

Senate Engrossed House Bill

telehealth; health care providers; requirements

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 320

HOUSE BILL 2454

AN ACT

AMENDING SECTIONS 20-841.09, 20-1057.13, 20-1376.05, 20-1406.05, 23-1026, 32-1401, 32-1854, 32-1901.01, 32-2061, 32-3248.01, 32-3251, 36-2272, 36-3601, 36-3602, 36-3603 AND 36-3604, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 36, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-3605, 36-3606, 36-3607 AND 36-3608; REPEALING SECTION 36-3608, ARIZONA REVISED STATUTES; AMENDING SECTIONS 38-672 AND 38-673, ARIZONA REVISED STATUTES; RELATING TO TELEHEALTH.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-841.09, Arizona Revised Statutes, is amended
3 to read:

4 20-841.09. Telehealth; coverage of health care services;
5 definition

6 A. All contracts issued, delivered or renewed ~~on or after~~
7 ~~January 1, 2018~~ IN THIS STATE must provide coverage for health care
8 services that are provided through ~~telemedicine~~ TELEHEALTH if the health
9 care service would be covered were it provided through AN in-person
10 ~~consultation~~ ENCOUNTER between the subscriber and a health care provider
11 and provided to a subscriber receiving the service in this state. THE
12 FOLLOWING REQUIREMENTS APPLY TO COVERAGE OF TELEHEALTH SERVICES:

13 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, a corporation
14 may not limit or deny the coverage of health care services provided
15 through ~~telemedicine~~ TELEHEALTH, INCLUDING ANCILLARY SERVICES, and may
16 apply only the same limits or exclusions on a health care service provided
17 through ~~telemedicine~~ TELEHEALTH that are applicable to an in-person
18 ~~consultation~~ ENCOUNTER for the same health care service, EXCEPT FOR
19 PROCEDURES OR SERVICES FOR WHICH THE WEIGHT OF EVIDENCE, BASED ON PRACTICE
20 GUIDELINES, PEER-REVIEWED CLINICAL PUBLICATIONS OR RESEARCH OR
21 RECOMMENDATIONS BY THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST
22 PRACTICES ESTABLISHED BY SECTION 36-3607, DETERMINES NOT TO BE APPROPRIATE
23 TO BE PROVIDED THROUGH TELEHEALTH.

24 2. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, A CORPORATION
25 SHALL REIMBURSE HEALTH CARE PROVIDERS AT THE SAME LEVEL OF PAYMENT FOR
26 EQUIVALENT SERVICES AS IDENTIFIED BY THE HEALTHCARE COMMON PROCEDURE
27 CODING SYSTEM, WHETHER PROVIDED THROUGH TELEHEALTH USING AN AUDIO-VISUAL
28 FORMAT OR IN-PERSON CARE. A CORPORATION SHALL REIMBURSE HEALTH CARE
29 PROVIDERS AT THE SAME LEVEL OF PAYMENT FOR EQUIVALENT IN-PERSON BEHAVIORAL
30 HEALTH AND SUBSTANCE USE DISORDER SERVICES AS IDENTIFIED BY THE HEALTHCARE
31 COMMON PROCEDURE CODING SYSTEM IF PROVIDED THROUGH TELEHEALTH USING AN
32 AUDIO-ONLY FORMAT. THIS PARAGRAPH DOES NOT APPLY TO A TELEHEALTH
33 ENCOUNTER PROVIDED THROUGH A TELEHEALTH PLATFORM THAT IS SPONSORED OR
34 PROVIDED BY THE CORPORATION. A CORPORATION MAY NOT REQUIRE A HEALTH CARE
35 PROVIDER TO USE A TELEHEALTH PLATFORM THAT IS SPONSORED OR PROVIDED BY THE
36 CORPORATION AS A CONDITION OF NETWORK PARTICIPATION.

37 3. BEFORE JANUARY 1, 2022, A CORPORATION SHALL COVER SERVICES
38 PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER IF THAT SERVICE IS
39 COVERED BY MEDICARE OR THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
40 WHEN PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER. BEGINNING
41 JANUARY 1, 2022, A CORPORATION SHALL COVER SERVICES PROVIDED THROUGH AN
42 AUDIO-ONLY TELEHEALTH ENCOUNTER IF THE TELEHEALTH ADVISORY COMMITTEE ON
43 TELEHEALTH BEST PRACTICES ESTABLISHED BY SECTION 36-3607 RECOMMENDS THAT
44 THE SERVICES MAY APPROPRIATELY BE PROVIDED THROUGH AN AUDIO-ONLY
45 TELEHEALTH ENCOUNTER.

1 4. A HEALTH CARE PROVIDER SHALL BILL FOR A TELEHEALTH ENCOUNTER
2 USING THE HEALTHCARE COMMON PROCEDURE CODING SYSTEM AND SHALL IDENTIFY
3 WHETHER THE TELEHEALTH ENCOUNTER WAS PROVIDED IN AN AUDIO-ONLY OR
4 AUDIO-VIDEO FORMAT. TO SUBMIT A CLAIM FOR AN AUDIO-ONLY SERVICE, THE
5 HEALTH CARE PROVIDER MUST MAKE TELEHEALTH SERVICES GENERALLY AVAILABLE TO
6 PATIENTS THROUGH THE INTERACTIVE USE OF AUDIO, VIDEO OR OTHER ELECTRONIC
7 MEDIA.

8 5. AT THE TIME OF THE TELEHEALTH ENCOUNTER, THE HEALTH CARE
9 PROVIDER SHALL ACCESS CLINICAL INFORMATION AND RECORDS, IF AVAILABLE, THAT
10 ARE APPROPRIATE TO EVALUATE THE PATIENT'S CONDITION. THE HEALTH CARE
11 PROVIDER SHALL INFORM THE SUBSCRIBER BEFORE THE TELEHEALTH ENCOUNTER IF
12 THERE IS A CHARGE FOR THE ENCOUNTER.

13 6. A CORPORATION MAY ESTABLISH REASONABLE REQUIREMENTS AND
14 PARAMETERS FOR TELEHEALTH SERVICES, INCLUDING DOCUMENTATION, FRAUD
15 PREVENTION, IDENTITY VERIFICATION AND RECORDKEEPING, BUT SUCH REQUIREMENTS
16 AND PARAMETERS MAY NOT BE MORE RESTRICTIVE OR LESS FAVORABLE TO HEALTH
17 CARE PROVIDERS OR SUBSCRIBERS THAN ARE REQUIRED FOR HEALTH CARE SERVICES
18 DELIVERED IN PERSON.

19 7. COVERED TELEHEALTH SERVICES MAY BE PROVIDED REGARDLESS OF WHERE
20 THE SUBSCRIBER IS LOCATED OR THE TYPE OF SITE.

21 8. EXCEPT IN AN EMERGENCY AS PRESCRIBED IN SECTION 20-2803, the
22 contract may limit the coverage to those health care providers who are
23 members of the corporation's provider network.

24 B. SUBSECTION A OF THIS SECTION DOES NOT:

25 1. LIMIT THE ABILITY OF CORPORATIONS TO PROVIDE INCENTIVES TO
26 SUBSCRIBERS THAT ARE DESIGNED TO IMPROVE HEALTH OUTCOMES, INCREASE
27 ADHERENCE TO A COURSE OF TREATMENT OR REDUCE RISK.

28 2. PREVENT CORPORATIONS FROM OFFERING NETWORK CONTRACTS TO HEALTH
29 CARE PROVIDERS WHO EMPLOY VALUE-BASED PURCHASING OR BUNDLED PAYMENT
30 METHODOLOGIES IF OTHERWISE ALLOWED BY LAW OR PREVENT HEALTH CARE PROVIDERS
31 FROM VOLUNTARILY AGREEING TO ENTER INTO SUCH CONTRACTS WITH A CORPORATION.

32 C. THIS SECTION DOES NOT RELIEVE A CORPORATION FROM AN OBLIGATION
33 TO PROVIDE ADEQUATE ACCESS TO IN-PERSON HEALTH CARE SERVICES. NETWORK
34 ADEQUACY STANDARDS REQUIRED BY FEDERAL OR STATE LAW MAY NOT BE MET BY A
35 CORPORATION THROUGH THE USE OF CONTRACTED HEALTH CARE PROVIDERS WHO
36 PROVIDE ONLY TELEHEALTH SERVICES AND DO NOT PROVIDE IN-PERSON HEALTH CARE
37 SERVICES IN THIS STATE OR WITHIN FIFTY MILES OF THE BORDER OF THIS STATE.

38 ~~B.~~ D. This section does not prevent a corporation from imposing
39 deductibles, ~~OR~~ copayment or coinsurance requirements for a health care
40 service provided through ~~telemedicine~~ TELEHEALTH if the deductible,
41 copayment or coinsurance does not exceed the deductible, copayment or
42 coinsurance applicable to an in-person ~~consultation~~ ENCOUNTER for the same
43 health care service. IF THE CORPORATION WAIVES A DEDUCTIBLE OR COPAYMENT
44 OR COINSURANCE REQUIREMENT THAT IMPACTS A HEALTH CARE PROVIDER'S
45 CONTRACTED REIMBURSEMENT RATE, THE CORPORATION SHALL REIMBURSE THE HEALTH

1 CARE PROVIDER FOR THE COST OF THE DEDUCTIBLE OR COPAYMENT OR COINSURANCE
2 REQUIREMENT TO ENSURE THAT THE HEALTH CARE PROVIDER RECEIVES THE
3 CONTRACTED REIMBURSEMENT RATE IF THE SERVICE IS COVERED AND THE CLAIM
4 MEETS OTHER REQUIREMENTS OF THE NETWORK PARTICIPATION AGREEMENT.

5 ~~E.~~ E. Services provided through ~~telemedicine~~ TELEHEALTH or
6 resulting from a ~~telemedicine consultation~~ TELEHEALTH ENCOUNTER are
7 subject to all of this state's laws and rules that govern prescribing,
8 dispensing and administering prescription pharmaceuticals and devices and
9 shall comply with Arizona licensure requirements and any practice
10 guidelines of THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST
11 PRACTICES ESTABLISHED BY SECTION 36-3607 OR, IF NOT ADDRESSED, THE
12 PRACTICE GUIDELINES OF a national association of medical professionals
13 promoting access to medical care for consumers via telecommunications
14 technology or other qualified medical professional societies to ensure
15 quality of care.

16 ~~F.~~ F. This section does not apply to limited benefit coverage as
17 defined in section 20-1137.

18 ~~G.~~ G. For the purposes of this section, "~~telemedicine~~ TELEHEALTH":
19 1. Means the interactive use of audio, video or other electronic
20 media, including asynchronous store-and-forward technologies and remote
21 patient monitoring technologies, for the purpose of diagnosis,
22 consultation or treatment.

23 2. INCLUDES:

24 (a) THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN A
25 SUBSCRIBER WHO HAS AN EXISTING RELATIONSHIP WITH A HEALTH CARE PROVIDER OR
26 PROVIDER GROUP IF BOTH OF THE FOLLOWING APPLY:

27 (i) AN AUDIO-VISUAL TELEHEALTH ENCOUNTER IS NOT REASONABLY
28 AVAILABLE DUE TO THE SUBSCRIBER'S FUNCTIONAL STATUS, THE SUBSCRIBER'S LACK
29 OF TECHNOLOGY OR TELECOMMUNICATIONS INFRASTRUCTURE LIMITS, AS DETERMINED
30 BY THE HEALTH CARE PROVIDER.

31 (ii) THE TELEHEALTH ENCOUNTER IS INITIATED AT THE REQUEST OF THE
32 SUBSCRIBER OR AUTHORIZED BY THE SUBSCRIBER BEFORE THE TELEHEALTH
33 ENCOUNTER.

34 (b) THE USE OF AN AUDIO-ONLY ENCOUNTER BETWEEN THE SUBSCRIBER AND A
35 HEALTH CARE PROVIDER, REGARDLESS OF WHETHER THERE IS AN EXISTING
36 RELATIONSHIP WITH THE HEALTH CARE PROVIDER OR PROVIDER GROUP, IF THE
37 TELEHEALTH ENCOUNTER IS FOR A BEHAVIORAL HEALTH OR SUBSTANCE USE DISORDER
38 SERVICE AND BOTH ITEMS OF SUBDIVISION (a) OF THIS PARAGRAPH APPLY.

39 ~~2.~~ 3. Does not include the sole use of ~~an audio-only telephone, a~~
40 ~~video-only system, a facsimile~~ FAX machine, instant messages, VOICE MAIL
41 or ~~electronic mail~~ EMAIL.

1 Sec. 2. Section 20-1057.13, Arizona Revised Statutes, is amended to
2 read:

3 20-1057.13. Telehealth; coverage of health care services;
4 definition

5 A. An evidence of coverage issued, delivered or renewed by a health
6 care services organization ~~on or after January 1, 2018~~ **IN THIS STATE** must
7 provide coverage for health care services that are provided through
8 ~~telemedicine~~ **TELEHEALTH** if the health care service would be covered were
9 it provided through **AN** in-person ~~consultation~~ **ENCOUNTER** between the
10 enrollee and a health care provider and provided to an enrollee receiving
11 the service in this state. **THE FOLLOWING REQUIREMENTS APPLY TO COVERAGE**
12 **OF TELEHEALTH SERVICES:**

13 1. **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,** a health care
14 services organization may not limit or deny the coverage of health care
15 services provided through ~~telemedicine~~ **TELEHEALTH, INCLUDING ANCILLARY**
16 **SERVICES,** and may apply only the same limits or exclusions on a health
17 care service provided through ~~telemedicine~~ **TELEHEALTH** that are applicable
18 to an in-person ~~consultation~~ **ENCOUNTER** for the same health care service,
19 **EXCEPT FOR PROCEDURES OR SERVICES AS IDENTIFIED BY THE DIAGNOSTIC AND**
20 **PROCEDURE CODES, FOR WHICH THE WEIGHT OF EVIDENCE, BASED ON PRACTICE**
21 **GUIDELINES, PEER-REVIEWED CLINICAL PUBLICATIONS OR RESEARCH OR**
22 **RECOMMENDATIONS BY THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST**
23 **PRACTICES ESTABLISHED BY SECTION 36-3607, DETERMINES NOT TO BE APPROPRIATE**
24 **TO BE PROVIDED THROUGH TELEHEALTH.**

25 2. **EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, A HEALTH CARE**
26 **SERVICES ORGANIZATION SHALL REIMBURSE HEALTH CARE PROVIDERS AT THE SAME**
27 **LEVEL OF PAYMENT FOR EQUIVALENT SERVICES AS IDENTIFIED BY THE HEALTHCARE**
28 **COMMON PROCEDURE CODING SYSTEM, WHETHER PROVIDED THROUGH TELEHEALTH USING**
29 **AN AUDIO-VISUAL FORMAT OR IN-PERSON CARE. A HEALTH CARE SERVICES**
30 **ORGANIZATION SHALL REIMBURSE HEALTH CARE PROVIDERS AT THE SAME LEVEL OF**
31 **PAYMENT FOR EQUIVALENT IN-PERSON BEHAVIORAL HEALTH AND SUBSTANCE USE**
32 **DISORDER SERVICES AS IDENTIFIED BY THE HEALTHCARE COMMON PROCEDURE CODING**
33 **SYSTEM IF PROVIDED THROUGH TELEHEALTH USING AN AUDIO-ONLY FORMAT. THIS**
34 **PARAGRAPH DOES NOT APPLY TO A TELEHEALTH ENCOUNTER PROVIDED THROUGH A**
35 **TELEHEALTH PLATFORM THAT IS SPONSORED OR PROVIDED BY THE HEALTH CARE**
36 **SERVICES ORGANIZATION. A HEALTH CARE SERVICES ORGANIZATION MAY NOT**
37 **REQUIRE A HEALTH CARE PROVIDER TO USE A TELEHEALTH PLATFORM THAT IS**
38 **SPONSORED OR PROVIDED BY THE HEALTH CARE SERVICES ORGANIZATION AS A**
39 **CONDITION OF NETWORK PARTICIPATION.**

40 3. **BEFORE JANUARY 1, 2022, A HEALTH CARE SERVICES ORGANIZATION**
41 **SHALL COVER SERVICES PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER**
42 **IF THAT SERVICE IS COVERED BY MEDICARE OR THE ARIZONA HEALTH CARE COST**
43 **CONTAINMENT SYSTEM WHEN PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH**
44 **ENCOUNTER. BEGINNING JANUARY 1, 2022, A HEALTH CARE SERVICES ORGANIZATION**
45 **SHALL COVER SERVICES PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER**

1 IF THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES
2 ESTABLISHED BY SECTION 36-3607 RECOMMENDS THAT THE SERVICES MAY
3 APPROPRIATELY BE PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER.

