

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2036

(Reference to House engrossed bill)

Page 1, between lines 1 and 2, insert:

"Section 1. Section 32-1501, Arizona Revised Statutes, is amended to read:

32-1501. Definitions

In this chapter, unless the context otherwise requires:

1. "Accepted therapeutic purpose" means treatment of a disease, injury, ailment or infirmity that is competent and generally recognized as safe and effective.

2. "Active license" means a current valid license to practice naturopathic medicine.

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

4. "Approved clinical training program" or "clinical training program" means a program for naturopathic medical students in which the training occurred or is being conducted by or in conjunction with an approved school of naturopathic medicine.

5. "Approved internship program" or "internship" means that the program in which the training occurred or is being conducted has been approved for internship training for physicians or for graduates of a school of naturopathic medicine by the board or was approved or accredited by an educational or professional association recognized by the board or by another state's or country's licensing agency recognized by the board.

6. "Approved postdoctoral training" or "postdoctoral training" means that the program in which the training occurred or is being conducted has

1 been approved for specialty training or for graduate medical education in
2 naturopathic medicine by the board or approved or accredited by an
3 educational or professional association recognized by the board or by another
4 state's or country's licensing agency recognized by the board.

5 7. "Approved preceptorship program" or "preceptorship" means that the
6 program in which the training occurred or is being conducted has been
7 approved for preceptorship training for physicians or for graduates of a
8 school of naturopathic medicine by the board or was approved or accredited by
9 an educational or professional association recognized by the board or by
10 another state's or country's licensing agency recognized by the board.

11 8. "Approved school of naturopathic medicine" or "school of
12 naturopathic medicine" means a school or college determined by the board to
13 have an educational program that meets standards prescribed by the council on
14 naturopathic medical education, or its successor agency, and that offers a
15 course of study that, on successful completion, results in the awarding of
16 the degree of doctor of naturopathic medicine and whose course of study is
17 either of the following:

18 (a) Accredited or a candidate for accreditation by an accrediting
19 agency recognized by the United States secretary of education as a
20 specialized accrediting agency for schools of naturopathic medicine or its
21 successor.

22 (b) Accredited or a candidate for accreditation by an accrediting
23 agency recognized by the council for higher education accreditation or its
24 successor.

25 9. "Board" means the naturopathic physicians medical board.

26 10. "Chelation therapy" means an experimental medical therapy to
27 restore cellular homeostasis through the use of intravenous, metal-binding
28 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation
29 therapy does not include experimental therapy used to treat heavy metal
30 poisoning.

31 11. "Completed application" means that the applicant paid the required
32 fees and supplied all documents and information as requested by the board and
33 in a manner acceptable to the board.

1 12. "Controlled substance" means a drug, substance or immediate
2 precursor in schedules I through V of title 36, chapter 27, article 2.

3 13. "Direct supervision" means that a physician who is licensed
4 pursuant to this chapter or chapter 13, 17 or 29 of this title:

5 (a) Is physically present and within sight or sound of the person
6 supervised and is available for consultation regarding procedures that the
7 physician has authorized and for which the physician remains responsible.

8 (b) Has designated a person licensed pursuant to this chapter or
9 chapter 13, 17 or 29 of this title to provide direct supervision in the
10 physician's absence.

11 14. "Doctor of naturopathic medicine" or "doctor" means a natural
12 person licensed to practice naturopathic medicine under this chapter.

13 15. "Drug" has the same meaning prescribed in section 32-1901 but does
14 not include:

15 (a) Intravenous administration of legend drugs, except for:

16 (i) Vitamins, chelation therapy and drugs used in emergency
17 resuscitation and stabilization.

18 (ii) Minerals.

19 (iii) Nutrients. For the purposes of this item, "nutrient" means a
20 substance that provides nourishment for growth or metabolism and that is
21 manufactured and supplied for intravenous use by a manufacturer registered
22 with the United States food and drug administration or compounded by a
23 pharmacy licensed by the state board of pharmacy.

24 (b) Controlled substances listed as schedule I or II controlled
25 substances as defined in the federal controlled substances act of 1970
26 (21 United States Code section 802), except morphine, any drug that is
27 reclassified from schedule III to schedule II after January 1, 2014 and any
28 homeopathic preparations that are also controlled substances.

29 (c) Cancer chemotherapeutics classified as legend drugs.

30 (d) Antipsychotics.

