

REFERENCE TITLE: nonphysician surgical assistant; direct payment

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SB 1277**

Introduced by  
Senators Leff: Blendu

### AN ACT

AMENDING TITLE 20, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-826.03; AMENDING TITLE 20, CHAPTER 4, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1057.10; AMENDING TITLE 20, CHAPTER 6, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1342.05; AMENDING TITLE 20, CHAPTER 6, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1406.05; AMENDING TITLE 20, CHAPTER 13, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-2332; AMENDING SECTION 36-2907, ARIZONA REVISED STATUTES; RELATING TO PAYMENT FOR SERVICES OF A NONPHYSICIAN SURGICAL ASSISTANT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 20, chapter 4, article 3, Arizona Revised Statutes,  
3 is amended by adding section 20-826.03, to read:

4 20-826.03. Nonphysician surgical assistants; direct payment

5 A. A CORPORATION THAT IS GOVERNED BY THIS ARTICLE AND THAT PROVIDES  
6 COVERAGE FOR SURGICAL PROCEDURES SHALL PROVIDE COVERAGE FOR SURGICAL  
7 ASSISTANT SERVICES SUPPLIED BY A NONPHYSICIAN SURGICAL ASSISTANT IF ALL OF  
8 THE FOLLOWING APPLY:

9 1. THE CORPORATION ACKNOWLEDGES THAT A SURGICAL ASSISTANT IS WARRANTED  
10 FOR THE SURGICAL PROCEDURE.

11 2. THE SURGICAL ASSISTANT SERVICES ARE REQUESTED BY THE SURGEON OF  
12 RECORD.

13 3. THE SURGICAL ASSISTANT IS CREDENTIALLED TO PROVIDE SURGICAL  
14 ASSISTANT SERVICES BY A MEDICAL INSTITUTION THAT IS LICENSED BY THIS STATE TO  
15 PROVIDE INPATIENT OR OUTPATIENT SURGICAL SERVICES.

16 B. THE CORPORATION SHALL PAY FOR THE SURGICAL ASSISTANT SERVICE  
17 DIRECTLY TO THE PROVIDER OF THE SURGICAL ASSISTANT SERVICES.

18 Sec. 2. Title 20, chapter 4, article 9, Arizona Revised Statutes, is  
19 amended by adding section 20-1057.10, to read:

20 20-1057.10. Nonphysician surgical assistants; direct payment

21 A. A HEALTH CARE SERVICES ORGANIZATION THAT PROVIDES COVERAGE FOR  
22 SURGICAL PROCEDURES SHALL PROVIDE COVERAGE FOR SURGICAL ASSISTANT SERVICES  
23 SUPPLIED BY A NONPHYSICIAN SURGICAL ASSISTANT IF ALL OF THE FOLLOWING APPLY:

24 1. THE HEALTH CARE SERVICES ORGANIZATION ACKNOWLEDGES THAT A SURGICAL  
25 ASSISTANT IS WARRANTED FOR THE SURGICAL PROCEDURE.

26 2. THE SURGICAL ASSISTANT SERVICES ARE REQUESTED BY THE SURGEON OF  
27 RECORD.

28 3. THE SURGICAL ASSISTANT IS CREDENTIALLED TO PROVIDE SURGICAL  
29 ASSISTANT SERVICES BY A MEDICAL INSTITUTION THAT IS LICENSED BY THIS STATE TO  
30 PROVIDE INPATIENT OR OUTPATIENT SURGICAL SERVICES.

31 B. THE HEALTH CARE SERVICES ORGANIZATION SHALL PAY FOR THE SURGICAL  
32 ASSISTANT SERVICE DIRECTLY TO THE PROVIDER OF THE SURGICAL ASSISTANT  
33 SERVICES.