4 4. A HEALTH CARE PROVIDER SHALL BILL FOR A TELEHEALTH ENCOUNTER
5 USING THE HEALTHCARE COMMON PROCEDURE CODING SYSTEM AND SHALL IDENTIFY
6 WHETHER THE TELEHEALTH ENCOUNTER WAS PROVIDED IN AN AUDIO-ONLY OR
7 AUDIO-VIDEO FORMAT. TO SUBMIT A CLAIM FOR AN AUDIO-ONLY SERVICE, THE
8 HEALTH CARE PROVIDER MUST MAKE TELEHEALTH SERVICES GENERALLY AVAILABLE TO
9 PATIENTS THROUGH THE INTERACTIVE USE OF AUDIO, VIDEO OR OTHER ELECTRONIC
10 MEDIA.

11 5. AT THE TIME OF THE TELEHEALTH ENCOUNTER, THE HEALTH CARE
12 PROVIDER SHALL ACCESS CLINICAL INFORMATION AND RECORDS, IF AVAILABLE, THAT
13 ARE APPROPRIATE TO EVALUATE THE PATIENT'S CONDITION. THE HEALTH CARE
14 PROVIDER SHALL INFORM THE ENROLLEE BEFORE THE TELEHEALTH ENCOUNTER IF
15 THERE IS A CHARGE FOR THE ENCOUNTER.

16 6. A HEALTH CARE SERVICES ORGANIZATION MAY ESTABLISH REASONABLE
17 REQUIREMENTS AND PARAMETERS FOR TELEHEALTH SERVICES, INCLUDING
18 DOCUMENTATION, FRAUD PREVENTION, IDENTITY VERIFICATION AND RECORDKEEPING,
19 BUT SUCH REQUIREMENTS AND PARAMETERS MAY NOT BE MORE RESTRICTIVE OR LESS
20 FAVORABLE TO HEALTH CARE PROVIDERS OR ENROLLEES THAN ARE REQUIRED FOR
21 HEALTH CARE SERVICES DELIVERED IN PERSON.

22 7. COVERED TELEHEALTH SERVICES MAY BE PROVIDED REGARDLESS OF WHERE
23 THE ENROLLEE IS LOCATED OR THE TYPE OF SITE.

24 8. EXCEPT IN AN EMERGENCY AS PRESCRIBED IN SECTION 20-2803, the
25 evidence of coverage may limit the coverage to those health care providers
26 who are members of the health care services organization's provider
27 network.

28 B. SUBSECTION A OF THIS SECTION DOES NOT:

29 1. LIMIT THE ABILITY OF HEALTH CARE SERVICES ORGANIZATIONS TO
30 PROVIDE INCENTIVES TO ENROLLEES THAT ARE DESIGNED TO IMPROVE HEALTH
31 OUTCOMES, INCREASE ADHERENCE TO A COURSE OF TREATMENT OR REDUCE RISK.

32 2. PREVENT HEALTH CARE SERVICES ORGANIZATIONS FROM OFFERING NETWORK
33 CONTRACTS TO HEALTH CARE PROVIDERS WHO EMPLOY VALUE-BASED PURCHASING OR
34 BUNDLED PAYMENT METHODOLOGIES IF OTHERWISE ALLOWED BY LAW OR PREVENT
35 HEALTH CARE PROVIDERS FROM VOLUNTARILY AGREEING TO ENTER INTO SUCH
36 CONTRACTS WITH A HEALTH CARE SERVICES ORGANIZATION.

37 C. THIS SECTION DOES NOT RELIEVE A HEALTH CARE SERVICES
38 ORGANIZATION FROM AN OBLIGATION TO PROVIDE ADEQUATE ACCESS TO IN-PERSON
39 HEALTH CARE SERVICES. NETWORK ADEQUACY STANDARDS REQUIRED BY FEDERAL OR
40 STATE LAW MAY NOT BE MET BY A HEALTH CARE SERVICES ORGANIZATION THROUGH
41 THE USE OF CONTRACTED HEALTH CARE PROVIDERS WHO PROVIDE ONLY TELEHEALTH
42 SERVICES AND DO NOT PROVIDE IN-PERSON HEALTH CARE SERVICES IN THIS STATE
43 OR WITHIN FIFTY MILES OF THE BORDER OF THIS STATE.

1 ~~B.~~ D. This section does not prevent a health care services
2 organization from imposing deductibles, ~~OR~~ copayment or coinsurance
3 requirements for a health care service provided through ~~telemedicine~~
4 TELEHEALTH if the deductible, copayment or coinsurance does not exceed the
5 deductible, copayment or coinsurance applicable to an in-person
6 ~~consultation~~ ENCOUNTER for the same health care service. IF THE HEALTH
7 CARE SERVICES ORGANIZATION WAIVES A DEDUCTIBLE OR COPAYMENT OR COINSURANCE
8 REQUIREMENT THAT IMPACTS A HEALTH CARE PROVIDER'S CONTRACTED REIMBURSEMENT
9 RATE, THE HEALTH CARE SERVICES ORGANIZATION SHALL REIMBURSE THE HEALTH
10 CARE PROVIDER FOR THE COST OF THE DEDUCTIBLE OR COPAYMENT OR COINSURANCE
11 REQUIREMENT TO ENSURE THAT THE HEALTH CARE PROVIDER RECEIVES THE
12 CONTRACTED REIMBURSEMENT RATE IF THE SERVICE IS COVERED AND THE CLAIM
13 MEETS OTHER REQUIREMENTS OF THE NETWORK PARTICIPATION AGREEMENT.

14 ~~C.~~ E. Services provided through ~~telemedicine~~ TELEHEALTH or
15 resulting from a ~~telemedicine-consultation~~ TELEHEALTH ENCOUNTER are
16 subject to all of this state's laws and rules that govern prescribing,
17 dispensing and administering prescription pharmaceuticals and devices and
18 shall comply with Arizona licensure requirements and any practice
19 guidelines of THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST
20 PRACTICES ESTABLISHED BY SECTION 36-3607 OR, IF NOT ADDRESSED, THE
21 PRACTICE GUIDELINES OF a national association of medical professionals
22 promoting access to medical care for consumers via telecommunications
23 technology or other qualified medical professional societies to ensure
24 quality of care.

25 ~~D.~~ F. This section does not apply to limited benefit coverage as
26 defined in section 20-1137.

27 ~~E.~~ G. For the purposes of this section, "~~telemedicine~~ TELEHEALTH":
28 1. Means the interactive use of audio, video or other electronic
29 media, including asynchronous store-and-forward technologies and remote
30 patient monitoring technologies, for the purpose of diagnosis,
31 consultation or treatment.

32 2. INCLUDES:

33 (a) THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN AN
34 ENROLLEE WHO HAS AN EXISTING RELATIONSHIP WITH A HEALTH CARE PROVIDER OR
35 PROVIDER GROUP IF BOTH OF THE FOLLOWING APPLY:

36 (i) AN AUDIO-VISUAL TELEHEALTH ENCOUNTER IS NOT REASONABLY
37 AVAILABLE DUE TO THE ENROLLEE'S FUNCTIONAL STATUS, THE ENROLLEE'S LACK OF
38 TECHNOLOGY OR TELECOMMUNICATIONS INFRASTRUCTURE LIMITS, AS DETERMINED BY
39 THE HEALTH CARE PROVIDER.

40 (ii) THE TELEHEALTH ENCOUNTER IS INITIATED AT THE REQUEST OF THE
41 ENROLLEE OR AUTHORIZED BY THE ENROLLEE BEFORE THE TELEHEALTH ENCOUNTER.

42 (b) THE USE OF AN AUDIO-ONLY ENCOUNTER BETWEEN THE ENROLLEE AND A
43 HEALTH CARE PROVIDER, REGARDLESS OF WHETHER THERE IS AN EXISTING
44 RELATIONSHIP WITH THE HEALTH CARE PROVIDER OR PROVIDER GROUP, IF THE

1 TELEHEALTH ENCOUNTER IS FOR A BEHAVIORAL HEALTH OR SUBSTANCE USE DISORDER
2 SERVICE AND BOTH ITEMS OF SUBDIVISION (a) OF THIS PARAGRAPH APPLY.

3 ~~2. 3. Does not include the sole use of an audio-only telephone, a~~
4 ~~video-only system, a facsimile~~ FAX machine, instant messages, VOICE MAIL
5 or ~~electronic mail~~ EMAIL.

6 Sec. 3. Section 20-1376.05, Arizona Revised Statutes, is amended to
7 read:

8 20-1376.05. Telehealth; coverage of health care services;
9 definition

10 A. All policies issued, delivered or renewed by a disability
11 insurer ~~on or after January 1, 2018~~ IN THIS STATE must provide coverage
12 for health care services that are provided through ~~telemedicine~~ TELEHEALTH
13 if the health care service would be covered were it provided through AN
14 in-person ~~consultation~~ ENCOUNTER between the insured and a health care
15 provider and provided to an insured receiving the service in this state.
16 THE FOLLOWING REQUIREMENTS APPLY TO COVERAGE OF TELEHEALTH SERVICES:

17 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, a disability
18 insurer may not limit or deny the coverage of health care services
19 provided through ~~telemedicine~~ TELEHEALTH, INCLUDING ANCILLARY SERVICES,
20 and may apply only the same limits or exclusions on a health care service
21 provided through ~~telemedicine~~ TELEHEALTH that are applicable to an
22 in-person ~~consultation~~ ENCOUNTER for the same health care service, EXCEPT
23 FOR PROCEDURES OR SERVICES FOR WHICH THE WEIGHT OF EVIDENCE, BASED ON
24 PRACTICE GUIDELINES, PEER-REVIEWED CLINICAL PUBLICATIONS OR RESEARCH OR
25 RECOMMENDATIONS BY THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST
26 PRACTICES ESTABLISHED BY SECTION 36-3607, DETERMINES NOT TO BE APPROPRIATE
27 TO BE PROVIDED THROUGH TELEHEALTH.

28 2. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, A DISABILITY
29 INSURER SHALL REIMBURSE HEALTH CARE PROVIDERS AT THE SAME LEVEL OF PAYMENT
30 FOR EQUIVALENT SERVICES AS IDENTIFIED BY THE HEALTHCARE COMMON PROCEDURE
31 CODING SYSTEM, WHETHER PROVIDED THROUGH TELEHEALTH USING AN AUDIO-VISUAL
32 FORMAT OR IN-PERSON CARE. A DISABILITY INSURER SHALL REIMBURSE HEALTH
33 CARE PROVIDERS AT THE SAME LEVEL OF PAYMENT FOR EQUIVALENT IN-PERSON
34 BEHAVIORAL HEALTH AND SUBSTANCE USE DISORDER SERVICES AS IDENTIFIED BY THE
35 HEALTHCARE COMMON PROCEDURE CODING SYSTEM IF PROVIDED THROUGH TELEHEALTH
36 USING AN AUDIO-ONLY FORMAT. THIS PARAGRAPH DOES NOT APPLY TO A TELEHEALTH
37 ENCOUNTER PROVIDED THROUGH A TELEHEALTH PLATFORM THAT IS SPONSORED OR
38 PROVIDED BY THE DISABILITY INSURER. A DISABILITY INSURER MAY NOT REQUIRE
39 A HEALTH CARE PROVIDER TO USE A TELEHEALTH PLATFORM THAT IS SPONSORED OR
40 PROVIDED BY THE DISABILITY INSURER AS A CONDITION OF NETWORK
41 PARTICIPATION.

42 3. BEFORE JANUARY 1, 2022, A DISABILITY INSURER SHALL COVER
43 SERVICES PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER IF THAT
44 SERVICE IS REIMBURSED BY MEDICARE OR THE ARIZONA HEALTH CARE COST
45 CONTAINMENT SYSTEM WHEN PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH

1 ENCOUNTER. BEGINNING JANUARY 1, 2022, A DISABILITY INSURER SHALL COVER
2 SERVICES PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER IF THE
3 TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES ESTABLISHED BY
4 SECTION 36-3607 RECOMMENDS THAT THE SERVICES MAY APPROPRIATELY BE PROVIDED
5 THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER.

6 4. A HEALTH CARE PROVIDER SHALL BILL FOR A TELEHEALTH ENCOUNTER
7 USING THE HEALTHCARE COMMON PROCEDURE CODING SYSTEM AND SHALL IDENTIFY
8 WHETHER THE TELEHEALTH ENCOUNTER WAS PROVIDED IN AN AUDIO-ONLY OR
9 AUDIO-VIDEO FORMAT. TO SUBMIT A CLAIM FOR AN AUDIO-ONLY SERVICE, THE
10 HEALTH CARE PROVIDER MUST MAKE TELEHEALTH SERVICES GENERALLY AVAILABLE TO
11 PATIENTS THROUGH THE INTERACTIVE USE OF AUDIO, VIDEO OR OTHER ELECTRONIC
12 MEDIA.

13 5. AT THE TIME OF THE TELEHEALTH ENCOUNTER, THE HEALTH CARE
14 PROVIDER SHALL ACCESS CLINICAL INFORMATION AND RECORDS, IF AVAILABLE, THAT
15 ARE APPROPRIATE TO EVALUATE THE PATIENT'S CONDITION. THE HEALTH CARE
16 PROVIDER SHALL INFORM THE INSURED BEFORE THE TELEHEALTH ENCOUNTER IF THERE
17 IS A CHARGE FOR THE ENCOUNTER.

18 6. A DISABILITY INSURER MAY ESTABLISH REASONABLE REQUIREMENTS AND
19 PARAMETERS FOR TELEHEALTH SERVICES, INCLUDING DOCUMENTATION, FRAUD
20 PREVENTION, IDENTITY VERIFICATION AND RECORDKEEPING, BUT SUCH REQUIREMENTS
21 AND PARAMETERS MAY NOT BE MORE RESTRICTIVE OR LESS FAVORABLE TO HEALTH
22 CARE PROVIDERS OR INSUREDS THAN ARE REQUIRED FOR HEALTH CARE SERVICES
23 DELIVERED IN PERSON.

24 7. COVERED TELEHEALTH SERVICES MAY BE PROVIDED REGARDLESS OF WHERE
25 THE INSURED IS LOCATED OR THE TYPE OF SITE.

26 8. EXCEPT IN AN EMERGENCY AS PRESCRIBED IN SECTION 20-2803, the
27 policy may limit the coverage to those health care providers who are
28 members of the disability insurer's provider network.

29 B. SUBSECTION A OF THIS SECTION DOES NOT:

30 1. LIMIT THE ABILITY OF DISABILITY INSURERS TO PROVIDE INCENTIVES
31 TO INSUREDS THAT ARE DESIGNED TO IMPROVE HEALTH OUTCOMES, INCREASE
32 ADHERENCE TO A COURSE OF TREATMENT OR REDUCE RISK.

33 2. PREVENT DISABILITY INSURERS FROM OFFERING NETWORK CONTRACTS TO
34 HEALTH CARE PROVIDERS THAT EMPLOY VALUE-BASED PURCHASING OR BUNDLED
35 PAYMENT METHODOLOGIES IF OTHERWISE ALLOWED BY LAW OR PREVENT HEALTH CARE
36 PROVIDERS FROM VOLUNTARILY AGREEING TO ENTER INTO SUCH CONTRACTS WITH A
37 DISABILITY INSURER.

38 C. THIS SECTION DOES NOT RELIEVE A DISABILITY INSURER FROM AN
39 OBLIGATION TO PROVIDE ADEQUATE ACCESS TO IN-PERSON HEALTH CARE SERVICES.
40 NETWORK ADEQUACY STANDARDS REQUIRED BY FEDERAL OR STATE LAW MAY NOT BE MET
41 BY A DISABILITY INSURER THROUGH THE USE OF CONTRACTED HEALTH CARE
42 PROVIDERS WHO PROVIDE ONLY TELEHEALTH SERVICES AND DO NOT PROVIDE
43 IN-PERSON HEALTH CARE SERVICES IN THIS STATE OR WITHIN FIFTY MILES OF THE
44 BORDER OF THIS STATE.

1 ~~B.~~ D. This section does not prevent a disability insurer from
2 imposing deductibles, ~~OR~~ copayment or coinsurance requirements for a
3 health care service provided through ~~telemedicine~~ TELEHEALTH if the
4 deductible, copayment or coinsurance does not exceed the deductible,
5 copayment or coinsurance applicable to an in-person ~~consultation~~ ENCOUNTER
6 for the same health care service. IF THE DISABILITY INSURER WAIVES A
7 DEDUCTIBLE OR COPAYMENT OR COINSURANCE REQUIREMENT THAT IMPACTS A HEALTH
8 CARE PROVIDER'S CONTRACTED REIMBURSEMENT RATE, THE DISABILITY INSURER
9 SHALL REIMBURSE THE HEALTH CARE PROVIDER FOR THE COST OF THE DEDUCTIBLE OR
10 COPAYMENT OR COINSURANCE REQUIREMENT TO ENSURE THAT THE HEALTH CARE
11 PROVIDER RECEIVES THE CONTRACTED REIMBURSEMENT RATE IF THE SERVICE IS
12 COVERED AND THE CLAIM MEETS OTHER REQUIREMENTS OF THE NETWORK
13 PARTICIPATION AGREEMENT.

