above substitutions.

(x) Methyl-alpha-pyrrolidinobutiophenone (MPBP).

(y) Methyleneedioxy-alpha-pyrrolidinopropiophenone (MDPPP).

(z) Methyleneedioxyethcathinone (Ethylone).

(aa) N-ethylamphetamine.

B. The board may except by rule any compound, mixture or preparation containing any substance listed in this section from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiates the potential for abuse.

Sec. 4. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

36-2513. Substances in schedule II

A. The following controlled substances are, unless specifically excepted, included in schedule II:

1. Any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone and naltrexone and their respective salts, but including the following:

- (i) Raw opium.
- (ii) Opium extracts.
- (iii) Opium fluid extracts.
- (iv) Powdered opium.
- (v) Granulated opium.
- (vi) Tincture of opium.
- (vii) Codeine.
- (viii) Ethylmorphine.
- (ix) Etorphine hydrochloride.
- (x) Hydrocodone.
- (xi) Hydromorphone.
- (xii) Metopon.
- (xiii) Morphine.
- (xiv) Oxycodone.
- (xv) Oxymorphone.
- (xvi) Thebaine.
- (xvii) Levo-alphaacetylmethadol.

(b) Any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (a) of this paragraph, except that these substances shall not include the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, compound, derivative or preparation of coca leaves, including cocaine and its optical isomers and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

2. Any of the following, including opiates and isomers, esters, ethers, salts and salts of isomers of the following, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan excepted:

- (a) Alfentanil.
- (b) Alphaprodine.
- (c) Anileridine.
- (d) Bezitramide.
- (e) Carfentanil.
- (f) Dihydrocodeine.
- (g) Diphenoxylate.
- (h) Fentanyl.
- (i) Isomethadone.
- (j) Levomethorphan.
- (k) Levorphanol.
- (l) Metazocine.
- (m) Methadone.
- (n) Methadone--intermediate, 4-cyano-2-dimethylamino-4,4-diphenylbutane.
- (o) Moramide--intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid.
- (p) Nabilone.
- (q) Pethidine (meperidine).
- (r) Pethidine--intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine.
- (s) Pethidine--intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate.
- (t) Pethidine--intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
- (u) Phenazocine.
- (v) Phenylacetone.
- (w) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (pepap), including its optical isomers, salts and salts of isomers.
- (x) Piminodine.

(y) Racemethorphan.

(z) Racemorphan.

(aa) Sufentanil.

(bb) Remifentanil.

3. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Amphetamine and its salts, optical isomers and salts of its optical isomers.

(b) Methamphetamine, including its salts, isomers and salts of isomers.

(c) Phenmetrazine and its salts.

(d) Methylphenidate.

4. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital.

(b) Glutethimide.

(c) Pentobarbital.

(d) Phencyclidine.

(e) Phencyclidine immediate precursors:

(i) 1-phenylcyclohexylamine.

(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

(f) Secobarbital.

B. The board may except by rule any compound, mixture or preparation containing any substance listed in this section from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiates the potential for abuse.

36-2514. Substances in schedule III; definition

A. The following controlled substances are, unless specifically excepted, included in schedule III:

1. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including its salts, isomers, whether optical, position or geometric, and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Benzphetamine.

(b) Chlorphentermine.

(c) Clortermine.

(d) Delta-9-tetrahydrocannabinol (synthetic).

(e) Gamma-hydroxybutyric acid, any salt, hydroxybutyric compound, derivative or preparation of gamma-hydroxybutyric acid, including isomers, esters and ethers and salts of isomers, esters and ethers of gamma-hydroxybutyric acid, except gamma-butyrolactone, contained in a drug product for which an application has been approved under section 505 of the federal food, drug and cosmetic act.

(f) Ketamine.

(g) Phendimetrazine.

2. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(a) Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(b) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital or any salt of any of these drugs and approved by the federal act for marketing only as a suppository.

(c) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof.

(d) Chlorhexadol.

(e) Lysergic acid.

(f) Lysergic acid amide.

(g) Methyprylon.

(h) Sulfondiethylmethane.

(i) Sulfonethylmethane.

(j) Sulfonmethane.

(k) Tiletamine/zolazepam (telazol).

3. Any material, compound, mixture or preparation containing the narcotic drug nalorphine or any of its salts.

4. Any material, compound, mixture or preparation containing the narcotic drug buprenorphine or any of its salts.

5. Any material, compound, mixture or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof, calculated as the free anhydrous base or alkaloid:

(a) Not more than one point eight grams of codeine, or any of its salts, per one hundred milliliters or not more than ninety milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium.