31 16. "General supervision" means that the physician is available for
32 consultation regarding procedures that the physician has authorized and for
33 which the physician remains responsible.

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

4 18. "Letter of concern" means a nondisciplinary advisory letter that is
5 issued by the board to a person who is regulated under this chapter and that
6 states that while there is insufficient evidence to support disciplinary
7 action the board believes that the person should modify or eliminate certain
8 practices and that continuation of the activities that led to the information
9 being submitted to the board may result in action against the person's
10 license, certificate or registration.

11 19. "Letter of reprimand" means a disciplinary letter that is issued by
12 the board and that informs a person who is regulated under this chapter that
13 the person's conduct violates state or federal law but does not require the
14 board to restrict the person's license, certificate or registration because
15 the person's conduct did not result in harm to a patient or to the public.

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

20 21. "Medical assistant" or "naturopathic medical assistant" means a
21 person who is certified by the board as a medical assistant, who assists a
22 doctor of naturopathic medicine and who may perform delegated procedures that
23 are commensurate with the assistant's education and training under the direct
24 supervision of a doctor of naturopathic medicine and that do not include
25 diagnosing, designing or modifying established treatment programs or those
26 procedures prohibited by the board or by this chapter.

27 22. "Medically incompetent" means a person who is licensed, certified
28 or registered pursuant to this chapter and who lacks sufficient naturopathic
29 medical knowledge or skills, or both, to a degree that is likely to endanger
30 the health of patients.

31 23. "Natural substance" means a homeopathic, botanical, nutritional or
32 other supplement that does not require a prescription pursuant to federal law
33 before it is prescribed, dispensed or otherwise furnished to a patient and

1 that is prescribed by a physician licensed pursuant to this chapter to
2 enhance health, prevent disease or treat a medical condition diagnosed by the
3 physician.

4 24. "Naturopathic medical student" means a person who is enrolled in a
5 course of study at an approved school of naturopathic medicine.

6 25. "Naturopathic medicine" means medicine as taught in approved
7 schools of naturopathic medicine and in clinical, internship, preceptorship
8 and postdoctoral training programs approved by the board and practiced by a
9 recipient of a degree of doctor of naturopathic medicine licensed pursuant to
10 this chapter.

11 26. "Nurse" means a person licensed pursuant to chapter 15 of this
12 title.

13 27. "Physician" means a doctor of naturopathic medicine licensed
14 pursuant to this chapter.

15 28. "Practice of naturopathic medicine" means a medical system of
16 diagnosing and treating diseases, injuries, ailments, infirmities and other
17 conditions of the human mind and body including by natural means, drugless
18 methods, drugs, nonsurgical methods, devices, physical, electrical, hygienic
19 and sanitary measures and all forms of physical agents and modalities.

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

24 30. "Specialist" means a physician who has successfully completed
25 approved postdoctoral training, who is certified by a specialty board of
26 examiners recognized by the board and who is certified by the board to
27 practice the specialty pursuant to this chapter.

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

30 (a) Intentionally disclosing a professional secret or intentionally
31 disclosing a privileged communication except as either of these may otherwise
32 be required by law.

33 (b) Any dishonorable conduct reflecting unfavorably on the profession.

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

5 (d) Habitual intemperance in the use of alcohol or any substance
6 abuse.

7 (e) The illegal use of any narcotic or hypnotic drugs, or illegal
8 substances.

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

11 (g) Impersonating another doctor of naturopathic medicine or any other
12 practitioner of the healing arts.

13 (h) Falsely acting or assuming to act as a member, an employee or an
14 authorized agent of the board.

15 (i) Procuring or attempting to procure a license or a certificate
16 pursuant to this chapter by fraud, by misrepresentation or by knowingly
17 taking advantage of the mistake of another person or agency.

18 (j) Having professional connection with or lending one's name to
19 enhance or continue the activities of an illegal physician or an illegal
20 practitioner of any healing art.

21 (k) Representing that a manifestly incurable disease, injury, ailment
22 or infirmity can be permanently cured, or falsely or fraudulently
23 representing that a curable disease, injury, ailment or infirmity can be
24 cured within a stated time.

25 (l) Offering, undertaking or agreeing to cure or treat a disease,
26 injury, ailment or infirmity by a secret means, method, treatment, medicine,
27 substance, device or instrumentality.

28 (m) Refusing to divulge to the board on demand the means, method,
29 treatment, medicine, substance, device or instrumentality used in the
30 treatment of a disease, injury, ailment or infirmity.