14 ~~C.~~ E. Services provided through ~~telemedicine~~ TELEHEALTH or
15 resulting from a ~~telemedicine-consultation~~ TELEHEALTH ENCOUNTER are
16 subject to all of this state's laws and rules that govern prescribing,
17 dispensing and administering prescription pharmaceuticals and devices and
18 shall comply with Arizona licensure requirements and any practice
19 guidelines of THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST
20 PRACTICES ESTABLISHED BY SECTION 36-3607 OR, IF NOT ADDRESSED, THE
21 PRACTICE GUIDELINES OF a national association of medical professionals
22 promoting access to medical care for consumers via telecommunications
23 technology or other qualified medical professional societies to ensure
24 quality of care.

25 ~~D.~~ F. This section does not apply to limited benefit coverage as
26 defined in section 20-1137.

27 ~~E.~~ G. For the purposes of this section, "~~telemedicine~~ TELEHEALTH":
28 1. Means the interactive use of audio, video or other electronic
29 media, including asynchronous store-and-forward technologies and remote
30 patient monitoring technologies, for the purpose of diagnosis,
31 consultation or treatment.

32 2. INCLUDES:

33 (a) THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN AN INSURED
34 WHO HAS AN EXISTING RELATIONSHIP WITH A HEALTH CARE PROVIDER OR PROVIDER
35 GROUP IF BOTH OF THE FOLLOWING APPLY:

36 (i) AN AUDIO-VISUAL TELEHEALTH ENCOUNTER IS NOT REASONABLY
37 AVAILABLE DUE TO THE INSURED'S FUNCTIONAL STATUS, THE INSURED'S LACK OF
38 TECHNOLOGY OR TELECOMMUNICATIONS INFRASTRUCTURE LIMITS, AS DETERMINED BY
39 THE HEALTH CARE PROVIDER.

40 (ii) THE TELEHEALTH ENCOUNTER IS INITIATED AT THE REQUEST OF THE
41 INSURED OR AUTHORIZED BY THE INSURED BEFORE THE TELEHEALTH ENCOUNTER.

42 (b) THE USE OF AN AUDIO-ONLY ENCOUNTER BETWEEN THE INSURED AND A
43 HEALTH CARE PROVIDER, REGARDLESS OF WHETHER THERE IS AN EXISTING
44 RELATIONSHIP WITH THE HEALTH CARE PROVIDER OR PROVIDER GROUP, IF THE

1 TELEHEALTH ENCOUNTER IS FOR A BEHAVIORAL HEALTH OR SUBSTANCE USE DISORDER
2 SERVICE AND BOTH ITEMS OF SUBDIVISION (a) OF THIS PARAGRAPH APPLY.

3 ~~2.~~ 3. Does not include the sole use of ~~an audio-only telephone, a~~
4 ~~video-only system, a facsimile~~ FAX machine, instant messages, VOICE MAIL
5 or ~~electronic mail~~ EMAIL.

6 Sec. 4. Section 20-1406.05, Arizona Revised Statutes, is amended to
7 read:

8 20-1406.05. Telehealth; coverage of health care services;
9 definition

10 A. All policies issued, delivered or renewed by a group disability
11 insurer or a blanket disability insurer ~~on or after January 1, 2018~~ IN
12 THIS STATE must provide coverage for health care services that are
13 provided through ~~telemedicine~~ TELEHEALTH if the health care service would
14 be covered were it provided through AN in-person ~~consultation~~ ENCOUNTER
15 between the insured and a health care provider and provided to an insured
16 receiving the service in this state. THE FOLLOWING REQUIREMENTS APPLY TO
17 COVERAGE OF TELEHEALTH SERVICES:

18 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, a GROUP OR
19 blanket disability insurer may not limit or deny the coverage of health
20 care services provided through ~~telemedicine~~ TELEHEALTH, INCLUDING
21 ANCILLARY SERVICES, and may apply only the same limits or exclusions on a
22 health care service provided through ~~telemedicine~~ TELEHEALTH that are
23 applicable to an in-person ~~consultation~~ ENCOUNTER for the same health care
24 service, EXCEPT FOR PROCEDURES OR SERVICES FOR WHICH THE WEIGHT OF
25 EVIDENCE, BASED ON PRACTICE GUIDELINES, PEER-REVIEWED CLINICAL
26 PUBLICATIONS OR RESEARCH OR RECOMMENDATIONS BY THE TELEHEALTH ADVISORY
27 COMMITTEE ON TELEHEALTH BEST PRACTICES ESTABLISHED BY SECTION 36-3607,
28 DETERMINES NOT TO BE APPROPRIATE TO BE PROVIDED THROUGH TELEHEALTH.

29 2. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, A GROUP OR
30 BLANKET DISABILITY INSURER SHALL REIMBURSE HEALTH CARE PROVIDERS AT THE
31 SAME LEVEL OF PAYMENT FOR EQUIVALENT SERVICES AS IDENTIFIED BY THE
32 HEALTHCARE COMMON PROCEDURE CODING SYSTEM, WHETHER PROVIDED THROUGH
33 TELEHEALTH USING AN AUDIO-VISUAL FORMAT OR IN-PERSON CARE. A GROUP OR
34 BLANKET DISABILITY INSURER SHALL REIMBURSE HEALTH CARE PROVIDERS AT THE
35 SAME LEVEL OF PAYMENT FOR EQUIVALENT IN-PERSON BEHAVIORAL HEALTH AND
36 SUBSTANCE USE DISORDER SERVICES AS IDENTIFIED BY THE HEALTHCARE COMMON
37 PROCEDURE CODING SYSTEM IF PROVIDED THROUGH TELEHEALTH USING AN AUDIO-ONLY
38 FORMAT. THIS PARAGRAPH DOES NOT APPLY TO A TELEHEALTH ENCOUNTER PROVIDED
39 THROUGH A TELEHEALTH PLATFORM THAT IS SPONSORED OR PROVIDED BY THE GROUP
40 OR BLANKET DISABILITY INSURER. A GROUP OR BLANKET DISABILITY INSURER MAY
41 NOT REQUIRE A HEALTH CARE PROVIDER TO USE A TELEHEALTH PLATFORM THAT IS
42 SPONSORED OR PROVIDED BY THE GROUP OR BLANKET DISABILITY INSURER AS A
43 CONDITION OF NETWORK PARTICIPATION.

44 3. BEFORE JANUARY 1, 2022, A GROUP OR BLANKET DISABILITY INSURER
45 SHALL COVER SERVICES PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER

1 IF THAT SERVICE IS REIMBURSED BY MEDICARE OR THE ARIZONA HEALTH CARE COST
2 CONTAINMENT SYSTEM WHEN PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH
3 ENCOUNTER. BEGINNING JANUARY 1, 2022, A GROUP OR BLANKET DISABILITY
4 INSURER SHALL COVER SERVICES PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH
5 ENCOUNTER IF THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST
6 PRACTICES ESTABLISHED BY SECTION 36-3607 RECOMMENDS THAT THE SERVICES MAY
7 APPROPRIATELY BE PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH ENCOUNTER.

8 4. A HEALTH CARE PROVIDER SHALL BILL FOR A TELEHEALTH ENCOUNTER
9 USING THE HEALTHCARE COMMON PROCEDURE CODING SYSTEM AND SHALL IDENTIFY
10 WHETHER THE TELEHEALTH ENCOUNTER WAS PROVIDED IN AN AUDIO-ONLY OR
11 AUDIO-VIDEO FORMAT. TO SUBMIT A CLAIM FOR AN AUDIO-ONLY SERVICE, THE
12 HEALTH CARE PROVIDER MUST MAKE TELEHEALTH SERVICES GENERALLY AVAILABLE TO
13 PATIENTS THROUGH THE INTERACTIVE USE OF AUDIO, VIDEO OR OTHER ELECTRONIC
14 MEDIA.

15 5. AT THE TIME OF THE TELEHEALTH ENCOUNTER, THE HEALTH CARE
16 PROVIDER SHALL ACCESS CLINICAL INFORMATION AND RECORDS, IF AVAILABLE, THAT
17 ARE APPROPRIATE TO EVALUATE THE PATIENT'S CONDITION. THE HEALTH CARE
18 PROVIDER SHALL INFORM THE INSURED BEFORE THE TELEHEALTH ENCOUNTER IF THERE
19 IS A CHARGE FOR THE ENCOUNTER.

20 6. A GROUP OR BLANKET DISABILITY INSURER MAY ESTABLISH REASONABLE
21 REQUIREMENTS AND PARAMETERS FOR TELEHEALTH SERVICES, INCLUDING
22 DOCUMENTATION, FRAUD PREVENTION, IDENTITY VERIFICATION AND RECORDKEEPING,
23 BUT SUCH REQUIREMENTS AND PARAMETERS MAY NOT BE MORE RESTRICTIVE OR LESS
24 FAVORABLE TO HEALTH CARE PROVIDERS OR INSURED THAN ARE REQUIRED FOR
25 HEALTH CARE SERVICES DELIVERED IN PERSON.

26 7. COVERED TELEHEALTH SERVICES MAY BE PROVIDED REGARDLESS OF WHERE
27 THE INSURED IS LOCATED OR THE TYPE OF SITE.

28 8. EXCEPT IN AN EMERGENCY AS PRESCRIBED IN SECTION 20-2803, the
29 policy may limit the coverage to those health care providers who are
30 members of the insurer's provider network.

31 B. SUBSECTION A OF THIS SECTION DOES NOT:

32 1. LIMIT THE ABILITY OF GROUP OR BLANKET DISABILITY INSURERS TO
33 PROVIDE INCENTIVES TO INSURED THAT ARE DESIGNED TO IMPROVE HEALTH
34 OUTCOMES, INCREASE ADHERENCE TO A COURSE OF TREATMENT OR REDUCE RISK.

35 2. PREVENT GROUP OR BLANKET DISABILITY INSURERS FROM OFFERING
36 NETWORK CONTRACTS TO HEALTH CARE PROVIDERS WHO EMPLOY VALUE-BASED
37 PURCHASING OR BUNDLED PAYMENT METHODOLOGIES IF OTHERWISE ALLOWED BY LAW OR
38 PREVENT HEALTH CARE PROVIDERS FROM VOLUNTARILY AGREEING TO ENTER INTO SUCH
39 CONTRACTS WITH A GROUP OR BLANKET DISABILITY INSURER.

40 C. THIS SECTION DOES NOT RELIEVE A GROUP OR BLANKET DISABILITY
41 INSURER FROM AN OBLIGATION TO PROVIDE ADEQUATE ACCESS TO IN-PERSON HEALTH
42 CARE SERVICES. NETWORK ADEQUACY STANDARDS REQUIRED BY FEDERAL OR STATE
43 LAW MAY NOT BE MET BY A GROUP OR BLANKET DISABILITY INSURER THROUGH THE
44 USE OF CONTRACTED HEALTH CARE PROVIDERS WHO PROVIDE ONLY TELEHEALTH

1 SERVICES AND DO NOT PROVIDE IN-PERSON HEALTH CARE SERVICES IN THIS STATE
2 OR WITHIN FIFTY MILES OF THE BORDER OF THIS STATE.

3 ~~B.~~ D. This section does not prevent a group or blanket disability
4 insurer from imposing deductibles, ~~OR~~ copayment or coinsurance
5 requirements for a health care service provided through ~~telemedicine~~
6 TELEHEALTH if the deductible, copayment or coinsurance does not exceed the
7 deductible, copayment or coinsurance applicable to an in-person
8 ~~consultation~~ ENCOUNTER for the same health care service. IF THE GROUP OR
9 BLANKET DISABILITY INSURER WAIVES A DEDUCTIBLE OR COPAYMENT OR COINSURANCE
10 REQUIREMENT THAT IMPACTS A HEALTH CARE PROVIDER'S CONTRACTED REIMBURSEMENT
11 RATE, THE GROUP OR BLANKET DISABILITY INSURER SHALL REIMBURSE THE HEALTH
12 CARE PROVIDER FOR THE COST OF THE DEDUCTIBLE OR COPAYMENT OR COINSURANCE
13 REQUIREMENT TO ENSURE THAT THE HEALTH CARE PROVIDER RECEIVES THE
14 CONTRACTED REIMBURSEMENT RATE IF THE SERVICE IS COVERED AND THE CLAIM
15 MEETS OTHER REQUIREMENTS OF THE NETWORK PARTICIPATION AGREEMENT.

16 ~~C.~~ E. Services provided through ~~telemedicine~~ TELEHEALTH or
17 resulting from a ~~telemedicine-consultation~~ TELEHEALTH ENCOUNTER are
18 subject to all of this state's laws and rules that govern prescribing,
19 dispensing and administering prescription pharmaceuticals and devices and
20 shall comply with Arizona licensure requirements and any practice
21 guidelines of THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST
22 PRACTICES ESTABLISHED BY SECTION 36-3607 OR, IF NOT ADDRESSED, THE
23 PRACTICE GUIDELINES OF a national association of medical professionals
24 promoting access to medical care for consumers via telecommunications
25 technology or other qualified medical professional societies to ensure
26 quality of care.

27 ~~D.~~ F. This section does not apply to limited benefit coverage as
28 defined in section 20-1137.

29 ~~E.~~ G. For the purposes of this section, "~~telemedicine~~ TELEHEALTH":
30 1. Means the interactive use of audio, video or other electronic
31 media, including asynchronous store-and-forward technologies and remote
32 patient monitoring technologies, for the purpose of diagnosis,
33 consultation or treatment.

34 2. INCLUDES:

35 (a) THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN AN INSURED
36 WHO HAS AN EXISTING RELATIONSHIP WITH A HEALTH CARE PROVIDER OR PROVIDER
37 GROUP IF BOTH OF THE FOLLOWING APPLY:

38 (i) AN AUDIO-VISUAL TELEHEALTH ENCOUNTER IS NOT REASONABLY
39 AVAILABLE DUE TO THE INSURED'S FUNCTIONAL STATUS, THE INSURED'S LACK OF
40 TECHNOLOGY OR TELECOMMUNICATIONS INFRASTRUCTURE LIMITS, AS DETERMINED BY
41 THE HEALTH CARE PROVIDER.

42 (ii) THE TELEHEALTH ENCOUNTER IS INITIATED AT THE REQUEST OF THE
43 INSURED OR AUTHORIZED BY THE INSURED BEFORE THE TELEHEALTH ENCOUNTER.

44 (b) THE USE OF AN AUDIO-ONLY ENCOUNTER BETWEEN THE INSURED AND A
45 HEALTH CARE PROVIDER, REGARDLESS OF WHETHER THERE IS AN EXISTING

1 RELATIONSHIP WITH THE HEALTH CARE PROVIDER OR PROVIDER GROUP, IF THE
2 TELEHEALTH ENCOUNTER IS FOR A BEHAVIORAL HEALTH OR SUBSTANCE USE DISORDER
3 SERVICE AND BOTH ITEMS OF SUBDIVISION (a) OF THIS PARAGRAPH APPLY.

4 ~~2.~~ 3. Does not include the sole use of ~~an audio-only telephone, a~~
5 ~~video-only system,~~ a facsimile FAX machine, instant messages, VOICE MAIL
6 or ~~electronic mail~~ EMAIL.

7 Sec. 5. Section 23-1026, Arizona Revised Statutes, is amended to
8 read:

9 23-1026. Periodic medical examination of employee; effect of
10 refusal or obstruction of examination or treatment

11 A. An employee who may be entitled to compensation under this
12 chapter shall submit ~~himself~~ THE EMPLOYEE for medical examination from
13 time to time at a place reasonably convenient for the employee, if and
14 when requested by the commission, ~~his~~ THE EMPLOYEE'S employer or the
15 insurance carrier. A place is reasonably convenient even if it is not
16 where the employee resides if it is the place where the employee was
17 injured and the employer or the insurance carrier pays in advance the
18 employee's reasonable travel expenses, including the cost of
19 transportation, food, lodging and loss of pay, if applicable.

20 B. The request for the medical examination shall fix a time and
21 place having regard to the convenience of the employee, ~~his~~ THE EMPLOYEE'S
22 physical condition and ~~his~~ THE EMPLOYEE'S ability to attend. A MEDICAL
23 EXAMINATION MAY BE CONDUCTED VIA TELEHEALTH AS DEFINED IN SECTION 36-3601
24 WITH THE CONSENT OF BOTH THE EMPLOYEE AND THE REQUESTING PARTY. The
25 employee may have a physician present at the examination if procured and
26 paid for by the employee.

27 C. If the employee refuses to submit to the medical examination or
28 obstructs the examination, ~~his~~ THE EMPLOYEE'S right to compensation shall
29 be suspended until the examination has been made, and no compensation
30 shall be payable during or for such period.

31 D. A physician who makes or is present at the medical examination
32 provided by this section may be required to testify as to the result of
33 the examination. The physician is not subject to a complaint for
34 unprofessional conduct to the physician's licensing board if the complaint
35 is based on a disagreement with the findings and opinions expressed by the
36 physician as a result of the examination.