(b) Not more than one point eight grams of codeine, or any of its salts, per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(c) Not more than three hundred milligrams of dihydrocodeinone, or any of its salts, per one hundred milliliters or not more than fifteen milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(d) Not more than three hundred milligrams of dihydrocodeinone, or any of its salts, per one hundred milliliters or not more than fifteen milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Not more than one point eight grams of dihydrocodeine, or any of its salts, per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Not more than three hundred milligrams of ethylmorphine, or any of its salts, per one hundred milliliters or not more than fifteen milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(h) Not more than fifty milligrams of morphine, or any of its salts, per one hundred milliliters or per one hundred grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

6. Any material, compound, mixture or preparation containing any of the following anabolic steroids but not including United States food and drug administration approved over-the-counter preparations, labeled for animal use or those prescription-only anabolic steroid preparations in combination with a therapeutic amount of a nonanabolic steroid and intended for human use:

(a) Boldenone.

(b) Chlorotestosterone.

(c) Clostebol.

(d) Dehydrochlormethyltestosterone.

(e) Dihydrotestosterone.

(f) Drostanolone.

(g) Ethylestrenol.

(h) Fluoxymesterone.

(i) Formebolone.

(j) Mesterolone.

(k) Methandienone.

(l) Methandranone.

(m) Methandriol.

(n) Methandrostenolone.

(o) Methenolone.

(p) Methyltestosterone.

(q) Mibolerone.

(r) Nandrolone.

(s) Norethandrolone.

(t) Oxandrolone.

(u) Oxymesterone.

(v) Oxymetholone.

(w) Stanolone.

(x) Stanozolol.

(y) Testolactone.

(z) Testosterone.

(aa) Trenbolone.

(bb) Any salt, ester or isomer of a drug or substance described or listed in this paragraph, if that salt, ester or isomer promotes muscle growth.

B. The board may except by rule any compound, mixture or preparation containing any substance listed in this section from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiates the potential for abuse.

C. For the purposes of this section, "anabolic steroid" means a growth promoting drug or hormonal substance that is chemically or pharmacologically related to testosterone, other than estrogens, progestins and corticosteroids.

36-2515. Substances in schedule IV

NOTICE: DEA published its Final Rule in the Federal Register placing tramadol into Schedule IV effective August 18, 2014.

1. Any material, compound, mixture or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including its salts, isomers, whether optical, position or geometric, and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Cathine (+(4)-norpseudoephedrine).
- (b) Diethylpropion.
- (c) Fencamfamin.
- (d) Fenproporex.
- (e) Mazindol.
- (f) Mefenorex.
- (g) Pemoline (including organometallic complexes and chelates thereof).
- (h) Phentermine.
- (i) Pipradrol.
- (j) SPA((-)-1-dimethylamino-1, 2-diphenylethane).
- (k) Butorphanol.
- (l) Modafinil.
- (m) Sibutramine.
- (o) Dichloralphenazone.
- (p) Estazolam.
- (q) Ethchlorvynol.
- (r) Ethinamate.
- (s) Ethyl loflazepate.
- (t) Fludiazepam.
- (u) Flunitrazepam.
- (v) Flurazepam.
- (w) Halazepam.
- (x) Haloxazolam.
- (y) Ketazolam.
- (z) Loprazolam.
- (aa) Lorazepam.

2. Any material, compound, mixture or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Alprazolam.
- (b) Barbital.
- (c) Bromazepam.
- (d) Camazepam.
- (e) Chloral betaine.
- (f) Chloral hydrate.
- (g) Chlordiazepoxide.
- (h) Clobazam.
- (i) Clonazepam.
- (j) Chlorazepate.
- (k) Clotiazepam.
- (l) Cloxazolam.
- (m) Delorazepam.
- (n) Diazepam.
- (bb) Lormetazepam.
- (cc) Mebutamate.
- (dd) Medazepam.
- (ee) Meprobamate.
- (ff) Methohexital.
- (gg) Methylphenobarbital (methobarbital).
- (hh) Midazolam.
- (ii) Nimetazepam.
- (jj) Nitrazepam.
- (kk) Nordiazepam.
- (ll) Oxazepam.
- (mm) Oxazolam.
- (nn) Paraldehyde.
- (oo) Petrichloral.
- (pp) Phenobarbital.
- (qq) Pinazepam.

(rr) Prazepam.

(ss) Quazepam.

(tt) Temazepam.

(uu) Tetrazepam.

(vv) Triazolam.

(ww) Zaleplon.

(xx) Zolpidem.

3. Fenfluramine.

4. Any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts, calculated as the free anhydrous base or alkaloid, in limited quantities of not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

5. Any material, compound, mixture or preparation that contains any quantity of the following substances, including its salts:

(a) Carisoprodol.

(b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl- 3-methyl-2-propionoxybutane).

(c) Pentazocine.

B. The board may except by rule any compound, mixture or preparation containing any substance listed in this section from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiates the potential for abuse.