31 (n) Giving or receiving, or aiding or abetting the giving or receiving
32 of, rebates, either directly or indirectly.

1 (o) Knowingly making any false or fraudulent statement, written or
2 oral, in connection with the practice of naturopathic medicine or any
3 naturopathic treatment method.

4 (p) Immorality or misconduct that tends to discredit the naturopathic
5 profession.

6 (q) Refusal, revocation or suspension of a license by any other state,
7 district or territory of the United States or any other country, unless it
8 can be shown that this action was not due to reasons that relate to the
9 ability to safely and skillfully practice as a doctor of naturopathic
10 medicine or to any act of unprofessional conduct in this paragraph.

11 (r) Any conduct or practice that is contrary to recognized standards
12 of ethics of the naturopathic profession, any conduct or practice that does
13 or might constitute a danger to the health, welfare or safety of the patient
14 or the public, or any conduct, practice or condition that does or might
15 impair the ability to safely and skillfully practice as a doctor of
16 naturopathic medicine.

17 (s) Failure to observe any federal, state, county or municipal law
18 relating to public health as a physician in this state.

19 (t) Violating or attempting to violate, directly or indirectly, or
20 assisting in or abetting the violation of, or conspiring to violate this
21 chapter or board rules.

22 (u) False, fraudulent, deceptive or misleading advertising or
23 advertising the quality of a medical or health care service by a physician or
24 by the physician's staff, employer or representative.

25 (v) Failing or refusing to maintain adequate medical records on a
26 patient or failing or refusing to make medical records in the physician's
27 possession promptly available to another physician or health care provider
28 who is licensed pursuant to chapter 7, 8, 13, 15, 17 or 29 of this title on
29 request and receipt of proper authorization to do so from the patient, a
30 minor patient's parent, the patient's legal guardian or the patient's
31 authorized representative or failing to comply with title 12, chapter 13,
32 article 7.1.

1 (w) Referring a patient to a diagnostic or treatment facility or
2 prescribing goods and services without disclosing in writing to the patient
3 that the physician has a pecuniary interest in the facility, goods or
4 services to which the patient is referred or prescribed. This subdivision
5 does not apply to a referral by one physician or practitioner to another
6 physician or practitioner within a group of physicians or practitioners
7 practicing together.

8 (x) Sexual intimacies with a patient in the course of direct
9 treatment.

10 (y) Failing to dispense drugs and devices in compliance with article 4
11 of this chapter.

12 (z) Administering, dispensing or prescribing any drug or a device for
13 other than an accepted therapeutic purpose.

14 (aa) Falsely representing or holding oneself out as being a specialist
15 or representation by a doctor of naturopathic medicine or the doctor's staff,
16 employer or representative that the doctor is boarded or board certified if
17 this is not true or that standing is not current.

18 (bb) Delegating professional duties and responsibilities to a person
19 if the person has not been approved or qualified by licensure or by
20 certification to perform these duties or responsibilities.

21 (cc) Failing to appropriately supervise a naturopathic medical
22 student, a nurse, a medical assistant, a health care provider or a technician
23 employed by or assigned to the physician during the performance of delegated
24 professional duties and responsibilities.

25 (dd) Using experimental forms of diagnosis or treatment without
26 adequate informed consent of the patient or the patient's legal guardian and
27 without conforming to experimental criteria including protocols, detailed
28 records, periodic analysis of results and periodic review by a medical peer
29 review committee as approved by the federal food and drug administration or
30 its successor agency.

31 (ee) Failing to furnish information in a timely manner to the board or
32 investigators or representatives of the board if this information is legally
33 requested by the board and failing to allow properly authorized board

1 personnel on demand to examine and have access to documents, reports and
2 records maintained by the physician that relate to the physician's medical
3 practice or medically related activities.

4 (ff) Failing to report in writing to the board evidence that a person
5 licensed, certified or registered pursuant to this chapter is or may be
6 medically incompetent, guilty of unprofessional conduct or mentally or
7 physically unable to safely practice or assist in the practice of
8 naturopathic medicine.

9 (gg) Conducting or engaging in an internship, preceptorship or
10 clinical training program in naturopathic medicine without being approved and
11 registered by the board for that internship, preceptorship or clinical
12 training program.

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

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

16 (jj) Knowingly making a false or misleading statement in oral
17 testimony to the board on a form required by the board or in written
18 correspondence to the board, including attachments to that correspondence.