37 E. On appropriate application and hearing, the commission may
38 reduce or suspend the compensation of an employee who persists in
39 unsanitary or injurious practices tending to imperil or retard ~~his~~ THE
40 EMPLOYEE'S recovery, or who refuses to submit to medical or surgical
41 treatment reasonably necessary to promote ~~his~~ THE EMPLOYEE'S recovery.

42 F. An employee shall be excused from attending a scheduled medical
43 examination if the employee requests a protective order and the
44 administrative law judge finds that the scheduled examination is
45 unnecessary, would be cumulative or could reasonably be timely scheduled

1 with an appropriate physician where the employee resides. If a protective
2 order is requested, the burden is on the employer or insurance carrier to
3 establish that a medical examination should be scheduled at a place other
4 than where the employee resides. If an employee has left this state and
5 the employer or insurance carrier pays in advance the employee's
6 reasonable travel expenses, including the cost of transportation, food,
7 lodging and loss of pay, if applicable, the employer or insurance carrier
8 is entitled to have the employee return to this state one time a year for
9 examination or one time following the filing of a petition to reopen.

10 G. If a physician performs an examination under this section and is
11 provided data from the Arizona state board of pharmacy pursuant to title
12 36, chapter 28, the physician may disclose that data to the employee,
13 employer, insurance carrier and commission.

14 Sec. 6. Section 32-1401, Arizona Revised Statutes, is amended to
15 read:

16 32-1401. Definitions

17 In this chapter, unless the context otherwise requires:

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

20 2. "Adequate records" means legible medical records, produced by
21 hand or electronically, containing, at a minimum, sufficient information
22 to identify the patient, support the diagnosis, justify the treatment,
23 accurately document the results, indicate advice and cautionary warnings
24 provided to the patient and provide sufficient information for another
25 practitioner to assume continuity of the patient's care at any point in
26 the course of treatment.

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

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

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

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

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

1 whose function is that of approving hospitals for internship, fellowship
2 or residency training.

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

10 6. "Board" means the Arizona medical board.

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

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

20 9. "Dispense" means the delivery by a doctor of medicine of a
21 prescription drug or device to a patient, except for samples packaged for
22 individual use by licensed manufacturers or repackagers of drugs, and
23 includes the prescribing, administering, packaging, labeling and security
24 necessary to prepare and safeguard the drug or device for delivery.

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

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

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

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

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

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

5 16. "Medical assistant" means an unlicensed person who meets the
6 requirements of section 32-1456, has completed an education program
7 approved by the board, assists in a medical practice under the supervision
8 of a doctor of medicine, physician assistant or nurse practitioner and
9 performs delegated procedures commensurate with the assistant's education
10 and training but does not diagnose, interpret, design or modify
11 established treatment programs or perform any functions that would violate
12 any statute applicable to the practice of medicine.

13 17. "Medically incompetent" means a person who the board determines
14 is incompetent based on a variety of factors, including:

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

17 (b) When considered with other indications of medical incompetence,
18 failing to obtain a scaled score of at least seventy-five percent on the
19 written special purpose licensing examination.

20 18. "Medical peer review" means:

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

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

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

28 20. "Office based surgery" means a medical procedure conducted in a
29 physician's office or other outpatient setting that is not part of a
30 licensed hospital or licensed ambulatory surgical center.

31 21. "Physician" means a doctor of medicine who is licensed pursuant
32 to this chapter.

33 22. "Practice of medicine" means the diagnosis, the treatment or
34 the correction of or the attempt or the claim to be able to diagnose,
35 treat or correct any and all human diseases, injuries, ailments,
36 infirmities or deformities, physical or mental, real or imaginary, by any
37 means, methods, devices or instrumentalities, except as the same may be
38 among the acts or persons not affected by this chapter. The practice of
39 medicine includes the practice of medicine alone or the practice of
40 surgery alone, or both.

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

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

8 25. "Teaching hospital's accredited graduate medical education
9 program" means that the hospital is incorporated and has an internship,
10 fellowship or residency training program that is accredited by the
11 accreditation council for graduate medical education, the American medical
12 association, the association of American medical colleges, the royal
13 college of physicians and surgeons of Canada or a similar body in the
14 United States or Canada that is approved by the board and whose function
15 is that of approving hospitals for internship, fellowship or residency
16 training.

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

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

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

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

27 (c) Committing false, fraudulent, deceptive or misleading
28 advertising by a doctor of medicine or the doctor's staff, employer or
29 representative.

30 (d) Committing a felony, whether or not involving moral turpitude,
31 or a misdemeanor involving moral turpitude. In either case, conviction by
32 any court of competent jurisdiction or a plea of no contest is conclusive
33 evidence of the commission.

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

35 (f) Exhibiting a pattern of using or being under the influence of
36 alcohol or drugs or a similar substance while practicing medicine or to
37 the extent that judgment may be impaired and the practice of medicine
38 detrimentally affected.

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

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

43 (i) Prescribing, dispensing or administering schedule II controlled
44 substances as defined in section 36-2513, including amphetamines and
45 similar schedule II sympathomimetic drugs in the treatment of exogenous

1 obesity for a period in excess of thirty days in any one year, or the
2 nontherapeutic use of injectable amphetamines.

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

6 (k) Dispensing a schedule II controlled substance that is an
7 opioid, except as provided in section 32-1491.

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

9 (m) Committing conduct that the board determines is gross
10 malpractice, repeated malpractice or any malpractice resulting in the
11 death of a patient.

12 (n) Representing that a manifestly incurable disease or infirmity
13 can be permanently cured, or that any disease, ailment or infirmity can be
14 cured by a secret method, procedure, treatment, medicine or device, if
15 this is not true.

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

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

29 (q) Having sanctions imposed by an agency of the federal
30 government, including restricting, suspending, limiting or removing a
31 person from the practice of medicine or restricting that person's ability
32 to obtain financial remuneration.

33 (r) Committing any conduct or practice that is or might be harmful
34 or dangerous to the health of the patient or the public.

35 (s) Violating a formal order, probation, consent agreement or
36 stipulation issued or entered into by the board or its executive director
37 under this chapter.

38 (t) Violating or attempting to violate, directly or indirectly, or
39 assisting in or abetting the violation of or conspiring to violate any
40 provision of this chapter.

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

1 (v) Charging a fee for services not rendered or dividing a
2 professional fee for patient referrals among health care providers or
3 health care institutions or between these providers and institutions or a
4 contractual arrangement that has the same effect. This subdivision does
5 not apply to payments from a medical researcher to a physician in
6 connection with identifying and monitoring patients for a clinical trial
7 regulated by the United States food and drug administration.

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

9 (x) Charging or collecting a clearly excessive fee. In determining
10 whether a fee is clearly excessive, the board shall consider the fee or
11 range of fees customarily charged in this state for similar services in
12 light of modifying factors such as the time required, the complexity of
13 the service and the skill requisite to perform the service properly. This
14 subdivision does not apply if there is a clear written contract for a
15 fixed fee between the physician and the patient that has been entered into
16 before the provision of the service.

17 (y) Committing conduct that is in violation of section 36-2302.

18 (z) Using experimental forms of diagnosis and treatment without
19 adequate informed patient consent, and without conforming to generally
20 accepted experimental criteria, including protocols, detailed records,
21 periodic analysis of results and periodic review by a medical peer review
22 committee as approved by the United States food and drug administration or
23 its successor agency.

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

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

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

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

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

40 (cc) Representing or claiming to be a medical specialist if this is
41 not true.

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

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

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

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

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

20 (i) Adequate informed patient consent.

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

24 (iii) Approval by the United States food and drug administration or
25 its successor agency.

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

28 (jj) Exhibiting a lack of or inappropriate direction, collaboration
29 or direct supervision of a medical assistant or a licensed, certified or
30 registered health care provider employed by, supervised by or assigned to
31 the physician.

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

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

37 (mm) Committing conduct that the board determines is gross
38 negligence, repeated negligence or negligence resulting in harm to or the
39 death of a patient.

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

1 (oo) Refusing to submit to a body fluid examination or any other
2 examination known to detect the presence of alcohol or other drugs as
3 required by the board pursuant to section 32-1452 or pursuant to a board
4 investigation into a doctor of medicine's alleged substance abuse.

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

10 (qq) As a physician who is the chief executive officer, the medical
11 director or the medical chief of staff of a health care institution,
12 failing to report in writing to the board that the hospital privileges of
13 a doctor of medicine have been denied, revoked, suspended, supervised or
14 limited because of actions by the doctor that appear to show that the
15 doctor is or may be medically incompetent, is or may be guilty of
16 unprofessional conduct or is or may be unable to engage safely in the
17 practice of medicine.

18 (rr) Claiming to be a current member of the board or its staff or a
19 board medical consultant if this is not true.

20 (ss) Failing to make patient medical records in the physician's
21 possession promptly available to a physician assistant, a nurse
22 practitioner, a person licensed pursuant to this chapter or a podiatrist,
23 chiropractor, naturopathic physician, osteopathic physician or homeopathic
24 physician licensed under chapter 7, 8, 14, 17 or 29 of this title on
25 receipt of proper authorization to do so from the patient, a minor
26 patient's parent, the patient's legal guardian or the patient's authorized
27 representative or failing to comply with title 12, chapter 13, article
28 7.1.

29 (tt) Prescribing, dispensing or furnishing a prescription
30 medication or a prescription-only device as defined in section 32-1901 to
31 a person unless the licensee first conducts a physical or mental health
32 status examination of that person or has previously established a
33 doctor-patient relationship. The physical or mental health status
34 examination may be conducted ~~during a real-time telemedicine encounter~~
35 ~~with audio and video capability~~ THROUGH TELEHEALTH AS DEFINED IN SECTION
36 36-3601 WITH A CLINICAL EVALUATION THAT IS APPROPRIATE FOR THE PATIENT AND
37 THE CONDITION WITH WHICH THE PATIENT PRESENTS, unless the examination is
38 for the purpose of obtaining a written certification from the physician
39 for the purposes of title 36, chapter 28.1. This subdivision does not
40 apply to:

41 (i) A physician who provides temporary patient supervision on
42 behalf of the patient's regular treating licensed health care professional
43 or provides a consultation requested by the patient's regular treating
44 licensed health care professional.

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

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

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

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

14 (vi) Prescriptions written or prescription medications issued for
15 administration of immunizations or vaccines listed in the United States
16 centers for disease control and prevention's recommended immunization
17 schedule to a household member of a patient.

18 (vii) Prescriptions for epinephrine auto-injectors written or
19 dispensed for a school district or charter school to be stocked for
20 emergency use pursuant to section 15-157 or for an authorized entity to be
21 stocked pursuant to section 36-2226.01.

22 (viii) Prescriptions written by a licensee through a ~~telemedicine~~
23 **TELEHEALTH** program that is covered by the policies and procedures adopted
24 by the administrator of a hospital or outpatient treatment center.

25 (ix) Prescriptions for naloxone hydrochloride or any other opioid
26 antagonist approved by the United States food and drug administration that
27 are written or dispensed for use pursuant to section 36-2228 or 36-2266.

28 (uu) Performing office based surgery using sedation in violation of
29 board rules.

30 (vv) Practicing medicine under a false or assumed name in this
31 state.

32 Sec. 7. Section 32-1854, Arizona Revised Statutes, is amended to
33 read:

34 **32-1854. Definition of unprofessional conduct**

35 For the purposes of this chapter, "unprofessional conduct" includes
36 the following acts, whether occurring in this state or elsewhere:

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

1 2. Committing a felony or a misdemeanor involving moral turpitude.
2 In either case conviction by any court of competent jurisdiction is
3 conclusive evidence of the commission of the offense.

4 3. Practicing medicine while under the influence of alcohol, a
5 dangerous drug as defined in section 13-3401, narcotic or hypnotic drugs
6 or any substance that impairs or may impair the licensee's ability to
7 safely and skillfully practice medicine.

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

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

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

17 7. Impersonating another physician.

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

20 9. Procuring, renewing or attempting to procure or renew a license
21 to practice osteopathic medicine by fraud or misrepresentation.

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

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

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

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

36 14. Charging a fee for services not rendered or dividing a
37 professional fee for patient referrals. This paragraph does not apply to
38 payments from a medical researcher to a physician in connection with
39 identifying and monitoring patients for clinical trial regulated by the
40 United States food and drug administration.

41 15. Knowingly making any false or fraudulent statement, written or
42 oral, in connection with the practice of medicine or when applying for or
43 renewing privileges at a health care institution or a health care program.

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

1 17. Representing or claiming to be an osteopathic medical
2 specialist if the physician has not satisfied the applicable requirements
3 of this chapter or board rules.

4 18. Having a license denied or disciplinary action taken against a
5 license by any other state, territory, district or country, unless it can
6 be shown that this occurred for reasons that did not relate to the
7 person's ability to safely and skillfully practice osteopathic medicine or
8 to any act of unprofessional conduct as provided in this section.

9 19. Committing any conduct or practice contrary to recognized
10 standards of ethics of the osteopathic medical profession.

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

14 21. Failing or refusing to establish and maintain adequate records
15 on a patient as follows:

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

19 (b) If the patient is a child, either for at least three years
20 after the child's eighteenth birthday or for at least six years after the
21 last date the licensee provided that patient with medical or health care
22 services, whichever date occurs later.

23 22. Using controlled substances or prescription-only drugs unless
24 they are provided by a medical practitioner, as defined in section
25 32-1901, as part of a lawful course of treatment.

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

29 24. Committing nontherapeutic use of injectable amphetamines.

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

32 26. Charging or collecting an inappropriate fee. This paragraph
33 does not apply to a fee that is fixed in a written contract between the
34 physician and the patient and entered into before treatment begins.

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

39 28. Failing to make patient medical records in the physician's
40 possession promptly available to a physician assistant, a nurse
41 practitioner, a person licensed pursuant to this chapter or a podiatrist,
42 chiropractor, naturopathic physician, physician or homeopathic physician
43 licensed under chapter 7, 8, 13, 14 or 29 of this title on receipt of
44 proper authorization to do so from the patient, a minor patient's parent,

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

3 29. Failing to allow properly authorized board personnel to have,
4 on presentation of a subpoena, access to any documents, reports or records
5 that are maintained by the physician and that relate to the physician's
6 medical practice or medically related activities pursuant to section
7 32-1855.01.

8 30. Signing a blank, undated or predated prescription form.

9 31. Obtaining a fee by fraud, deceit or misrepresentation.

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

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

20 34. Exhibiting a lack of or inappropriate direction, collaboration
21 or supervision of a licensed, certified or registered health care provider
22 or office personnel employed by or assigned to the physician in the
23 medical care of patients.

24 35. Violating a federal law, a state law or a rule applicable to
25 the practice of medicine.

26 36. Prescribing or dispensing controlled substances or
27 prescription-only medications without establishing and maintaining
28 adequate patient records.

29 37. Dispensing a schedule II controlled substance that is an
30 opioid, except as provided in section 32-1871.

31 38. Failing to dispense drugs and devices in compliance with
32 article 4 of this chapter.

33 39. Committing any conduct or practice that endangers a patient's
34 or the public's health or may reasonably be expected to do so.

35 40. Committing any conduct or practice that impairs the licensee's
36 ability to safely and skillfully practice medicine or that may reasonably
37 be expected to do so.

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

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

1 43. Engaging in sexual conduct with a current patient or with a
2 former patient within six months after the last medical consultation
3 unless the patient was the licensee's spouse at the time of the contact
4 or, immediately preceding the physician-patient relationship, was in a
5 dating or engagement relationship with the licensee. For the purposes of
6 this paragraph, "sexual conduct" includes:

7 (a) Engaging in or soliciting sexual relationships, whether
8 consensual or nonconsensual.

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

11 44. Committing conduct that is in violation of section 36-2302.

12 45. Committing conduct that the board determines constitutes gross
13 negligence, repeated negligence or negligence that results in harm or
14 death of a patient.

15 46. Committing conduct in the practice of medicine that evidences
16 moral unfitness to practice medicine.

17 47. Engaging in disruptive or abusive behavior in a professional
18 setting.

19 48. Failing to disclose to a patient that the licensee has a direct
20 financial interest in a prescribed treatment, good or service if the
21 treatment, good or service is available on a competitive basis. This
22 paragraph does not apply to a referral by one licensee to another licensee
23 within a group of licensees who practice together. A licensee meets the
24 disclosure requirements of this paragraph if both of the following are
25 true:

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

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

31 49. Prescribing, dispensing or furnishing a prescription medication
32 or a prescription-only device to a person if the licensee has not
33 conducted a physical or mental health status examination of that person or
34 has not previously established a physician-patient relationship. The
35 physical or mental health status examination may be conducted ~~during a~~
36 ~~real-time telemedicine encounter with audio and video capability~~ THROUGH
37 TELEHEALTH AS DEFINED IN SECTION 36-3601 WITH A CLINICAL EVALUATION THAT
38 IS APPROPRIATE FOR THE PATIENT AND THE CONDITION WITH WHICH THE PATIENT
39 PRESENTS, unless the examination is for the purpose of obtaining a written
40 certification from the physician for the purposes of title 36, chapter
41 28.1. This paragraph does not apply to:

42 (a) Emergencies.