36-2516. Substances in schedule V

The following controlled substances or controlled substance precursors are included in schedule V:

1. Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs, calculated as the free anhydrous base or alkaloid, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two hundred milligrams of codeine, or any of its salts, per one hundred milliliters or per one hundred grams.

(b) Not more than one hundred milligrams of dihydrocodeine, or any of its salts, per one hundred milliliters or per one hundred grams.

(c) Not more than one hundred milligrams of ethylmorphine, or any of its salts, per one hundred milliliters or per one hundred grams.

(d) Not more than 2.5 milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(e) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams.

(f) Not more than 0.5 milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

2. Unless specifically excepted or listed in another schedule, any material, compound, mixture or preparation containing pyrovalerone.

3. Any compound or preparation containing the single active ingredient ephedrine or any of its salts.

ARTICLE 3 REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES:

36-2521. Rules

The board may promulgate necessary and reasonable rules relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state.

36-2522. Registration requirements

A. Every person who manufactures, distributes, dispenses, prescribes or uses for scientific purposes any controlled substance within this state or who proposes to engage in the manufacture, distribution, prescribing or dispensing of or using for scientific purposes any controlled substance within this state must first:

1. Obtain and possess a current license or permit as a medical practitioner as defined in section 32-1901 or as a pharmacy, pharmacist, manufacturer or wholesaler pursuant to title 32, chapter 18.

2. Be a registrant under the federal controlled substances act (P.L. 91-513; 84 Stat. 1242; 21 United States Code section 801 et seq.).

B. A person who is registered under this chapter to manufacture, distribute, dispense, prescribe or use for scientific purposes controlled substances may possess, manufacture, distribute, dispense, prescribe or use for scientific purposes those substances to the extent authorized by that person's license or permit in conformity with this chapter and title 32, chapter 18.

C. The following persons need not register and may lawfully possess controlled substances under this chapter:

1. An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if he is acting in the usual course of his business or employment.

2. A common or contract carrier or warehouseman or that person's employee whose possession of any controlled substance is in the usual course of business or employment.

3. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a medical practitioner or in lawful possession of a schedule V substance.

4. An officer or employee of the department of public safety, a professional regulatory board established by title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25 or 29 or the Arizona state board of pharmacy or a peace officer as defined in section 1-215 in the lawful performance of that person's duties.

D. The board may waive by rule the requirement for registration of certain manufacturers, distributors or dispensers if the board finds waiver consistent

with the public health and safety or the requirements of the United States drug enforcement administration.

E. The board or its designee may inspect the establishment of a registrant or applicant for registration in accordance with the board's regulation if the board or its designee has information that the board or its designee believes would require an on-site inspection.

36-2523. Records of registrants; inspection; confidentiality

A. Persons registered to manufacture, distribute or dispense controlled substances under this chapter shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and title 32, chapter 18, and with any additional rules the board issues. Prescription orders must be filed as required by section 36-2525.

B. A person who holds a permit to operate a pharmacy issued under title 32, chapter 18 shall inventory schedule II, III, IV and V controlled substances as prescribed by federal law. The permit holder shall conduct this inventory on May 1 of each year or as directed by the Arizona state board of pharmacy. The permit holder shall also conduct this inventory if there is a change of ownership or discontinuance of business or within ten days of a change of a pharmacist in charge.

C. These records and inventories shall be open for inspection by peace officers in the performance of their duties. An officer shall not divulge information obtained pursuant to this subsection except in connection with a prosecution, investigation, judicial proceeding or administrative proceeding in which the person to whom the information relates is a party.

36-2524. Order forms

Controlled substances in schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

36-2525. Prescription orders; labels

A. In addition to requirements in section 32-1968, pertaining to prescription orders for prescription-only drugs, the prescription order for a controlled substance shall bear the name, address and federal registration number of the prescriber. A prescription order for a schedule II controlled substance drug other than a hospital drug order for a hospital inpatient shall contain only one drug order per prescription blank. If authorized verbally by the prescriber, the pharmacist may make changes to correct errors or omissions made by the prescriber on the following parts of a written schedule II controlled substance prescription order:

1. The date issued.
2. The strength, dosage form or quantity of drug.
3. The directions for its use.

B. The pharmacist must document on the original prescription order the changes that were made pursuant to the verbal authorization and record the time and date the authorization was granted.

C. A person registered to dispense controlled substances under this chapter must keep and maintain prescription orders for controlled substances as follows:

1. Prescription orders for controlled substances listed in schedules I and II must be maintained in a separate prescription file for controlled substances listed in schedules I and II only.