19 (kk) The failure of a physician who is the chief medical officer, the
20 executive officer or the chief of staff of an internship, a preceptorship or
21 a clinical training program to report in writing to the board that the
22 privileges of a doctor of naturopathic medicine, a naturopathic medical
23 student or a medical assistant have been denied, limited, revoked or
24 suspended because that doctor's, student's or assistant's actions appear to
25 indicate that the person is or may be medically incompetent, is or may be
26 guilty of unprofessional conduct or is or may be unable to safely engage or
27 assist in the practice of naturopathic medicine.

28 (ll) Action taken against a doctor of naturopathic medicine by a
29 licensing or regulatory board in another jurisdiction due to that doctor's
30 mental or physical inability to engage safely in the practice of naturopathic
31 medicine or the doctor's medical incompetence or for unprofessional conduct
32 as defined by that licensing or regulatory board and that corresponds
33 directly or indirectly to an act of unprofessional conduct prescribed by this

1 paragraph. The action taken may include refusing, denying, revoking or
2 suspending a license, otherwise limiting, restricting or monitoring a
3 licensee or placing a licensee on probation by that licensing or regulatory
4 board.

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

9 (nn) Violating any formal order, probation, consent agreement or
10 stipulation issued or entered into by the board pursuant to this chapter.

11 (oo) Refusing to submit to a body fluid examination pursuant to a
12 board investigation of alleged substance abuse by a doctor of naturopathic
13 medicine.

14 (pp) Charging a fee for services not rendered or dividing a
15 professional fee for patient referrals among health care providers or health
16 care institutions or between these providers and institutions or a
17 contractual arrangement that has this effect.

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

19 (rr) Charging or collecting a clearly excessive fee. In determining
20 if a fee is clearly excessive, the board shall consider the fee or range of
21 fees customarily charged in this state for similar services, in light of
22 modifying factors such as the time required, the complexity of the service
23 and the skill required to perform the service properly. This subdivision
24 does not apply if there is a clear written contract for a fixed fee between
25 the physician and the patient that was entered into before the service was
26 provided.

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

1 (tt) Using a controlled substance unless it is prescribed by another
2 physician for use during a prescribed course of treatment.

3 (uu) Prescribing, dispensing or administering anabolic androgenic
4 steroids for other than therapeutic purposes.

5 (vv) Except in an emergency or urgent care situation, prescribing or
6 dispensing a controlled substance to a member of the naturopathic physician's
7 immediate family.

8 (ww) Prescribing, dispensing or furnishing a prescription medication
9 or a prescription-only device as defined in section 32-1901 to a person
10 unless the licensee first conducts a physical examination of that person or
11 has previously established a doctor-patient relationship. The physical
12 examination may be conducted during a real-time telemedicine encounter with
13 audio and video capability if the telemedicine audio and video capability
14 meets the elements required by the centers for medicare and medicaid
15 services, unless the examination is for the purpose of obtaining a written
16 certification from the physician for the purposes of title 36, chapter 28.1.
17 This subdivision does not apply to:

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

20 (ii) An emergency medical situation as defined in section 41-1831.

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

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

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

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

4 (xx) If medical treatment is considered experimental or
5 investigational, failing to include in a patient's record a consent to
6 treatment document that is signed by the patient or the patient's parent or
7 legal guardian and that indicates that the patient or the patient's parent or
8 legal guardian has been informed of the risk of any treatment to be provided
9 and the expected cost of that treatment.

10 (yy) WHEN ISSUING A WRITTEN CERTIFICATION AS DEFINED IN SECTION 36-
11 2801, FAILING OR REFUSING TO INCLUDE IN THE ADEQUATE MEDICAL RECORDS OF A
12 PATIENT A COPY OF ALL OF THE FOLLOWING:

13 1. THE MEDICAL RECORDS RELIED ON BY THE PHYSICIAN TO SUPPORT THE
14 DIAGNOSIS OR CONFIRMED DIAGNOSIS OF THE PATIENT'S DEBILITATING MEDICAL
15 CONDITION.

16 2. THE WRITTEN CERTIFICATION.

17 3. THE PATIENT'S PROFILE ON THE ARIZONA BOARD OF PHARMACY CONTROLLED
18 SUBSTANCES PRESCRIPTION MONITORING PROGRAM DATABASE."

19 Renumber to conform

20 Amend title to conform

KIMBERLY YEE

3/17/15
2:29 PM
S: EM/CB/ljs