43 (b) A licensee who provides patient care on behalf of the patient's
44 regular treating licensed health care professional or provides a

1 consultation requested by the patient's regular treating licensed health
2 care professional.

3 (c) Prescriptions written or antimicrobials dispensed to a contact
4 as defined in section 36-661 who is believed to have had significant
5 exposure risk as defined in section 36-661 with another person who has
6 been diagnosed with a communicable disease as defined in section 36-661 by
7 the prescribing or dispensing physician.

8 (d) Prescriptions for epinephrine auto-injectors written or
9 dispensed for a school district or charter school to be stocked for
10 emergency use pursuant to section 15-157 or for an authorized entity to be
11 stocked pursuant to section 36-2226.01.

12 (e) Prescriptions written by a licensee through a ~~telemedicine~~
13 **TELEHEALTH** program that is covered by the policies and procedures adopted
14 by the administrator of a hospital or outpatient treatment center.

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

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

21 Sec. 8. Section 32-1901.01, Arizona Revised Statutes, is amended to
22 read:

23 32-1901.01. Definition of unethical and unprofessional
24 conduct; permittees; licensees

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

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

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

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

37 4. Being addicted to the use of alcohol or other drugs to such a
38 degree as to render the permittee unfit to perform the permittee's
39 employment duties.

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

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

1 7. Violating state or federal reporting or recordkeeping
2 requirements on transactions relating to precursor chemicals.

3 8. Failing to report in writing to the board any evidence that a
4 pharmacist or pharmacy intern is or may be professionally incompetent, is
5 or may be guilty of unprofessional conduct or is or may be mentally or
6 physically unable safely to engage in the practice of pharmacy.

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

13 10. Failing to report in writing to the board any evidence that
14 appears to show that a permittee or permittee's employee is or may be
15 guilty of unethical conduct, is or may be mentally or physically unable
16 safely to engage in employment duties related to manufacturing, selling,
17 distributing or dispensing of drugs, devices, poisons, hazardous
18 substances, controlled substances or precursor chemicals or is or may be
19 in violation of this chapter or a rule adopted under this chapter.

20 11. Intending to sell, transfer or distribute, or to offer for
21 sale, transfer or distribution, or selling, transferring, distributing or
22 dispensing or offering for sale, transfer or distribution an imitation
23 controlled substance, imitation over-the-counter drug or imitation
24 prescription-only drug as defined in section 13-3451.

25 12. Having the permittee's permit to manufacture, sell, distribute
26 or dispense drugs, devices, poisons, hazardous substances or precursor
27 chemicals denied or disciplined in another jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 26. Failing to maintain effective controls against the diversion of
23 controlled substances or precursor chemicals to unauthorized persons or
24 entities.

25 27. Fraudulently claiming to have performed a service.

26 28. Fraudulently charging a fee for a service.

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

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

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

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

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

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

4 5. Having the licensee's license to practice pharmacy denied or
5 disciplined in another jurisdiction.

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

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

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

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

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

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

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

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

30 (b) Made in an emergency medical situation as defined in section
31 41-1831.

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

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

39 (e) Written or antimicrobials were dispensed by the prescribing or
40 dispensing physician to a contact as defined in section 36-661 who is
41 believed to have had significant exposure risk as defined in section
42 36-661 with another person who has been diagnosed with a communicable
43 disease as defined in section 36-661.

44 (f) Written or the prescription medications were issued for
45 administration of immunizations or vaccines listed in the United States

1 centers for disease control and prevention's recommended immunization
2 schedule to a household member of a patient.

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

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

10 (i) Written pursuant to a physical or mental health status
11 examination that was conducted ~~during a real-time telemedicine encounter~~
12 ~~with audio and video capability~~ THROUGH TELEHEALTH AS DEFINED IN SECTION
13 36-3601 AND CONSISTENT WITH FEDERAL LAW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 28. Failing to report a change of the licensee's home address,
23 contact information, employer or employer's address as required by section
24 32-1926.

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

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

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

34 1. Being addicted to the use of alcohol or other drugs to such a
35 degree as to render the licensee unfit to perform the licensee's
36 employment duties.

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

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

43 4. Having the licensee's license to practice as a pharmacy
44 technician denied or disciplined in another jurisdiction.

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

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

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

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

13 9. Failing to report in writing to the board any evidence that a
14 pharmacist or pharmacy intern is or may be professionally incompetent, is
15 or may be guilty of unprofessional conduct or is or may be mentally or
16 physically unable to safely engage in the practice of pharmacy.

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

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

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

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

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

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

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

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

43 18. Failing to report a change of the licensee's home address,
44 contact information, employer or employer's address as required by section
45 32-1926.

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

3 Sec. 9. Section 32-2061, Arizona Revised Statutes, is amended to
4 read:

5 32-2061. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Active license" means a valid and existing license to practice
8 psychology.

9 2. "Adequate records" means records containing, at a minimum,
10 sufficient information to identify the client or patient, the dates of
11 service, the fee for service, the payments for service, the type of
12 service given and copies of any reports that may have been made.

13 3. "Board" means the state board of psychologist examiners.

14 4. "Client" means a person or an entity that receives psychological
15 services. A corporate entity, a governmental entity or any other
16 organization may be a client if there is a professional contract to
17 provide services or benefits primarily to an organization rather than to
18 an individual. If an individual has a legal guardian, the legal guardian
19 is the client for decision-making purposes, except that the individual
20 receiving services is the client or patient for:

21 (a) Issues that directly affect the physical or emotional safety of
22 the individual, such as sexual or other exploitative relationships.

23 (b) Issues that the guardian agrees to specifically reserve to the
24 individual.

25 5. "Committee on behavior analysts" means the committee established
26 by section 32-2091.15.

27 6. "Exploit" means actions by a psychologist who takes undue
28 advantage of the professional association with a client or patient, a
29 student or a supervisee for the advantage or profit of the psychologist.

30 7. "Health care institution" means a facility as defined in section
31 36-401.

32 8. "Letter of concern" means an advisory letter to notify a
33 psychologist that while there is insufficient evidence to support
34 disciplinary action the board believes the psychologist should modify or
35 eliminate certain practices and that continuation of the activities that
36 led to the information being submitted to the board may result in action
37 against the psychologist's license.

38 9. "Patient" means a person who receives psychological services.
39 If an individual has a legal guardian, the legal guardian is the client or
40 patient for decision-making purposes, except that the individual receiving
41 services is the client or patient for:

42 (a) Issues that directly affect the physical or emotional safety of
43 the individual, such as sexual or other exploitative relationships.

44 (b) Issues that the guardian agrees to specifically reserve to the
45 individual.

1 10. "Practice of psychology" means the psychological assessment,
2 diagnosis, treatment or correction of mental, emotional, behavioral or
3 psychological abilities, illnesses or disorders or purporting or
4 attempting to do this consistent with section 32-2076.

5 11. "Psychologically incompetent" means a person lacking in
6 sufficient psychological knowledge or skills to a degree likely to
7 endanger the health of clients or patients.

8 12. "Psychological service" means all actions of the psychologist
9 in the practice of psychology.

10 13. "Psychologist" means a natural person holding a license to
11 practice psychology pursuant to this chapter.

12 14. "Supervisee" means any person who functions under the extended
13 authority of the psychologist to provide, or while in training to provide,
14 psychological services.

15 15. "Telepractice" means providing psychological services through
16 interactive audio, video or electronic communication that occurs between
17 the psychologist and the patient or client, including any electronic
18 communication for diagnostic, treatment or consultation purposes in a
19 secure platform, and that meets the requirements of ~~telemedicine~~
20 ~~TELEHEALTH~~ pursuant to section 36-3602. Telepractice includes
21 supervision.

22 16. "Unprofessional conduct" includes the following activities
23 whether occurring in this state or elsewhere:

24 (a) Obtaining a fee by fraud or misrepresentation.

25 (b) Betraying professional confidences.

26 (c) Making or using statements of a character tending to deceive or
27 mislead.

28 (d) Aiding or abetting a person who is not licensed pursuant to
29 this chapter in representing that person as a psychologist.

30 (e) Gross negligence in the practice of a psychologist.

31 (f) Sexual intimacies or sexual intercourse with a current client
32 or patient or a supervisee or with a former client or patient within two
33 years after the cessation or termination of treatment. For the purposes
34 of this subdivision, "sexual intercourse" has the same meaning prescribed
35 in section 13-1401.

36 (g) Engaging or offering to engage as a psychologist in activities
37 that are not congruent with the psychologist's professional education,
38 training and experience.

39 (h) Failing or refusing to maintain and retain adequate business,
40 financial or professional records pertaining to the psychological services
41 provided to a client or patient.

42 (i) Commission of a felony, whether or not involving moral
43 turpitude, or a misdemeanor involving moral turpitude. In either case,
44 conviction by a court of competent jurisdiction or a plea of no contest is
45 conclusive evidence of the commission.

1 (j) Making a fraudulent or untrue statement to the board or its
2 investigators, staff or consultants.

3 (k) Violating any federal or state laws or rules that relate to the
4 practice of psychology or to obtaining a license to practice psychology.

5 (l) Practicing psychology while impaired or incapacitated to the
6 extent and in a manner that jeopardizes the welfare of the client or
7 patient or renders the psychological services provided ineffective.

8 (m) Using fraud, misrepresentation or deception to obtain or
9 attempt to obtain a psychology license or to pass or attempt to pass a
10 psychology licensing examination or in assisting another person to do so.

11 (n) Unprofessional conduct in another jurisdiction that resulted in
12 censure, probation or a civil penalty or in the denial, suspension,
13 restriction or revocation of a certificate or license to practice as a
14 psychologist.

15 (o) Providing services that are unnecessary or unsafe or otherwise
16 engaging in activities as a psychologist that are unprofessional by
17 current standards of practice.

18 (p) Falsely or fraudulently claiming to have performed a
19 professional service, charging for a service or representing a service as
20 the licensee's own when the licensee has not rendered the service or
21 assumed supervisory responsibility for the service.

22 (q) Representing activities or services as being performed under
23 the licensee's supervision if the psychologist has not assumed
24 responsibility for them and has not exercised control, oversight and
25 review.

26 (r) Failing to obtain a client's or patient's informed and written
27 consent to release personal or otherwise confidential information to
28 another party unless the release is otherwise authorized by law.

29 (s) Failing to make client or patient records in the psychologist's
30 possession promptly available to another psychologist who is licensed
31 pursuant to this chapter on receipt of proper authorization to do so from
32 the client or patient, a minor client's or patient's parent, the client's
33 or patient's legal guardian or the client's or patient's authorized
34 representative or failing to comply with title 12, chapter 13, article
35 7.1.

36 (t) Failing to take reasonable steps to inform or protect a
37 client's or patient's intended victim and inform the proper law
38 enforcement officials in circumstances in which the psychologist becomes
39 aware during the course of providing or supervising psychological services
40 that a client or patient intends or plans to inflict serious bodily harm
41 on another person.

42 (u) Failing to take reasonable steps to protect a client or patient
43 in circumstances in which the psychologist becomes aware during the course
44 of providing or supervising psychological services that a client or
45 patient intends or plans to inflict serious bodily harm on self.

1 (v) Abandoning or neglecting a client or patient in need of
2 immediate care without making suitable arrangements for continuation of
3 the care.

4 (w) Engaging in direct or indirect personal solicitation of clients
5 or patients through the use of coercion, duress, undue influence,
6 compulsion or intimidation practices.

7 (x) Engaging in false, deceptive or misleading advertising.

8 (y) Exploiting a client or patient, a student or a supervisee.

9 (z) Failing to report information to the board regarding a possible
10 act of unprofessional conduct committed by another psychologist who is
11 licensed pursuant to this chapter unless this reporting violates the
12 psychologist's confidential relationship with the client or patient
13 pursuant to section 32-2085. Any psychologist who reports or provides
14 information to the board in good faith is not subject to an action for
15 civil damages. For the purposes of this subdivision, it is not an act of
16 unprofessional conduct if a licensee addresses an ethical conflict in a
17 manner that is consistent with the ethical standards contained in the
18 document entitled "ethical principles of psychologists and code of
19 conduct" as adopted by the American psychological association and in
20 effect at the time the licensee makes the report.

21 (aa) Violating a formal board order, consent agreement, term of
22 probation or stipulated agreement issued under this chapter.

23 (bb) Failing to furnish information in a timely manner to the board
24 or its investigators or representatives if requested or subpoenaed by the
25 board as prescribed by this chapter.

26 (cc) Failing to make available to a client or patient or to the
27 client's or patient's designated representative, on written request, a
28 copy of the client's or patient's record, including raw test data,
29 psychometric testing materials and other information as provided by law.

30 (dd) Violating an ethical standard adopted by the board.

31 Sec. 10. Section 32-3248.01, Arizona Revised Statutes, is amended
32 to read:

33 32-3248.01. Schedule II controlled substances; dosage limit;
34 exceptions; morphine; opioid antagonist

35 A. A health professional who is authorized under this title to
36 prescribe controlled substances may not issue a new prescription to be
37 filled or dispensed for a patient outside of a health care institution for
38 a schedule II controlled substance that is an opioid that exceeds ninety
39 morphine milligram equivalents per day.

40 B. The limit prescribed by subsection A of this section does not
41 apply to:

42 1. A continuation of a prior prescription that was issued within
43 the previous sixty days.

44 2. An opioid with a maximum approved total daily dose in the
45 labeling as approved by the United States food and drug administration.

1 3. A prescription that is issued following a surgical procedure and
2 that is limited to not more than a fourteen-day supply.

3 4. A patient who:

4 (a) Has an active oncology diagnosis.

5 (b) Has a traumatic injury, not including a surgical procedure.

6 (c) Is receiving hospice care.

7 (d) Is receiving end-of-life care.

8 (e) Is receiving palliative care.

9 (f) Is receiving skilled nursing facility care.

10 (g) Is receiving treatment for burns.

11 (h) Is receiving medication-assisted treatment for a substance use
12 disorder.

13 (i) Is hospitalized.

14 C. If a health professional believes that a patient requires more
15 than ninety morphine milligram equivalents per day and the patient is not
16 exempt from the limit pursuant to subsection B of this section, the health
17 professional shall first consult with a physician who is licensed pursuant
18 to chapter 13 or 17 of this title and who is board-certified in pain, or
19 an opioid assistance and referral call service, if available, that is
20 designated by the department of health services. The consultation may be
21 done by telephone or through ~~telemedicine~~ **TELEHEALTH**. If the opioid
22 **ASSISTANCE AND REFERRAL** call service agrees with the higher dose, the
23 health professional may issue a prescription for more than ninety morphine
24 milligram equivalents per day. If the consulting physician agrees with
25 the higher dose, the health professional may issue a prescription for more
26 than ninety morphine milligram equivalents per day. If the consulting
27 physician is not available to consult within forty-eight hours after the
28 request, the health professional may prescribe the amount that the health
29 professional believes the patient requires and subsequently have the
30 consultation. If the health professional is a physician who is licensed
31 pursuant to chapter 13 or 17 of this title and is board-certified in pain,
32 the health professional may issue a prescription for more than ninety
33 morphine milligram equivalents per day without a consultation under this
34 subsection.

35 D. If a patient is prescribed more than ninety morphine milligram
36 equivalents per day pursuant to subsection B or C of this section, the
37 prescribing health professional shall also prescribe for the patient
38 naloxone hydrochloride or any other opioid antagonist that is approved by
39 the United States food and drug administration for the treatment of
40 opioid-related overdoses.

41 E. A prescription ~~order~~ for a schedule II controlled substance that
42 is an opioid that is written for more than ninety morphine milligram
43 equivalents per day is deemed to meet the requirements of an exemption
44 under this section when the prescription ~~order~~ is presented to the

1 dispenser. A pharmacist is not required to verify with the prescriber
2 whether the prescription ~~order~~ complies with this section.

3 Sec. 11. Section 32-3251, Arizona Revised Statutes, is amended to
4 read:

5 32-3251. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Board" means the board of behavioral health examiners.

8 2. "Client" means a patient who receives behavioral health services
9 from a person licensed pursuant to this chapter.

10 3. "Direct client contact" means the performance of therapeutic or
11 clinical functions related to the applicant's professional practice level
12 of psychotherapy that includes diagnosis, assessment and treatment and
13 that may include psychoeducation for mental, emotional and behavioral
14 disorders based primarily on verbal or nonverbal communications and
15 intervention with, and in the presence of, one or more clients, INCLUDING
16 THROUGH THE USE OF TELEHEALTH PURSUANT TO TITLE 36, CHAPTER 36, ARTICLE 1.

17 4. "Equivalent" means comparable in content and quality but not
18 identical.

19 5. "Indirect client service" means training for, and the
20 performance of, functions of an applicant's professional practice level in
21 preparation for or on behalf of a client for whom direct client contact
22 functions are also performed, including case consultation and receipt of
23 clinical supervision. Indirect client service does not include the
24 provision of psychoeducation.