2. Prescription orders for controlled substances listed in schedules III, IV and V must be maintained either in a separate prescription file for controlled substances listed in schedules III, IV and V only or in a form that allows them to be readily retrievable from the other prescription records of the registrant. For the purposes of this paragraph, "readily retrievable" means that when the prescription is initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" in a font that is not less than one inch high and that the prescription is filed in the usual consecutively numbered prescription file for noncontrolled substance prescriptions. The requirement to stamp the hard copy prescription with a red "C" is waived if a registrant employs an electronic data processing system or other electronic record keeping system for prescriptions that permits identification by prescription number and retrieval of original documents by prescriber's name, patient's name, drug dispensed and date filled.

D. Except in emergency situations in conformity with subsection E of this section, under the conditions specified in subsections F and G of this section or when dispensed directly by a medical practitioner to an ultimate user, a controlled substance in schedule II shall not be dispensed without the written prescription order in ink or indelible pencil or typewritten and manually signed by the medical practitioner. A prescription order for a schedule II substance shall not be dispensed more than ninety days after the date on which the prescription order was issued. A prescription order for a schedule II substance shall not be refilled.

E. In emergency situations, emergency quantities of schedule II substances may be dispensed on an oral prescription order of a medical practitioner. Such an emergency prescription order shall be immediately reduced to writing by the pharmacist and shall contain all the information required for schedule II drugs except for the manual signing of the order by the medical practitioner. Within seven days after authorizing an emergency oral prescription order, the prescribing medical practitioner shall cause a written prescription order manually signed for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to other requirements for prescription orders for schedule II substances, it shall have written on its face "authorization for emergency dispensing" and the date of the oral order. If the prescribing medical practitioner fails to deliver such an emergency prescription order within seven days in conformance with board rules, the pharmacist shall notify the board. Failure of the pharmacist to notify the board shall void the authority conferred by this subsection to dispense without a written, manually-signed prescription order of a medical practitioner.

F. The following may be transmitted to a pharmacy by facsimile by a patient's medical practitioner or the medical practitioner's agent:

1. A prescription order written for a schedule II controlled substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion.
2. A prescription order written for any schedule II controlled substance for a resident of a long-term care facility.
3. A prescription order written for a schedule II controlled substance for a patient enrolled in a hospice care program certified or paid for by Medicare under title XVIII or a hospice program that is licensed by this state. The medical practitioner or the medical practitioner's agent must note on the prescription that the patient is a hospice patient.

G. A facsimile transmitted pursuant to subsection F of this section is the original written prescription order for purposes of this section and must be maintained as required by subsection C of this section.

H. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance included in schedule III or IV that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order shall not be filled or refilled more than six months after the date on which the prescription order was issued. A prescription order authorized to be refilled shall not be refilled more than five times. Additional quantities may only be authorized by the prescribing medical practitioner through issuance of a new prescription order that shall be treated by the pharmacist as a new and separate prescription order.

I. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance that is included in schedule V and that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order may be refilled as authorized by the prescribing medical practitioner but shall not be filled or refilled more than one year after the date of issuance.

J. A controlled substance that is listed in schedule III, IV or V and that does not require a prescription order as determined under state or federal laws may be dispensed at retail by a pharmacist, a pharmacy intern or a graduate intern under the pharmacist's supervision without a prescription order to a purchaser who is at least eighteen years of age if all of the following are true:

1. It is for a legitimate medical purpose.
2. Not more than two hundred forty cubic centimeters (eight ounces) of any such controlled substance containing opium, nor more than one hundred twenty cubic centimeters (four ounces) of any other such controlled substance, nor more than forty-eight dosage units of any such controlled substance containing opium, nor more than twenty-four dosage units of any other controlled substance may be dispensed at retail to the same purchaser in any given forty-eight hour period.
3. No more than one hundred dosage units of any single active ingredient ephedrine preparation may be sold, offered for sale, bartered, or given away to any one person in any one thirty-day period.
4. The pharmacist, pharmacy intern or graduate intern requires every purchaser of a controlled substance under this subsection not known to that person to furnish suitable identification, including proof of age where appropriate.
5. A bound record book for dispensing controlled substances under this subsection is maintained by the pharmacist and contains the name and address of the purchaser, the name and quantity of the controlled substance purchased, the date of each purchase and the name or initials of the pharmacist, pharmacy intern or graduate intern who dispensed the substance to the purchaser. Such book shall be maintained in conformity with the record keeping requirements of section 36-2523.

K. In the absence of a law requiring a prescription for a schedule V controlled substance, the board, by rules, may require, or remove the requirement of, a prescription order for a schedule V controlled substance.

L. The label on a container of a controlled substance directly dispensed by a medical practitioner or pharmacist, not for the immediate administration to the ultimate user, such as a bed patient in a hospital, shall bear the name and address of the dispensing medical practitioner or pharmacist, the serial number, date of dispensing, name of prescriber, name of patient or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the prescription order or required by law. If the controlled substance is included in schedule II, III or IV the label shall bear a transfer warning to the effect: "Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed".