34 Sec. 3. Title 20, chapter 6, article 4, Arizona Revised Statutes, is  
35 amended by adding section 20-1342.05, to read:

36 20-1342.05. Nonphysician surgical assistants; direct payment

37 A. A DISABILITY INSURER THAT PROVIDES COVERAGE FOR SURGICAL PROCEDURES  
38 SHALL PROVIDE COVERAGE FOR SURGICAL ASSISTANT SERVICES SUPPLIED BY A  
39 NONPHYSICIAN SURGICAL ASSISTANT IF ALL OF THE FOLLOWING APPLY:

40 1. THE DISABILITY INSURER ACKNOWLEDGES THAT A SURGICAL ASSISTANT IS  
41 WARRANTED FOR THE SURGICAL PROCEDURE.

42 2. THE SURGICAL ASSISTANT SERVICES ARE REQUESTED BY THE SURGEON OF  
43 RECORD.

1           3. THE SURGICAL ASSISTANT IS CREDENTIALLED TO PROVIDE SURGICAL  
2 ASSISTANT SERVICES BY A MEDICAL INSTITUTION THAT IS LICENSED BY THIS STATE TO  
3 PROVIDE INPATIENT OR OUTPATIENT SURGICAL SERVICES.

4           B. THE DISABILITY INSURER SHALL PAY FOR THE SURGICAL ASSISTANT SERVICE  
5 DIRECTLY TO THE PROVIDER OF THE SURGICAL ASSISTANT SERVICES.

6           Sec. 4. Title 20, chapter 6, article 5, Arizona Revised Statutes, is  
7 amended by adding section 20-1406.05, to read:

8           20-1406.05. Nonphysician surgical assistants; direct payment

9           A. IF A GROUP DISABILITY INSURANCE CONTRACT OR BLANKET DISABILITY  
10 INSURANCE CONTRACT PROVIDES COVERAGE FOR SURGICAL PROCEDURES AN INSURER SHALL  
11 PROVIDE COVERAGE FOR SURGICAL ASSISTANT SERVICES SUPPLIED BY A NONPHYSICIAN  
12 SURGICAL ASSISTANT IF ALL OF THE FOLLOWING APPLY:

13           1. THE INSURER ACKNOWLEDGES THAT A SURGICAL ASSISTANT IS WARRANTED FOR  
14 THE SURGICAL PROCEDURE.

15           2. THE SURGICAL ASSISTANT SERVICES ARE REQUESTED BY THE SURGEON OF  
16 RECORD.

17           3. THE SURGICAL ASSISTANT IS CREDENTIALLED TO PROVIDE SURGICAL  
18 ASSISTANT SERVICES BY A MEDICAL INSTITUTION THAT IS LICENSED BY THIS STATE TO  
19 PROVIDE INPATIENT OR OUTPATIENT SURGICAL SERVICES.

20           B. THE INSURER SHALL PAY FOR THE SURGICAL ASSISTANT SERVICE DIRECTLY  
21 TO THE PROVIDER OF THE SURGICAL ASSISTANT SERVICES.

22           Sec. 5. Title 20, chapter 13, article 1, Arizona Revised Statutes, is  
23 amended by adding section 20-2332, to read:

24           20-2332. Nonphysician surgical assistants; direct payment

25           A. AN ACCOUNTABLE HEALTH PLAN THAT PROVIDES COVERAGE FOR SURGICAL  
26 PROCEDURES SHALL PROVIDE COVERAGE FOR SURGICAL ASSISTANT SERVICES SUPPLIED BY  
27 A NONPHYSICIAN SURGICAL ASSISTANT IF ALL OF THE FOLLOWING APPLY:

28           1. THE ACCOUNTABLE HEALTH PLAN ACKNOWLEDGES THAT A SURGICAL ASSISTANT  
29 IS WARRANTED FOR THE SURGICAL PROCEDURE.

30           2. THE SURGICAL ASSISTANT SERVICES ARE REQUESTED BY THE SURGEON OF  
31 RECORD.

32           3. THE SURGICAL ASSISTANT IS CREDENTIALLED TO PROVIDE SURGICAL  
33 ASSISTANT SERVICES BY A MEDICAL INSTITUTION THAT IS LICENSED BY THIS STATE TO  
34 PROVIDE INPATIENT OR OUTPATIENT SURGICAL SERVICES.