25 6. "Letter of concern" means a nondisciplinary written document
26 sent by the board to notify a licensee that, while there is insufficient
27 evidence to support disciplinary action, the board believes that
28 continuation of the activities that led to the investigation may result in
29 further board action against the licensee.

30 7. "Licensee" means a person who is licensed pursuant to this
31 chapter.

32 8. "Practice of behavioral health" means the practice of marriage
33 and family therapy, professional counseling, social work and substance
34 abuse counseling pursuant to this chapter.

35 9. "Practice of marriage and family therapy" means the professional
36 application of family systems theories, principles and techniques to treat
37 interpersonal relationship issues and nervous, mental and emotional
38 disorders that are cognitive, affective or behavioral. The practice of
39 marriage and family therapy includes:

40 (a) Assessment, appraisal and diagnosis.

41 (b) The use of psychotherapy for the purpose of evaluation,
42 diagnosis and treatment of individuals, couples, families and groups.

43 10. "Practice of professional counseling" means the professional
44 application of mental health, psychological and human development
45 theories, principles and techniques to:

1 (a) Facilitate human development and adjustment throughout the
2 human life span.

3 (b) Assess and facilitate career development.

4 (c) Treat interpersonal relationship issues and nervous, mental and
5 emotional disorders that are cognitive, affective or behavioral.

6 (d) Manage symptoms of mental illness.

7 (e) Assess, appraise, evaluate, diagnose and treat individuals,
8 couples, families and groups through the use of psychotherapy.

9 11. "Practice of social work" means the professional application of
10 social work theories, principles, methods and techniques to:

11 (a) Treat mental, behavioral and emotional disorders.

12 (b) Assist individuals, families, groups and communities to enhance
13 or restore the ability to function physically, socially, emotionally,
14 mentally and economically.

15 (c) Assess, appraise, diagnose, evaluate and treat individuals,
16 couples, families and groups through the use of psychotherapy.

17 12. "Practice of substance abuse counseling" means the professional
18 application of general counseling theories, principles and techniques as
19 specifically adapted, based on research and clinical experience, to the
20 specialized needs and characteristics of persons who are experiencing
21 substance abuse, chemical dependency and related problems and to the
22 families of those persons. The practice of substance abuse counseling
23 includes the following as they relate to substance abuse and chemical
24 dependency issues:

25 (a) Assessment, appraisal and diagnosis.

26 (b) The use of psychotherapy for the purpose of evaluation,
27 diagnosis and treatment of individuals, couples, families and groups.

28 13. "Psychoeducation" means the education of a client as part of a
29 treatment process that provides the client with information regarding
30 mental health, emotional disorders or behavioral health.

31 14. "Psychotherapy" means a variety of treatment methods developing
32 out of generally accepted theories about human behavior and development.

33 ~~15. "Telepractice" means providing behavioral health services~~
34 ~~through interactive audio, video or electronic communication that occurs~~
35 ~~between the behavioral health professional and the client, including any~~
36 ~~electronic communication for evaluation, diagnosis and treatment,~~
37 ~~including distance counseling, in a secure platform, and that meets the~~
38 ~~requirements of telemedicine pursuant to section 36-3602.~~

39 15. "TELEHEALTH" HAS THE SAME MEANING PRESCRIBED IN SECTION
40 36-3601.

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

43 (a) Being convicted of a felony. Conviction by a court of
44 competent jurisdiction or a plea of no contest is conclusive evidence of
45 the conviction.

1 (b) Using fraud or deceit in connection with rendering services as
2 a licensee or in establishing qualifications pursuant to this chapter.

3 (c) Making any oral or written misrepresentation of a fact:

4 (i) To secure or attempt to secure the issuance or renewal of a
5 license.

6 (ii) In any statements provided during an investigation or
7 disciplinary proceeding by the board.

8 (iii) Regarding the licensee's skills or the value of any treatment
9 provided or to be provided.

10 (d) Making any false, fraudulent or deceptive statement connected
11 with the practice of behavioral health, including false or misleading
12 advertising by the licensee or the licensee's staff or a representative
13 compensated by the licensee.

14 (e) Securing or attempting to secure the issuance or renewal of a
15 license by knowingly taking advantage of the mistake of another person or
16 the board.

17 (f) Engaging in active habitual intemperance in the use of alcohol
18 or active habitual substance abuse.

19 (g) Using a controlled substance that is not prescribed for use
20 during a prescribed course of treatment.

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

22 (i) Aiding or abetting a person who is not licensed pursuant to
23 this chapter to purport to be a licensed behavioral health professional in
24 this state.

25 (j) Engaging in conduct that the board determines is gross
26 negligence or repeated negligence in the licensee's profession.

27 (k) Engaging in any conduct or practice that is contrary to
28 recognized standards of ethics in the behavioral health profession or that
29 constitutes a danger to the health, welfare or safety of a client.

30 (l) Engaging in any conduct, practice or condition that impairs the
31 ability of the licensee to safely and competently practice the licensee's
32 profession.

33 (m) Engaging or offering to engage as a licensee in activities that
34 are not congruent with the licensee's professional education, training or
35 experience.

36 (n) Failing to comply with or violating, attempting to violate or
37 assisting in or abetting the violation of any provision of this chapter,
38 any rule adopted pursuant to this chapter, any lawful order of the board,
39 or any formal order, consent agreement, term of probation or stipulated
40 agreement issued under this chapter.

41 (o) Failing to furnish information within a specified time to the
42 board or its investigators or representatives if legally requested by the
43 board.

44 (p) Failing to conform to minimum practice standards as developed
45 by the board.

1 (q) Failing or refusing to maintain adequate records of behavioral
2 health services provided to a client.

3 (r) Providing behavioral health services that are clinically
4 unjustified or unsafe or otherwise engaging in activities as a licensee
5 that are unprofessional by current standards of practice.

6 (s) Terminating behavioral health services to a client without
7 making an appropriate referral for continuation of care for the client if
8 continuing behavioral health services are indicated.

9 (t) Disclosing a professional confidence or privileged
10 communication except as may otherwise be required by law or permitted by a
11 legally valid written release.

12 (u) Failing to allow the board or its investigators on demand to
13 examine and have access to documents, reports and records in any format
14 maintained by the licensee that relate to the licensee's practice of
15 behavioral health.

16 (v) Engaging in any sexual conduct between a licensee and a client
17 or former client.

18 (w) Providing behavioral health services to any person with whom
19 the licensee has had sexual contact.

20 (x) Exploiting a client, former client or supervisee. For the
21 purposes of this subdivision, "exploiting" means taking advantage of a
22 professional relationship with a client, former client or supervisee for
23 the benefit or profit of the licensee.

24 (y) Engaging in a dual relationship with a client that could impair
25 the licensee's objectivity or professional judgment or create a risk of
26 harm to the client. For the purposes of this subdivision, "dual
27 relationship" means a licensee simultaneously engages in both a
28 professional and nonprofessional relationship with a client that is
29 avoidable and not incidental.

30 (z) Engaging in physical contact between a licensee and a client if
31 there is a reasonable possibility of physical or psychological harm to the
32 client as a result of that contact.

33 (aa) Sexually harassing a client, former client, research subject,
34 supervisee or coworker. For the purposes of this subdivision, "sexually
35 harassing" includes sexual advances, sexual solicitation, requests for
36 sexual favors, unwelcome comments or gestures or any other verbal or
37 physical conduct of a sexual nature.

38 (bb) Harassing, exploiting or retaliating against a client, former
39 client, research subject, supervisee, coworker or witness or a complainant
40 in a disciplinary investigation or proceeding involving a licensee.

41 (cc) Failing to take reasonable steps to inform potential victims
42 and appropriate authorities if the licensee becomes aware during the
43 course of providing or supervising behavioral health services that a
44 client's condition indicates a clear and imminent danger to the client or
45 others.

1 (dd) Failing to comply with the laws of the appropriate licensing
2 or credentialing authority to provide behavioral health services by
3 electronic means in all governmental jurisdictions where the client
4 receiving these services resides.

5 (ee) Giving or receiving a payment, kickback, rebate, bonus or
6 other remuneration for a referral.

7 (ff) Failing to report in writing to the board information that
8 would cause a reasonable licensee to believe that another licensee is
9 guilty of unprofessional conduct or is physically or mentally unable to
10 provide behavioral health services competently or safely. This duty does
11 not extend to information provided by a licensee that is protected by the
12 behavioral health professional-client privilege unless the information
13 indicates a clear and imminent danger to the client or others or is
14 otherwise subject to mandatory reporting requirements pursuant to state or
15 federal law.

16 (gg) Failing to follow federal and state laws regarding the
17 storage, use and release of confidential information regarding a client's
18 personal identifiable information or care.

19 (hh) Failing to retain records pursuant to section 12-2297.

20 (ii) Violating any federal or state law, rule or regulation
21 applicable to the practice of behavioral health.

22 (jj) Failing to make client records in the licensee's possession
23 available in a timely manner to another health professional or licensee on
24 receipt of proper authorization to do so from the client, a minor client's
25 parent, the client's legal guardian or the client's authorized
26 representative.

27 (kk) Failing to make client records in the licensee's possession
28 promptly available to the client, a minor client's parent, the client's
29 legal guardian or the client's authorized representative on receipt of
30 proper authorization to do so from the client, a minor client's parent,
31 the client's legal guardian or the client's authorized representative.

32 (ll) Being the subject of the revocation, suspension, surrender or
33 any other disciplinary sanction of a professional license, certificate or
34 registration or other adverse action related to a professional license,
35 certificate or registration in another jurisdiction or country, including
36 the failure to report the adverse action to the board. The action taken
37 may include refusing, denying, revoking or suspending a license or
38 certificate, the surrendering of a license or certificate, otherwise
39 limiting, restricting or monitoring a licensee or certificate holder or
40 placing a licensee or certificate holder on probation.

41 (mm) Engaging in any conduct that results in a sanction imposed by
42 an agency of the federal government that involves restricting, suspending,
43 limiting or removing the licensee's ability to obtain financial
44 remuneration for behavioral health services.

45 (nn) Violating the security of any licensure examination materials.

(oo) Using fraud or deceit in connection with taking or assisting another person in taking a licensure examination.

Sec. 12. Section 36-2272, Arizona Revised Statutes, is amended to read:

36-2272. Consent of parent required for mental health screening or treatment of minors; exception; violation; classification; definition

A. Except as otherwise provided by law or a court order, no person, corporation, association, organization or state-supported institution, or any individual employed by any of these entities, may procure, solicit to perform, arrange for the performance of or perform mental health screening in a nonclinical setting or mental health treatment on a minor without first obtaining the written or oral consent of a parent or a legal custodian of the minor child. If the parental consent is given through ~~telemedicine~~ TELEHEALTH, the health professional must verify the parent's identity at the site where the consent is given.

B. This section does not apply when an emergency exists that requires a person to perform mental health screening or provide mental health treatment to prevent serious injury to or save the life of a minor child.

C. A person who violates this section is guilty of a class 1 misdemeanor.

D. For the purposes of this section, "parent" means the parent or legal guardian of a minor child.

Sec. 13. Heading change

The chapter heading of title 36, chapter 36, Arizona Revised Statutes, is changed from "TELEMEDICINE" to "TELEHEALTH".

Sec. 14. Section 36-3601, Arizona Revised Statutes, is amended to read:

36-3601. Definitions

For the purposes of this chapter:

1. "Health care decision maker" has the same meaning prescribed in section 12-2801.

2. "Health care provider":

(a) Means a person licensed pursuant to title 32, chapter 7, 8, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 25, 28, 29, ~~or~~ 33, 34, 35, 39, 41 OR 42, OR CHAPTER 4, ARTICLE 6 OF THIS TITLE, CHAPTER 6, ARTICLE 7 OF THIS TITLE OR CHAPTER 17 OF THIS TITLE.

(b) INCLUDES:

(i) A HEALTH CARE INSTITUTION LICENSED PURSUANT TO CHAPTER 4 OF THIS TITLE.

(ii) A PERSON WHO HOLDS A TRAINING PERMIT PURSUANT TO TITLE 32, CHAPTER 13 OR 17.

~~3. "Telemedicine" means the practice of health care delivery, diagnosis, consultation and treatment and the transfer of medical data~~

1 ~~through interactive audio, video or data communications that occur in the~~
2 ~~physical presence of the patient, including audio or video communications~~
3 ~~sent to a health care provider for diagnostic or treatment consultation.~~

4 3. "HEALTH CARE PROVIDER REGULATORY BOARD OR AGENCY" MEANS A BOARD
5 OR AGENCY THAT REGULATES ONE OR MORE HEALTH CARE PROVIDER PROFESSIONS IN
6 THIS STATE.

7 4. "TELEHEALTH" MEANS:

8 (a) THE INTERACTIVE USE OF AUDIO, VIDEO OR OTHER ELECTRONIC MEDIA,
9 INCLUDING ASYNCHRONOUS STORE-AND-FORWARD TECHNOLOGIES AND REMOTE PATIENT
10 MONITORING TECHNOLOGIES, FOR THE PRACTICE OF HEALTH CARE, ASSESSMENT,
11 DIAGNOSIS, CONSULTATION OR TREATMENT AND THE TRANSFER OF MEDICAL DATA.

12 (b) INCLUDES THE USE OF AN AUDIO-ONLY TELEPHONE ENCOUNTER BETWEEN
13 THE PATIENT OR CLIENT AND HEALTH CARE PROVIDER IF AN AUDIO-VISUAL
14 TELEHEALTH ENCOUNTER IS NOT REASONABLY AVAILABLE DUE TO THE PATIENT'S
15 FUNCTIONAL STATUS, THE PATIENT'S LACK OF TECHNOLOGY OR TELECOMMUNICATIONS
16 INFRASTRUCTURE LIMITS, AS DETERMINED BY THE HEALTH CARE PROVIDER.

17 (c) DOES NOT INCLUDE THE USE OF A FAX MACHINE, INSTANT MESSAGES,
18 VOICE MAIL OR EMAIL.

19 Sec. 15. Section 36-3602, Arizona Revised Statutes, is amended to
20 read:

21 36-3602. Delivery of health care through telehealth;
22 requirements; exceptions

23 A. Except as provided in subsection ~~F~~ G of this section, before a
24 health care provider delivers health care through ~~telemedicine~~ TELEHEALTH,
25 the treating health care provider shall obtain verbal or written informed
26 consent, INCLUDING BY ELECTRONIC MEANS, from the patient or the patient's
27 health care decision maker. If the informed consent is obtained verbally,
28 the health care provider shall document the consent on the patient's
29 medical record.

30 B. The patient is entitled to all existing confidentiality
31 protections pursuant to section 12-2292.

32 C. All medical reports resulting from a ~~telemedicine~~ TELEHEALTH
33 consultation are part of a patient's medical record as defined in section
34 12-2291.

35 D. Dissemination of any images or information identifiable to a
36 specific patient for research or educational purposes shall not occur
37 without the patient's consent, unless authorized by state or federal law.

38 E. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION AND FOR
39 SCHEDULE II DRUGS, A HEALTH CARE PROVIDER REGULATORY BOARD OR AGENCY MAY
40 NOT ENFORCE ANY STATUTE, RULE OR POLICY THAT WOULD REQUIRE A HEALTH CARE
41 PROVIDER WHO IS LICENSED BY THAT BOARD OR AGENCY AND WHO IS AUTHORIZED TO
42 WRITE PRESCRIPTIONS OR DISPENSE OR ADMINISTER PRESCRIPTION DRUGS AND
43 DEVICES TO PROVIDE AN IN-PERSON EXAMINATION OF THE PATIENT BEFORE ISSUING
44 A PRESCRIPTION EXCEPT AS SPECIFICALLY PRESCRIBED BY FEDERAL LAW. A
45 PHYSICAL OR MENTAL HEALTH STATUS EXAMINATION MAY BE CONDUCTED DURING A

1 TELEHEALTH ENCOUNTER. SCHEDULE II DRUGS MAY BE PRESCRIBED ONLY AFTER AN
2 IN-PERSON OR AUDIO-VISUAL EXAMINATION AND ONLY TO THE EXTENT ALLOWED BY
3 FEDERAL AND STATE LAW.

4 F. SERVICES PROVIDED THROUGH TELEHEALTH ARE SUBJECT TO THIS STATE'S
5 LAWS AND RULES GOVERNING THE HEALTH CARE PROVIDER'S SCOPE OF PRACTICE AND
6 THE PRACTICE GUIDELINES ADOPTED BY THE TELEHEALTH ADVISORY COMMITTEE ON
7 TELEHEALTH BEST PRACTICES ESTABLISHED BY SECTION 36-3607.

8 ~~F.~~ G. The consent requirements of this section do not apply:

9 1. If the ~~telemedicine~~ TELEHEALTH interaction does not take place
10 in the physical presence of the patient.

11 2. In an emergency situation in which the patient or the patient's
12 health care decision maker is unable to give informed consent.

13 3. To the transmission of diagnostic images to a health care
14 provider serving as a consultant or the reporting of diagnostic test
15 results by that consultant.