M. The board, by rule, may provide additional requirements for prescribing and dispensing controlled substances.

ARTICLE 4 OFFENSES AND PENALTIES

36-2531. Prohibited acts; classification

A. It is unlawful for any person:

1. Who is subject to article 3 of this chapter to intentionally or knowingly distribute or dispense a controlled substance in violation of section 36-2525.
2. Who is a registrant to intentionally or knowingly manufacture a controlled substance not authorized by that person's registration or to intentionally or knowingly distribute or dispense a controlled substance not authorized by that person's registration to another registrant or other authorized person.
3. To intentionally or knowingly refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this chapter.
4. To intentionally or knowingly refuse an entry into any premises for any inspection authorized by this chapter.
5. To knowingly dispense or deliver anabolic steroids without a written prescription or for a nontherapeutic use.

6. To intentionally or knowingly sell, buy, exchange or give away any preparation subject to section 36-2516, unless the preparation is to be used for a legitimate medical purpose and in compliance with this chapter.

B. Notwithstanding any other law, any person who violates any provision of subsection A of this section is guilty of a class 4 felony.

C. It is unlawful for any person intentionally or knowingly:

1. To distribute as a registrant a controlled substance classified in schedule I or II, except pursuant to an order form as required by section 36-2524.
2. To furnish false or fraudulent material information in, or omit any material information from, any application, report or other document required to be kept or filed under this chapter or any record required to be kept by this chapter.

D. A person who violates any provision of subsection C of this section is guilty of a class 4 felony.

E. A person shall not provide a false prescription for a controlled substance or knowingly or intentionally acquire or obtain possession of a controlled substance by means of forgery, fraud, deception or subterfuge, including the forgery or falsification of a prescription or the nondisclosure of a material fact. A person who violates this subsection is guilty of a class 4 felony.

F. Controlled substances, vehicles and items used or intended for use in violation of this chapter are subject to seizure and forfeiture in the manner provided in title 13, chapter 39.

ARTICLE 5 ENFORCEMENT AND ADMINISTRATION

36-2541. Administrative inspections and warrants

A. Issuance and execution of administrative inspection warrants for purposes of this chapter shall be as follows:

1. A judge of a state court of record or any justice of the peace or magistrate within his jurisdiction and upon proper oath or affirmation showing probable cause may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules adopted pursuant to this chapter and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter, or rules and regulations adopted pursuant to this chapter, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

2. A warrant shall issue only upon an affidavit of a peace officer or a member, officer or employee of the board having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, such judge or magistrate shall issue a warrant identifying the area, premises, building or conveyance to be inspected, the purpose of the inspection and the type of property to be inspected, if any. The warrant shall:

(a) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof.

(b) Be directed to a peace officer to execute it.

(c) Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified.

(d) Identify the item or types of property to be seized, if any.

(e) Direct that it be served during normal business hours and designate the judge or magistrate to whom it shall be returned.

3. A warrant issued pursuant to this section shall be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

4. The judge or magistrate who has issued a warrant shall attach to such warrant a copy of the return and all papers returnable and file them with the clerk of the court in which the inspection was executed.

B. The board, its members, officers or employees and officers and employees of the department or other peace officers may make administrative inspections of controlled premises in accordance with the following provisions:

1. For purposes of this section only, "controlled premises" means:

(a) Places where persons registered or exempted from registration requirements under this chapter are required to keep records.

(b) Places including factories, warehouses, establishments and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver or otherwise dispose of any controlled substance.

2. When executing an administrative inspection warrant issued pursuant to subsection A of this section a peace officer may be accompanied by a member, officer or employee of the board, and upon presenting the warrant and appropriate credentials to the owner, operator or agent in charge they may enter controlled premises for the purpose of conducting an administrative inspection.

3. When authorized by an administrative inspection warrant, such officer or employee may:

(a) Inspect and copy records required by this chapter to be kept.

(b) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found in such premises and, except as provided in paragraph 5 of this subsection, all other things, including records, files, papers, processes, controls and facilities bearing on any violation of this chapter.

(c) Inventory any stock of any controlled substance and obtain samples of such substance.

4. This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) If the owner, operator or agent in charge of the controlled premises consents.

(b) In situations presenting imminent danger to health or safety.

(c) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant.

(d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking.

(e) In all other situations in which a warrant is not constitutionally required.

5. An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator or agent in charge of the controlled premises consents in writing.

36-2542. Cooperation of agencies

A. The board and department shall cooperate with federal and other state agencies in discharging responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances, including the dissemination of information to law enforcement agencies relating to any person who is known to have violated or who is suspected of violating this chapter to obtain a controlled substance in violation of section 36-2531.