35           B. THE ACCOUNTABLE HEALTH PLAN SHALL PAY FOR THE SURGICAL ASSISTANT  
36 SERVICE DIRECTLY TO THE PROVIDER OF THE SURGICAL ASSISTANT SERVICES.

37           Sec. 6. Section 36-2907, Arizona Revised Statutes, is amended to read:

38           36-2907. Covered health and medical services; modifications;  
39           related delivery of service requirements

40           A. Unless modified pursuant to this section, contractors shall provide  
41 the following medically necessary health and medical services:

42           1. Inpatient hospital services that are ordinarily furnished by a  
43 hospital for the care and treatment of inpatients and that are provided under  
44 the direction of a physician or a primary care practitioner. For the  
45 purposes of this section, inpatient hospital services excludes services in an

1 institution for tuberculosis or mental diseases unless authorized under an  
2 approved section 1115 waiver.

3 2. Outpatient health services that are ordinarily provided in  
4 hospitals, clinics, offices and other health care facilities by licensed  
5 health care providers. Outpatient health services include services provided  
6 by or under the direction of a physician or a primary care practitioner but  
7 do not include occupational therapy, or speech therapy for eligible persons  
8 who are twenty-one years of age or older.

9 3. Other laboratory and x-ray services ordered by a physician or a  
10 primary care practitioner.

11 4. Medications that are ordered on prescription by a physician or a  
12 dentist licensed pursuant to title 32, chapter 11. Beginning January 1,  
13 2006, persons who are dually eligible for title XVIII and title XIX services  
14 must obtain available medications through a medicare licensed or certified  
15 medicare advantage prescription drug plan, a medicare prescription drug plan  
16 or any other entity authorized by medicare to provide a medicare part D  
17 prescription drug benefit.

18 5. Emergency dental care and extractions for persons who are at least  
19 twenty-one years of age.

20 6. Medical supplies, equipment and prosthetic devices, not including  
21 hearing aids, ordered by a physician or a primary care practitioner or  
22 dentures ordered by a dentist licensed pursuant to title 32, chapter 11.  
23 Suppliers of durable medical equipment shall provide the administration with  
24 complete information about the identity of each person who has an ownership  
25 or controlling interest in their business and shall comply with federal  
26 bonding requirements in a manner prescribed by the administration.

27 7. For persons who are at least twenty-one years of age, treatment of  
28 medical conditions of the eye excluding eye examinations for prescriptive  
29 lenses and the provision of prescriptive lenses.

30 8. Early and periodic health screening and diagnostic services as  
31 required by section 1905(r) of title XIX of the social security act for  
32 members who are under twenty-one years of age.

33 9. Family planning services that do not include abortion or abortion  
34 counseling. If a contractor elects not to provide family planning services,  
35 this election does not disqualify the contractor from delivering all other  
36 covered health and medical services under this chapter. In that event, the  
37 administration may contract directly with another contractor, including an  
38 outpatient surgical center or a noncontracting provider, to deliver family  
39 planning services to a member who is enrolled with the contractor that elects  
40 not to provide family planning services.

41 10. Podiatry services performed by a podiatrist licensed pursuant to  
42 title 32, chapter 7 and ordered by a primary care physician or primary care  
43 practitioner.