16 Sec. 16. Section 36-3603, Arizona Revised Statutes, is amended to
17 read:

18 36-3603. State jurisdiction; scope

19 ~~The provisions of~~ This article ~~apply~~ APPLIES to the practice of
20 ~~telemedicine~~ TELEHEALTH within ~~the~~ THIS state ~~of Arizona~~. ~~Nothing in~~ This
21 article ~~shall be construed to~~ DOES NOT expand, reduce or otherwise amend
22 the health care provider licensing requirements of title 32.

23 Sec. 17. Section 36-3604, Arizona Revised Statutes, is amended to
24 read:

25 36-3604. Use of telehealth for abortion prohibited; penalty;
26 definition

27 A. A health care provider shall not use ~~telemedicine~~ TELEHEALTH to
28 provide an abortion.

29 B. A health care provider who knowingly violates this section
30 commits an act of unprofessional conduct and is subject to license
31 suspension or revocation pursuant to title 32.

32 C. For the purposes of this section, "abortion" has the same
33 meaning prescribed in section 36-2151.

34 Sec. 18. Title 36, chapter 36, article 1, Arizona Revised Statutes,
35 is amended by adding sections 36-3605, 36-3606, 36-3607 and 36-3608, to
36 read:

37 36-3605. Health care providers; determination of telehealth
38 medium

39 CONSISTENT WITH THE BEST PRACTICE GUIDELINES ADOPTED BY THE
40 TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES ESTABLISHED BY
41 SECTION 36-3607, A HEALTH CARE PROVIDER SHALL MAKE A GOOD FAITH EFFORT IN
42 DETERMINING BOTH OF THE FOLLOWING:

43 1. WHETHER A HEALTH CARE SERVICE SHOULD BE PROVIDED THROUGH
44 TELEHEALTH INSTEAD OF IN PERSON. THE HEALTH CARE PROVIDER SHALL USE THE
45 HEALTH CARE PROVIDER'S CLINICAL JUDGMENT IN CONSIDERING WHETHER THE NATURE

1 OF THE SERVICES NECESSITATES PHYSICAL INTERVENTIONS AND CLOSE OBSERVATION
2 AND THE CIRCUMSTANCES OF THE PATIENT, INCLUDING DIAGNOSIS, SYMPTOMS,
3 HISTORY, AGE, PHYSICAL LOCATION AND ACCESS TO TELEHEALTH.

4 2. THE COMMUNICATION MEDIUM OF TELEHEALTH AND, WHENEVER REASONABLY
5 PRACTICABLE, THE TELEHEALTH COMMUNICATION MEDIUM THAT ALLOWS THE HEALTH
6 CARE PROVIDER TO MOST EFFECTIVELY ASSESS, DIAGNOSE AND TREAT THE PATIENT.
7 FACTORS THE HEALTH CARE PROVIDER MAY CONSIDER IN DETERMINING THE
8 COMMUNICATION MEDIUM INCLUDE THE PATIENT'S LACK OF ACCESS TO OR INABILITY
9 TO USE TECHNOLOGY OR LIMITS IN TELECOMMUNICATION INFRASTRUCTURE NECESSARY
10 TO SUPPORT INTERACTIVE TELEHEALTH ENCOUNTERS.

11 36-3606. Interstate telehealth services; registration;
12 requirements; venue; exceptions

13 A. A HEALTH CARE PROVIDER WHO IS NOT LICENSED IN THIS STATE MAY
14 PROVIDE TELEHEALTH SERVICES TO A PERSON LOCATED IN THIS STATE IF THE
15 HEALTH CARE PROVIDER COMPLIES WITH ALL OF THE FOLLOWING:

16 1. REGISTERS WITH THIS STATE'S APPLICABLE HEALTH CARE PROVIDER
17 REGULATORY BOARD OR AGENCY THAT LICENSES COMPARABLE HEALTH CARE PROVIDERS
18 IN THIS STATE ON AN APPLICATION PRESCRIBED BY THE BOARD OR AGENCY THAT
19 CONTAINS ALL OF THE FOLLOWING:

20 (a) THE HEALTH CARE PROVIDER'S NAME.

21 (b) PROOF OF THE HEALTH CARE PROVIDER'S PROFESSIONAL LICENSURE,
22 INCLUDING ALL UNITED STATES JURISDICTIONS IN WHICH THE PROVIDER IS
23 LICENSED AND THE LICENSE NUMBERS. VERIFICATION OF LICENSURE IN ANOTHER
24 STATE SHALL BE MADE THROUGH INFORMATION OBTAINED FROM THE APPLICABLE
25 REGULATORY BOARD'S WEBSITE.

26 (c) THE HEALTH CARE PROVIDER'S ADDRESS, EMAIL ADDRESS AND TELEPHONE
27 NUMBER, INCLUDING INFORMATION IF THE PROVIDER NEEDS TO BE CONTACTED
28 URGENTLY.

29 (d) EVIDENCE OF PROFESSIONAL LIABILITY INSURANCE COVERAGE.

30 (e) DESIGNATION OF A DULY APPOINTED STATUTORY AGENT FOR SERVICE OF
31 PROCESS IN THIS STATE.

32 2. BEFORE PRESCRIBING A CONTROLLED SUBSTANCE TO A PATIENT IN THIS
33 STATE, REGISTERS WITH THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING
34 PROGRAM ESTABLISHED PURSUANT TO CHAPTER 28 OF THIS TITLE.

35 3. PAYS THE REGISTRATION FEE AS DETERMINED BY THE APPLICABLE HEALTH
36 CARE PROVIDER REGULATORY BOARD OR AGENCY.

37 4. HOLDS A CURRENT, VALID AND UNRESTRICTED LICENSE TO PRACTICE IN
38 ANOTHER STATE THAT IS SUBSTANTIALLY SIMILAR TO A LICENSE ISSUED IN THIS
39 STATE TO A COMPARABLE HEALTH CARE PROVIDER AND IS NOT SUBJECT TO ANY PAST
40 OR PENDING DISCIPLINARY PROCEEDINGS IN ANY JURISDICTION. THE HEALTH CARE
41 PROVIDER SHALL NOTIFY THE APPLICABLE HEALTH CARE PROVIDER REGULATORY BOARD
42 OR AGENCY WITHIN FIVE DAYS AFTER ANY RESTRICTION IS PLACED ON THE HEALTH
43 CARE PROVIDER'S LICENSE OR ANY DISCIPLINARY ACTION IS INITIATED OR
44 IMPOSED. THE HEALTH CARE PROVIDER REGULATORY BOARD OR AGENCY REGISTERING

1 THE HEALTH CARE PROVIDER MAY USE THE NATIONAL PRACTITIONER DATABANK TO
2 VERIFY THE INFORMATION SUBMITTED PURSUANT TO THIS PARAGRAPH.

3 5. ACTS IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS AND RULES OF
4 THIS STATE, INCLUDING SCOPE OF PRACTICE, LAWS AND RULES GOVERNING
5 PRESCRIBING, DISPENSING AND ADMINISTERING PRESCRIPTION DRUGS AND DEVICES,
6 TELEHEALTH REQUIREMENTS AND THE BEST PRACTICE GUIDELINES ADOPTED BY THE
7 TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES ESTABLISHED BY
8 SECTION 36-3607.

9 6. COMPLIES WITH ALL EXISTING REQUIREMENTS OF THIS STATE AND ANY
10 OTHER STATE IN WHICH THE HEALTH CARE PROVIDER IS LICENSED REGARDING
11 MAINTAINING PROFESSIONAL LIABILITY INSURANCE, INCLUDING COVERAGE FOR
12 TELEHEALTH SERVICES PROVIDED IN THIS STATE.

13 7. CONSENTS TO THIS STATE'S JURISDICTION FOR ANY DISCIPLINARY
14 ACTION OR LEGAL PROCEEDING RELATED TO THE HEALTH CARE PROVIDER'S ACTS OR
15 OMISSIONS UNDER THIS ARTICLE.

16 8. FOLLOWS THIS STATE'S STANDARDS OF CARE FOR THAT PARTICULAR
17 LICENSED HEALTH PROFESSION.

18 9. ANNUALLY UPDATES THE HEALTH CARE PROVIDER'S REGISTRATION FOR
19 ACCURACY AND SUBMITS TO THE APPLICABLE HEALTH CARE PROVIDER REGULATORY
20 BOARD OR AGENCY A REPORT WITH THE NUMBER OF PATIENTS THE PROVIDER SERVED
21 IN THIS STATE AND THE TOTAL NUMBER AND TYPE OF ENCOUNTERS IN THIS STATE
22 FOR THE PRECEDING YEAR.

23 B. A HEALTH CARE PROVIDER WHO IS REGISTERED PURSUANT TO THIS
24 SECTION MAY NOT:

25 1. OPEN AN OFFICE IN THIS STATE, EXCEPT AS PART OF A MULTISTATE
26 PROVIDER GROUP THAT INCLUDES AT LEAST ONE HEALTH CARE PROVIDER WHO IS
27 LICENSED IN THIS STATE THROUGH THE APPLICABLE HEALTH CARE PROVIDER
28 REGULATORY BOARD OR AGENCY.

29 2. PROVIDE IN-PERSON HEALTH CARE SERVICES TO PERSONS LOCATED IN
30 THIS STATE WITHOUT FIRST OBTAINING A LICENSE THROUGH THE APPLICABLE HEALTH
31 CARE PROVIDER REGULATORY BOARD OR AGENCY.

32 C. A HEALTH CARE PROVIDER WHO FAILS TO COMPLY WITH THE APPLICABLE
33 LAWS AND RULES OF THIS STATE IS SUBJECT TO INVESTIGATION AND BOTH
34 NONDISCIPLINARY AND DISCIPLINARY ACTION BY THE APPLICABLE HEALTH CARE
35 PROVIDER REGULATORY BOARD OR AGENCY IN THIS STATE. FOR THE PURPOSES OF
36 DISCIPLINARY ACTION BY THE APPLICABLE HEALTH CARE PROVIDER REGULATORY
37 BOARD OR AGENCY IN THIS STATE, ALL STATUTORY AUTHORITY REGARDING
38 INVESTIGATING, REHABILITATING AND EDUCATING HEALTH CARE PROVIDERS MAY BE
39 USED. IF A HEALTH CARE PROVIDER FAILS TO COMPLY WITH THE APPLICABLE LAWS
40 AND RULES OF THIS STATE, THE APPLICABLE HEALTH CARE PROVIDER REGULATORY
41 BOARD OR AGENCY IN THIS STATE MAY REVOKE OR PROHIBIT THE HEALTH CARE
42 PROVIDER'S PRIVILEGES IN THIS STATE, REPORT THE ACTION TO THE NATIONAL
43 PRACTITIONER DATABASE AND REFER THE MATTER TO THE LICENSING AUTHORITY IN
44 THE STATE OR STATES WHERE THE HEALTH CARE PROVIDER POSSESSES A
45 PROFESSIONAL LICENSE. IN ANY MATTER OR PROCEEDING ARISING FROM SUCH A

1 REFERRAL, THE APPLICABLE HEALTH CARE PROVIDER REGULATORY BOARD OR AGENCY
2 IN THIS STATE MAY SHARE ANY RELATED DISCIPLINARY AND INVESTIGATIVE
3 INFORMATION IN ITS POSSESSION WITH ANOTHER STATE LICENSING BOARD.

4 D. THE VENUE FOR ANY CIVIL OR CRIMINAL ACTION ARISING FROM A
5 VIOLATION OF THIS SECTION IS THE PATIENT'S COUNTY OF RESIDENCE IN THIS
6 STATE.

7 E. A HEALTH CARE PROVIDER WHO IS NOT LICENSED TO PROVIDE HEALTH
8 CARE SERVICES IN THIS STATE BUT WHO HOLDS AN ACTIVE LICENSE TO PROVIDE
9 HEALTH CARE SERVICES IN ANOTHER JURISDICTION AND WHO PROVIDES TELEHEALTH
10 SERVICES TO A PERSON LOCATED IN THIS STATE IS NOT SUBJECT TO THE
11 REGISTRATION REQUIREMENTS OF THIS SECTION IF EITHER OF THE FOLLOWING
12 APPLIES:

13 1. THE SERVICES ARE PROVIDED UNDER ONE OF THE FOLLOWING
14 CIRCUMSTANCES:

15 (a) IN RESPONSE TO AN EMERGENCY MEDICATION CONDITION.

16 (b) IN CONSULTATION WITH A HEALTH CARE PROVIDER WHO IS LICENSED IN
17 THIS STATE AND WHO HAS THE ULTIMATE AUTHORITY OVER THE PATIENT'S DIAGNOSIS
18 AND TREATMENT.

19 (c) TO PROVIDE AFTER-CARE SPECIFICALLY RELATED TO A MEDICAL
20 PROCEDURE THAT WAS DELIVERED IN PERSON IN ANOTHER STATE.

21 (d) TO A PERSON WHO IS A RESIDENT OF ANOTHER STATE AND THE
22 TELEHEALTH PROVIDER IS THE PRIMARY CARE PROVIDER OR BEHAVIORAL HEALTH
23 PROVIDER LOCATED IN THE PERSON'S STATE OF RESIDENCE.

24 2. THE HEALTH CARE PROVIDER PROVIDES FEWER THAN TEN TELEHEALTH
25 ENCOUNTERS IN A CALENDAR YEAR.

26 36-3607. Telehealth advisory committee on telehealth best
27 practices; membership; reports; committee
28 termination

29 A. THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES
30 IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY
31 THE GOVERNOR:

32 1. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13.

33 2. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 17
34 AND WHO IS PRACTICING PRIMARY CARE IN THIS STATE.

35 3. TWO ADVANCED PRACTICE REGISTERED NURSES WHO ARE LICENSED
36 PURSUANT TO TITLE 32, CHAPTER 15.

37 4. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13
38 OR 17 AND WHO SPECIALIZES IN PAIN MANAGEMENT.

39 5. ONE PSYCHIATRIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER
40 13 OR 17.

41 6. ONE PSYCHOLOGIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER
42 19.1.

43 7. TWO BEHAVIORAL HEALTH PROFESSIONALS WHO ARE LICENSED PURSUANT TO
44 TITLE 32, CHAPTER 33, ONE OF WHOM IS EMPLOYED BY AN OUTPATIENT TREATMENT
45 CENTER.

- 1 8. ONE PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 14.
- 2 9. ONE HEALTH CARE PROFESSIONAL WHOSE PRIMARY AREA OF FOCUS IS
- 3 TREATING PERSONS WITH DEVELOPMENTAL DISABILITIES.
- 4 10. ONE HEALTH CARE PROFESSIONAL WHOSE PRIMARY AREA OF FOCUS IS
- 5 INDUSTRIAL INJURIES.
- 6 11. ONE SPEECH-LANGUAGE PATHOLOGIST WHO IS LICENSED PURSUANT TO
- 7 CHAPTER 17 OF THIS TITLE.
- 8 12. ONE OCCUPATIONAL THERAPIST WHO IS LICENSED PURSUANT TO TITLE
- 9 32, CHAPTER 34.
- 10 13. ONE HOSPITAL ADMINISTRATOR.
- 11 14. ONE PHYSICIAN ASSISTANT WHO IS LICENSED PURSUANT TO TITLE 32,
- 12 CHAPTER 25.
- 13 15. ONE REPRESENTATIVE OF THE ARIZONA COMMISSION FOR THE DEAF AND
- 14 THE HARD OF HEARING.
- 15 16. TWO REPRESENTATIVES OF HEALTH CARE INSURERS WHO ARE LICENSED
- 16 HEALTH CARE PROVIDERS.
- 17 17. ONE OPTOMETRIST WHO IS LICENSED PURSUANT TO TITLE 32,
- 18 CHAPTER 16.
- 19 18. ONE REPRESENTATIVE OF A VERTICALLY INTEGRATED TELEMEDICINE
- 20 TECHNOLOGY MANUFACTURER OF HARDWARE AND COMPATIBLE SOFTWARE.
- 21 19. ONE BEHAVIORAL ANALYST WHO IS LICENSED PURSUANT TO TITLE 32,
- 22 CHAPTER 19.1.
- 23 20. ONE REPRESENTATIVE FROM EACH OF THE FOLLOWING:
- 24 (a) THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.
- 25 (b) THE DEPARTMENT OF HEALTH SERVICES.
- 26 (c) THE DEPARTMENT OF ECONOMIC SECURITY.
- 27 (d) THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS.
- 28 (e) THE INDUSTRIAL COMMISSION OF ARIZONA.
- 29 B. THE ADVISORY COMMITTEE:
- 30 1. SHALL REVIEW NATIONAL AND OTHER STANDARDS FOR TELEHEALTH BEST
- 31 PRACTICES AND RELEVANT PEER-REVIEWED LITERATURE.
- 32 2. MAY CONDUCT PUBLIC MEETINGS AT WHICH TESTIMONY MAY BE TAKEN
- 33 REGARDING THE EFFICACY OF VARIOUS COMMUNICATIONS MEDIA AND THE TYPES OF
- 34 SERVICES AND POPULATIONS FOR WHICH TELEHEALTH IS APPROPRIATE.
- 35 3. SHALL ADOPT TELEHEALTH BEST PRACTICE GUIDELINES AND
- 36 RECOMMENDATIONS REGARDING THE HEALTH CARE SERVICES THAT MAY BE
- 37 APPROPRIATELY PROVIDED THROUGH AN AUDIO-ONLY TELEHEALTH FORMAT AND MAKE
- 38 UPDATES, WHEN APPLICABLE. BEFORE MAKING ITS RECOMMENDATIONS, THE ADVISORY
- 39 COMMITTEE SHALL ANALYZE MEDICAL LITERATURE AND NATIONAL PRACTICE
- 40 GUIDELINES, CONSIDER THE COMPARATIVE EFFECTIVENESS AND SAFETY AND THE
- 41 BENEFIT TO THE PATIENT OF PERFORMING A SERVICE THROUGH AN AUDIO-ONLY
- 42 TELEHEALTH FORMAT INSTEAD OF IN PERSON OR THROUGH AN AUDIO-VISUAL
- 43 TELEHEALTH FORMAT, AND THE APPROPRIATE FREQUENCY AND DURATION OF
- 44 AUDIO-ONLY TELEHEALTH ENCOUNTERS.