B. Results, information and evidence received from the United States drug enforcement administration relating to the regulatory functions of this chapter, including results of inspections conducted by it, may be relied and acted upon by the board or department in the exercise of its regulatory functions under this chapter.

36-2543. Review

All final civil determinations, findings and conclusions of the board or the department under this chapter are final and conclusive unless appealed pursuant to title 12, chapter 7, article 6.

36-2544. Education; research; public notices

A. The board and department shall cooperate with the department of health services in carrying out educational programs designed to prevent and deter misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances. In connection with these programs they may:

1. Promote better recognition of the problems of misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances within the regulated industry and among interested groups and organizations.
2. Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances.
3. Consult with interested groups and organizations to aid them in solving administrative and organizational problems.
4. Evaluate procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances.
5. Disseminate the results of research on misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances to promote a better public understanding of what problems exist and what can be done to combat them.
6. Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances.

B. The board, department and department of health services shall encourage research on misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances. In connection with the research, and in furtherance of the enforcement of this chapter and title 13, chapter 34, they may:

1. Establish methods to assess accurately the effects of narcotic drugs, dangerous drugs, marijuana and controlled substances and identify and characterize those with potential for abuse.
2. Make studies and undertake programs of research to:
 - (a) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this chapter and title 13, chapter 34.
 - (b) Determine patterns of misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances and the social effects of such misuse and abuse.
 - (c) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances.
3. Enter into contracts with public agencies, institutions of higher education and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of narcotic drugs, dangerous drugs, marijuana and controlled substances.

C. The board may authorize the possession and distribution of narcotic drugs, dangerous drugs, marijuana and controlled substances for scientific purposes. Persons who obtain this authorization are exempt from state

prosecution for possession and distribution of narcotic drugs, dangerous drugs, marijuana and controlled substances to the extent of the authorization.

D. The department shall prescribe the posting of a public notice designed to educate the public regarding the dangers of using anabolic steroids and human growth hormone to deter the illegal use of these drugs. The notice shall cite the laws prohibiting the use of anabolic steroids and human growth hormone and the criminal penalty for their use, distribution, unauthorized prescribing, possession and sale. The department shall require that this notice be displayed prominently in the following locations:

1. High schools, colleges and universities.
2. Professional athletic team facilities.
3. Facilities that offer, promote or provide physical fitness or body building programs to members or clients.

ARTICLE 6 MISCELLANEOUS

36-2551. Pending proceedings

All administrative proceedings pending under prior laws which are superseded by this chapter shall be continued and brought to a final determination in accord with the laws and rules in effect prior to the effective date of this chapter.

36-2552. Continuation of rules

Any orders and rules promulgated under any law affected by this chapter and in effect on the effective date of this chapter and not in conflict with it continue in effect until modified, superseded or repealed.

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PRESCRIPTION MONITORING PROGRAM: TITLE 36 – CHAPTER 28

Article 1 General Provisions:

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- 36-2602 Controlled substances prescription monitoring program; contracts; retention and maintenance of records
- 36-2603 Computerized central database tracking system task force; membership
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ARTICLE 1 GENERAL PROVISIONS

36-2601. Definitions

In this article, unless the context otherwise requires:

1. "Board" means the Arizona state board of pharmacy or its designee.
2. "Dispenser" means a medical practitioner or pharmacy that is authorized to dispense controlled substances.

3. "Licensed health care provider" means a person who is licensed pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 19.1, 21, 25, 29 or 33.

4. "Medical practitioner" has the same meaning prescribed in section 32-1901.

5. "Person" means an individual, partnership, corporation or association and the person's duly authorized agents.

6. "Program" means the controlled substances prescription monitoring program.

36-2602. Controlled substances prescription monitoring program; contracts; retention and maintenance of records

A. The board shall adopt rules to establish a controlled substances prescription monitoring program. The program shall:

1. Include a computerized central database tracking system to track the prescribing, dispensing and consumption of schedule II, III and IV controlled substances that are dispensed by a medical practitioner or by a pharmacy that holds a valid license or permit issued pursuant to title 32. The tracking system shall not interfere with the legal use of a controlled substance for the management of severe or intractable pain.

2. Assist law enforcement to identify illegal activity related to the prescribing, dispensing and consumption of schedule II, III and IV controlled substances.

3. Provide information to patients, medical practitioners and pharmacists to help avoid the inappropriate use of schedule II, III and IV controlled substances.

4. Be designed to minimize inconvenience to patients, prescribing medical practitioners and pharmacies while effectuating the collection and storage of information.

B. The board may enter into private or public contracts, including intergovernmental agreements pursuant to title 11, chapter 7, article 3, to ensure the effective operation of the program. Each contractor must comply with the confidentiality requirements prescribed in this article and is subject to the criminal penalties prescribed in section 36-2610.

C. The board shall maintain medical records information in the program pursuant to the standards prescribed in section 12-2297.

36-2603. Computerized central database tracking system task force; membership

A. The board shall appoint a task force to help it administer the computerized central database tracking system. The chairperson of the board shall chair the task force. The task force shall include the following members:

1. Pharmacists, medical practitioners and other licensed health care providers.

2. Representatives of professional societies and associations for pharmacists, medical practitioners and other licensed health care providers.

3. Representatives of professional licensing boards.

4. Representatives of the Arizona health care cost containment system administration.

5. Representatives of state and federal agencies that have an interest in the control of controlled substances.

6. Criminal prosecutors.

B. The task force shall meet to establish the procedures and conditions relating to the release of prescription information pursuant to section 36-2604. The task force shall meet at least once each year and at the call of the chairperson.

C. Task force members serve at the pleasure of the board and are not eligible to receive compensation or reimbursement of expenses.

36-2604. Use and release of confidential information

A. Except as otherwise provided in this section, prescription information submitted to the board pursuant to this article is confidential and is not subject to public inspection. The board shall establish procedures to ensure the privacy and confidentiality of patients and that patient information that is collected, recorded and transmitted pursuant to this article is not disclosed except as prescribed in this section.

B. The board or its designee shall review the prescription information collected pursuant to this article. If the board or its designee has reason to believe an act of unprofessional or illegal conduct has occurred, the board or its designee shall notify the appropriate professional licensing board or law enforcement or criminal justice agency and provide the prescription information required for an investigation.

C. The board may release data collected by the program to the following:

1. A person who is authorized to prescribe or dispense a controlled substance, or a delegate who is authorized by the prescriber or dispenser, to assist that person to provide medical or pharmaceutical care to a patient or to evaluate a patient.

2. An individual who requests the individual's own prescription monitoring information pursuant to section 12-2293.

3. A professional licensing board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25 or 29. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting board states in writing that the information is necessary for an open investigation or complaint.

4. A local, state or federal law enforcement or criminal justice agency. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting agency states in writing that the information is necessary for an open investigation or complaint.

5. The Arizona health care cost containment system administration regarding persons who are receiving services pursuant to chapter 29 of this title. Except as required pursuant to subsection B of this section, the board shall provide this information only if the administration states in writing that the information is necessary for an open investigation or complaint.

6. A person who is serving a lawful order of a court of competent jurisdiction.

D. The board may provide data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual patients or persons who received prescriptions from dispensers.

E. For the purposes of the section, "delegate" means a licensed health care professional who is employed in the office of or in a hospital with the prescriber

or dispenser or an unlicensed medical records technician, medical assistant or office manager who is employed in the office of or in a hospital with the prescriber and who has received training regarding both the Health Insurance Portability and Accountability Act privacy standards, 45 code of federal regulations part 164, subpart E, and security standard, 45 code of federal regulations part 164, subpart C.

36-2605. Controlled substances prescription monitoring program fund

A. The controlled substances prescription monitoring program fund is established consisting of legislative appropriations, transfers pursuant to section 32-1907 and any grants, gifts or donations received by the board. The board shall administer the fund. Monies in the fund are continuously appropriated and shall be used to operate the controlled substances prescription monitoring program established pursuant to section 36-2602.

B. The board may apply for grants and may accept gifts, grants or donations for the establishment and maintenance of the computerized prescription monitoring program.

36-2606. Registration; requirements

A. Beginning November 1, 2007 and pursuant to rules adopted by the board, each medical practitioner who is issued a license pursuant to title 32 and who possesses a registration under the federal controlled substances act must have a current controlled substances prescription monitoring program registration issued by the board. The registration is:

1. Subject to biennial renewal as specified in this article.
2. Not transferable or assignable.
3. Valid only in conjunction with a valid license issued by a professional licensing board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 21, 25 or 29.

B. An applicant for registration pursuant to this section must submit an application as prescribed by the board.

C. The board shall assign all persons registered under this article to one of two registration renewal groups. The holder of a registration ending in an even number must renew the registration biennially on or before May 1 of the next even-numbered year. The holder of a registration ending in an odd number must renew the registration biennially on or before May 1 of the next odd-numbered year. The board shall automatically suspend the registration of any registrant who fails to renew the registration on or before May 1 of the year in which the renewal is due. The board shall vacate a suspension if the registrant submits a renewal application. A suspended registrant is prohibited from accessing information in the prescription monitoring program database tracking system.

D. A registrant shall not apply for registration renewal more than sixty days before the expiration date of the registration.

E. An applicant for registration renewal pursuant to this section must submit a renewal application prescribed by the board by rule.