1 4. MAY AUTHORIZE SUBCOMMITTEES TO ADDRESS SELECT ISSUES OR SERVICES
2 AND REPORT TO THE ADVISORY COMMITTEE AS DIRECTED.

3 5. ON OR BEFORE DECEMBER 1, 2021, SHALL SUBMIT A REPORT TO THE
4 GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
5 REPRESENTATIVES WITH THE ADVISORY COMMITTEE'S RECOMMENDATIONS REGARDING
6 THE SPECIFIC HEALTH CARE SERVICES THAT ARE APPROPRIATE TO PROVIDE THROUGH
7 AN AUDIO-ONLY TELEHEALTH FORMAT AS A SUBSTITUTE FOR AN IN-PERSON OR
8 AUDIO-VISUAL TELEHEALTH ENCOUNTER.

9 6. ON OR BEFORE JUNE 30, 2022, SHALL SUBMIT A REPORT TO THE
10 GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
11 REPRESENTATIVES WITH THE ADVISORY COMMITTEE'S RECOMMENDATIONS REGARDING
12 TELEHEALTH BEST PRACTICE GUIDELINES FOR HEALTH CARE PROVIDERS.

13 C. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM SHALL STAFF THE
14 ADVISORY COMMITTEE AND PROVIDE MEETING SPACE.

15 D. THE COMMITTEE ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2029
16 PURSUANT TO SECTION 41-3102.

17 36-3608. Health care provider regulatory boards and agencies;
18 out-of-state health care providers; reports

19 BEGINNING OCTOBER 1, 2021 AND ON OR BEFORE THE FIRST OF EACH MONTH
20 THEREAFTER, EACH HEALTH CARE PROVIDER REGULATORY BOARD OR AGENCY SHALL
21 SUBMIT TO THE TELEHEALTH ADVISORY COMMITTEE ON TELEHEALTH BEST PRACTICES
22 ESTABLISHED BY SECTION 36-3607 A REPORT IDENTIFYING THE NUMBER AND TYPE OF
23 OUT-OF-STATE HEALTH CARE PROVIDERS WHO HAVE APPLIED FOR REGISTRATION
24 PURSUANT TO SECTION 36-3606 AND THE NUMBER AND TYPE OF OUT-OF-STATE HEALTH
25 CARE PROVIDERS WHOSE REGISTRATION PURSUANT TO SECTION 36-3606 HAS BEEN
26 APPROVED.

27 Sec. 19. Delayed repeal

28 Section 36-3608, Arizona Revised Statutes, is repealed from and
29 after December 31, 2025.

30 Sec. 20. Section 38-672, Arizona Revised Statutes, is amended to
31 read:

32 38-672. Traumatic event counseling for public safety
33 employees; report; exceptions; definitions

34 A. Notwithstanding any other law, this state or a political
35 subdivision of this state shall establish a program to provide public
36 safety employees who are exposed to any one of the following events while
37 in the course of duty up to twelve visits of licensed counseling, which
38 may be provided ~~via telemedicine~~ THROUGH TELEHEALTH, paid for by the
39 employer:

40 1. Visually witnessing the death or maiming or visually witnessing
41 the immediate aftermath of such a death or maiming of one or more human
42 beings.

43 2. Responding to or being directly involved in a criminal
44 investigation of an offense involving a dangerous crime against children
45 as defined in section 13-705.

1 3. Requiring rescue in the line of duty where one's life was
2 endangered.

3 B. Payment by the employer for licensed counseling pursuant to this
4 section does not create a presumption that a claim is compensable under
5 section 23-1043.01, subsection B.

6 C. For each program established pursuant to this section, this
7 state and each political subdivision of this state shall compile the
8 following data:

9 1. The total number of public safety employees who have
10 participated in the program.

11 2. The average number of visits per public safety employee.

12 3. The average number of months that a public safety employee
13 participated in the program.

14 4. The average number of days that a public safety employee who
15 participated in the program missed work.

16 5. The total number of public safety employees who participated in
17 the program and who subsequently filed a workers' compensation claim and
18 the number of those claims that were approved and the number of those
19 claims that were denied.

20 6. For each employer, the total amount of work missed by public
21 safety employees who participated in the program and how missed work was
22 provided for by the employer or through employee benefits.

23 D. On or before ~~September 1, 2019 and~~ September 1 of each year
24 ~~thereafter~~, this state and each political subdivision of this state shall
25 submit the data collected pursuant to subsection C of this section to the
26 department of administration. On or before ~~October 1, 2019 and~~ October 1
27 of each year ~~thereafter~~, the department of administration shall compile
28 the data into a report and submit the report to the governor, the
29 president of the senate, the speaker of the house of representatives, the
30 chairperson of the senate health and human services committee, or its
31 successor committee, the chairperson of the house of representatives
32 health committee, or its successor committee, the chairperson of the
33 senate commerce and public safety committee, or its successor committee,
34 and the chairperson of the house of representatives judiciary and public
35 safety committee, or its successor committee, and shall provide a copy of
36 this report to the secretary of state. Subsection C of this section and
37 this subsection do not authorize this state or a political subdivision of
38 this state to compile and report data that is protected under the health
39 insurance portability and accountability act of 1996 (P.L. 104-191; 110
40 Stat. 1936).

41 E. This section does not apply to a state employer that provides a
42 program to its public safety employees that is characterized by all of the
43 following:

44 1. The program is paid for by the employer.

1 2. The program provides licensed counseling for any issue. For
2 licensed counseling related to trauma experienced while in the line of
3 duty, the licensed counseling is provided on the request of the public
4 safety employee and is in person.

5 3. Before July 1, 2017, the program offers at least six visits per
6 year.

7 4. On or after July 1, 2017, the program offers at least twelve
8 visits per year.

9 F. For the purposes of this section:

10 1. "Licensed counseling" means counseling provided by a licensed
11 mental health professional pursuant to title 32, chapter 19.1 or 33 if
12 licensees under title 32, chapter 33 have training and expertise in
13 treating trauma.

14 2. "Public safety employee":

15 (a) Means:

16 (i) Except as prescribed in subdivision (b) of this paragraph, an
17 individual who is a member of the public safety personnel retirement
18 system or the corrections officer retirement plan.

19 (ii) Except as prescribed in subdivision (b) of this paragraph, a
20 probation officer, surveillance officer or juvenile detention officer who
21 is employed by this state or a political subdivision of this state.

22 (b) Does not include peace officers or firefighters.

23 Sec. 21. Section 38-673, Arizona Revised Statutes, is amended to
24 read:

25 38-673. Traumatic event counseling for peace officers and
26 firefighters; report; exceptions; definitions

27 A. Notwithstanding any other law, this state or a political
28 subdivision of this state shall establish a program to provide peace
29 officers and firefighters who are exposed to any one of the following
30 events while in the course of duty up to twelve visits of licensed
31 counseling, which may be provided ~~via telemedicine~~ THROUGH TELEHEALTH,
32 paid for by the employer:

33 1. Visually witnessing the death or maiming or visually witnessing
34 the immediate aftermath of such a death or maiming of one or more human
35 beings.

36 2. Responding to or being directly involved in a criminal
37 investigation of an offense involving a dangerous crime against children
38 as defined in section 13-705.

39 3. Requiring rescue in the line of duty where one's life was
40 endangered.

41 4. Using deadly force or being subjected to deadly force in the
42 line of duty, regardless of whether the peace officer or firefighter was
43 physically injured.

44 5. Witnessing the death of another peace officer or firefighter
45 while engaged in the line of duty.

1 6. Responding to or being directly involved in an investigation
2 regarding the drowning or near drowning of a child.

3 B. If the licensed mental health professional determines that the
4 peace officer or firefighter needs additional visits of licensed
5 counseling beyond that which the peace officer or firefighter is entitled
6 to under subsection A of this section and that the additional visits are
7 likely to improve the peace officer's or firefighter's condition, the
8 employer shall pay for up to an additional twenty-four visits, if the
9 visits occur within one year after the first visit pursuant to this
10 section.

11 C. An employer may not require a peace officer or firefighter who
12 is receiving treatment pursuant to this section to use the peace officer's
13 or firefighter's accrued paid vacation **LEAVE**, personal leave or sick leave
14 if the peace officer or firefighter leaves work to attend a treatment
15 visit pursuant to this section.

16 D. If the licensed mental health professional determines that the
17 peace officer or firefighter is not fit for duty while the peace officer
18 or firefighter is receiving treatment pursuant to this section, the
19 employer shall ensure that the peace officer or firefighter has no loss of
20 pay and benefits for up to thirty calendar days per incident after the
21 date the licensed mental health professional determines that the employee
22 is not fit for duty if all of the following apply:

23 1. The peace officer or firefighter is unable to work light duty or
24 the employer does not offer a light duty option.

25 2. The peace officer or firefighter has exhausted the peace
26 officer's or firefighter's sick leave, vacation leave or other leave that
27 is provided as part of the peace officer's or firefighter's benefits
28 package.

29 3. If the employer offers short-term disability benefits, the
30 employer offered and the peace officer or firefighter elected short-term
31 disability benefits, but the peace officer or firefighter is not eligible
32 to receive short-term disability benefits.

33 4. The employer does not have a supplemental program that provides
34 pay and benefits after the occurrence of an injury. For the purposes of
35 this paragraph, supplemental program that provides pay and benefits after
36 the occurrence of an injury does not include a supplemental benefits plan
37 established pursuant to section 38-961.

38 E. An employer shall allow a peace officer or firefighter to select
39 the peace officer's or firefighter's own licensed mental health
40 professional, except that if a licensed mental health professional
41 declines to provide counseling pursuant to this section, the employer is
42 not required to secure the services of that licensed mental health
43 professional. The employer shall pay the licensed mental health
44 professional pursuant to the schedule of fees that is fixed by the
45 industrial commission of Arizona pursuant to section 23-908.

1 F. Payment by the employer for licensed counseling pursuant to this
2 section does not create a presumption that a claim is compensable under
3 section 23-1043.01, subsection B.

4 G. For each program established pursuant to this section, this
5 state and each political subdivision of this state shall compile the
6 following data for peace officers and firefighters:

7 1. For each category of persons, the total number of persons who
8 have participated in the program.

9 2. For each category of persons, the average number of visits per
10 person.

11 3. For each category of persons, the average number of months that
12 a person participated in the program.

13 4. For each category of persons, the average number of days that a
14 person who participated in the program missed work.

15 5. For each category of persons, the total number of persons who
16 participated in the program and who subsequently filed a workers'
17 compensation claim and the number of those claims that were approved and
18 the number of those claims that were denied.

19 6. For each category of persons, of the total number of persons who
20 have participated in the program, the percentage of persons who received
21 additional visits under subsection B of this section.

22 7. For each category of persons, the total number of persons who
23 were deemed not fit for duty by a licensed mental health professional
24 pursuant to subsection D of this section.

25 8. For each employer, the total amount of work missed by each
26 category of persons who participated in the program and how missed work
27 was provided for by the employer or through employee benefits.

28 H. On or before ~~September 1, 2019 and~~ September 1 of each year
29 ~~thereafter~~, this state and each political subdivision of this state shall
30 submit the data collected pursuant to subsection G of this section to the
31 department of administration. On or before ~~October 1, 2019 and~~ October 1
32 of each year ~~thereafter~~, the department of administration shall compile
33 the data into a report and submit the report to the governor, the
34 president of the senate, the speaker of the house of representatives, the
35 chairperson of the senate health and human services committee, or its
36 successor committee, the chairperson of the house of representatives
37 health committee, or its successor committee, the chairperson of the
38 senate commerce and public safety committee, or its successor committee,
39 and the chairperson of the house of representatives judiciary and public
40 safety committee, or its successor committee, and shall provide a copy of
41 this report to the secretary of state. Subsection G of this section and
42 this subsection do not authorize this state or a political subdivision of
43 this state to compile and report data that is protected under the health
44 insurance portability and accountability act of 1996 (P.L. 104-191; 110
45 Stat. 1936).

1 I. This section does not apply to a state employer that provides a
2 program to its peace officers and firefighters that is characterized by
3 all of the following:

4 1. The program is paid for by the employer.

5 2. The program provides licensed counseling for any issue. For
6 licensed counseling related to trauma experienced while in the line of
7 duty, the licensed counseling is provided on the request of the peace
8 officer or firefighter and is in person.

9 3. The program offers at least twelve visits per year and will
10 offer additional visits if the licensed mental health professional
11 determines that additional visits are necessary.

12 J. For the purposes of this section:

13 1. "Licensed counseling" means counseling provided by a licensed
14 mental health professional.

15 2. "Licensed mental health professional" means a psychiatrist or
16 psychologist who is licensed pursuant to title 32, chapter 13, 17 or 19.1.

17 Sec. 22. Department of health services; acute care services
18 at home; pilot program; delayed repeal

19 A. On or before the earlier of thirty days after the effective date
20 of this section or September 1, 2021, the department of health services
21 shall develop a three-year pilot program that allows the delivery of acute
22 care services to patients in the patient's home by licensed hospitals in
23 this state. The department may waive rules necessary to implement the
24 requirements of the pilot program. The pilot program shall be designed in
25 a manner and in coordination with the acute care at home program
26 authorized by the centers for medicare and medicaid services.

27 B. In collaboration with interested hospitals in this state, the
28 department shall determine:

29 1. The criteria necessary for a licensed hospital to be eligible
30 for the pilot program. Eligible hospitals must demonstrate the required
31 in-person and telehealth equipment necessary to provide acute in-home
32 services.

33 2. The protocols for eligible hospitals to determine patient
34 eligibility in the program.

35 3. The protocols for health care services to be provided by or
36 under the direction of eligible hospitals to patients in the program.

37 C. Hospitals participating in the pilot program may use applicable
38 protocols determined by the department to set:

39 1. The patient eligibility criteria.

40 2. The categories of licensed health care providers that may be
41 used.

42 3. The services that may be outsourced by the hospital.

43 4. The health care services to be provided by or under the
44 direction of the hospital.

1 D. The Arizona state board of pharmacy may waive rules necessary to
2 implement the requirements of the pilot program.

3 E. Hospitals participating in the pilot program shall:

4 1. Report patient progress and program quality outcomes as required
5 by the department.

6 2. Comply with any reporting requirements established by the
7 Arizona state board of pharmacy for purposes of the pilot program.

8 F. This section is repealed on and after December 31, 2024.

9 Sec. 23. Department of insurance and financial institutions;
10 report

11 On or before March 31, 2023, the department of insurance and
12 financial institutions shall report to the president of the senate and the
13 speaker of the house of representatives the number of telehealth
14 encounters based on claims data, with all of the personally identifiable
15 health information redacted, received by health insurers and health plans
16 for services provided in this state in the preceding year, including:

17 1. The overall number of telehealth encounters and the number of
18 audio-only telehealth encounters billed to health care insurers.

19 2. The number of telehealth encounters in this state involving
20 out-of-state health care providers.

21 3. The types of services provided through telehealth encounters and
22 through audio-only telehealth encounters.

23 4. The differential in payment between audio-only telehealth
24 encounters and in-person care or audio-visual telehealth encounters.

25 Sec. 24. Rulemaking exemptions

26 Notwithstanding any other law, for the purposes of this act, each
27 health care provider regulatory board or agency as defined in section
28 36-3601, Arizona Revised Statutes, as amended by this act, is exempt from
29 the rulemaking requirements of title 41, chapter 6, Arizona Revised
30 Statutes, for one year after the effective date of this act.

31 Sec. 25. Emergency

32 This act is an emergency measure that is necessary to preserve the
33 public peace, health or safety and is operative immediately as provided by
34 law.

APPROVED BY THE GOVERNOR MAY 5, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 5, 2021.