F. Pursuant to a fee prescribed by the board by rule, the board may issue a replacement registration to a registrant who requests a replacement because the original was damaged or destroyed, because of a change of name or for any other good cause as prescribed by the board.

36-2607. Disciplinary action

A. The registrant's professional licensing board may revoke or suspend a registrant's registration or may place the registrant on probation for any of the following:

1. The registrant's professional licensing board determines that the registration was obtained by fraudulent means.
2. The registrant's professional licensing board takes action to revoke, suspend or place on probation the registrant's license, permit or registration to prescribe or dispense drugs.
3. The registration was issued through error.
4. The registrant knowingly files with the board any application, renewal or other document that contains false or misleading information or the registrant gives false or misleading testimony to the board.
5. The registrant knowingly makes a false report or record required by this article.

B. The board may deny a registration to an applicant for the grounds prescribed in subsection A.

C. In addition to any other law, a licensed or permitted medical practitioner, pharmacist or pharmacy that fails to comply with the requirements of this article is subject to disciplinary action by the medical practitioner's, pharmacist's or pharmacy's professional licensing board. The board of pharmacy shall report to the appropriate professional licensing board the failure of a licensed or permitted medical practitioner, pharmacist or pharmacy to comply with the requirements of this article.

36-2608. Reporting requirements

A. If a medical practitioner dispenses a controlled substance listed in section 36-2513, 36-2514 or 36-2515, or if a prescription for a controlled substance listed in any of those sections is dispensed by a pharmacy in this state, a health care facility in this state for outpatient use or a board-permitted nonresident pharmacy for delivery to a person residing in this state, the medical practitioner, health care facility or pharmacy must report the following information as applicable and as prescribed by the board by rule:

1. The name, address, telephone number, prescription number and drug enforcement administration controlled substance registration number of the dispenser.
2. The name, address and date of birth of the person or, if for an animal, the owner of the animal for whom the prescription is written.
3. The name, address, telephone number and drug enforcement administration controlled substance registration number of the prescribing medical practitioner.
4. The name, strength, quantity, dosage and national drug code number of the schedule II, III or IV controlled substance dispensed.
5. The date the prescription was dispensed.
6. The number of refills, if any, authorized by the medical practitioner.

B. Except as provided in subsection D of this section, a dispenser must use the September 28, 2011 version 4, release 2 standard implementation guide for prescription monitoring programs published by the American Society for

Automation in Pharmacy or any subsequent version or release of that guide to report the required information.

C. The board shall allow the reporter to transmit the required information by electronic data transfer if feasible or, if not feasible, on reporting forms as prescribed by the board. The board shall not require the reporter to submit the required information more frequently than once each day.

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

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

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

1. A controlled substance administered directly to a patient.
2. A controlled substance dispensed by a medical practitioner at a health care facility licensed by this state if the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of seventy-two hours with not more than two seventy-two hour cycles within any fifteen day period.
3. A controlled substance sample.
4. The wholesale distribution of a schedule II, III or IV controlled substance. For the purposes of this paragraph, "wholesale distribution" has the same meaning prescribed in section 32-1981.
5. A facility that is registered by the drug enforcement administration as a narcotic treatment program and that is subject to the record keeping provisions of 21 Code of Federal Regulations section 1304.24.

36-2609. Use of information; civil immunity

A. An individual or entity that complies with the reporting requirements of section 36-2608 is not subject to civil liability or other civil relief for reporting the information to the board.

B. Unless a court of competent jurisdiction makes a finding of malice or criminal intent, the board, any other state agency or any person or entity in proper possession of information pursuant to this article is not subject to civil liability or other legal or equitable relief for any of the following acts or omissions:

1. Furnishing information pursuant to this article.
2. Receiving, using or relying on, or not using or relying on, information received pursuant to this article.
3. Information that was not furnished to the board.
4. Information that was factually incorrect or that was released by the board to the wrong person or entity.

36-2610. Prohibited acts; violation; classification

A. A person who is subject to this article and who fails to report required information pursuant to section 36-2608 is guilty of a class 2 misdemeanor.

B. A person who is subject to this article and who knowingly fails to report required information to the board in violation of section 36-2608 is guilty of a class 1 misdemeanor.

C. A person who is subject to this article and who knowingly reports information to the board that the person knows to be false or fraudulent is guilty of a class 6 felony.

D. A person who is granted access to the information maintained by the board as required by this article and who knowingly discloses the information in a manner inconsistent with a legitimate professional or regulatory purpose, a legitimate law enforcement purpose, the terms of a court order or as otherwise expressly authorized by this article is guilty of a class 6 felony.

36-2611. Program termination

The program established by this chapter ends on July 1, 2017 pursuant to section 41-3102.

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