- 1           11. Nonexperimental transplants approved for title XIX reimbursement.
- 2           12. Ambulance and nonambulance transportation.
- 3           13. SURGICAL ASSISTANT SERVICES PERFORMED BY A NONPHYSICIAN SURGICAL
- 4 ASSISTANT UNDER THE DIRECTION OF THE SURGEON OF RECORD IF THE NONPHYSICIAN
- 5 SURGICAL ASSISTANT IS CREDENTIALLED TO PROVIDE THE SERVICES BY A MEDICAL
- 6 INSTITUTION THAT IS LICENSED BY THIS STATE TO PROVIDE INPATIENT OR OUTPATIENT
- 7 SURGICAL SERVICES.
- 8           B. Beginning on October 1, 2002, circumcision of newborn males is not
- 9 a covered health and medical service.
- 10          C. The system shall pay noncontracting providers only for health and
- 11 medical services as prescribed in subsection A of this section and as
- 12 prescribed by rule.
- 13          D. The director shall adopt rules necessary to limit, to the extent
- 14 possible, the scope, duration and amount of services, including maximum
- 15 limitations for inpatient services that are consistent with federal
- 16 regulations under title XIX of the social security act (P.L. 89-97; 79 Stat.
- 17 344; 42 United States Code section 1396 (1980)). To the extent possible and
- 18 practicable, these rules shall provide for the prior approval of medically
- 19 necessary services provided pursuant to this chapter.
- 20          E. The director shall make available home health services in lieu of
- 21 hospitalization pursuant to contracts awarded under this article. For the
- 22 purposes of this subsection, "home health services" means the provision of
- 23 nursing services, home health aide services or medical supplies, equipment
- 24 and appliances, which are provided on a part-time or intermittent basis by a
- 25 licensed home health agency within a member's residence based on the orders
- 26 of a physician or a primary care practitioner. Home health agencies shall
- 27 comply with the federal bonding requirements in a manner prescribed by the
- 28 administration.
- 29          F. The director shall adopt rules for the coverage of behavioral
- 30 health services for persons who are eligible under section 36-2901, paragraph
- 31 6, subdivision (a). The administration shall contract with the department of
- 32 health services for the delivery of all medically necessary behavioral health
- 33 services to persons who are eligible under rules adopted pursuant to this
- 34 subsection. The division of behavioral health in the department of health
- 35 services shall establish a diagnostic and evaluation program to which other
- 36 state agencies shall refer children who are not already enrolled pursuant to
- 37 this chapter and who may be in need of behavioral health services. In
- 38 addition to an evaluation, the division of behavioral health shall also
- 39 identify children who may be eligible under section 36-2901, paragraph 6,
- 40 subdivision (a) or section 36-2931, paragraph 5 and shall refer the children
- 41 to the appropriate agency responsible for making the final eligibility
- 42 determination.

1 G. The director shall adopt rules for the provision of transportation  
2 services and rules providing for copayment by members for transportation for  
3 other than emergency purposes. Prior authorization is not required for  
4 medically necessary ambulance transportation services rendered to members or  
5 eligible persons initiated by dialing telephone number 911 or other  
6 designated emergency response systems.

7 H. The director may adopt rules to allow the administration, at the  
8 director's discretion, to use a second opinion procedure under which surgery  
9 may not be eligible for coverage pursuant to this chapter without  
10 documentation as to need by at least two physicians or primary care  
11 practitioners.

12 I. If the director does not receive bids within the amounts budgeted  
13 or if at any time the amount remaining in the Arizona health care cost  
14 containment system fund is insufficient to pay for full contract services for  
15 the remainder of the contract term, the administration, on notification to  
16 system contractors at least thirty days in advance, may modify the list of  
17 services required under subsection A of this section for persons defined as  
18 eligible other than those persons defined pursuant to section 36-2901,  
19 paragraph 6, subdivision (a). The director may also suspend services or may  
20 limit categories of expense for services defined as optional pursuant to  
21 title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United  
22 States Code section 1396 (1980)) for persons defined pursuant to section  
23 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not  
24 apply to the continuity of care for persons already receiving these services.

25 J. Additional, reduced or modified hospitalization and medical care  
26 benefits may be provided under the system to enrolled members who are  
27 eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c), (d)  
28 or (e).

29 K. All health and medical services provided under this article shall  
30 be provided in the geographic service area of the member, except:

31 1. Emergency services and specialty services provided pursuant to  
32 section 36-2908.

33 2. That the director may permit the delivery of health and medical  
34 services in other than the geographic service area in this state or in an  
35 adjoining state if the director determines that medical practice patterns  
36 justify the delivery of services or a net reduction in transportation costs  
37 can reasonably be expected. Notwithstanding the definition of physician as  
38 prescribed in section 36-2901, if services are procured from a physician or  
39 primary care practitioner in an adjoining state, the physician or primary  
40 care practitioner shall be licensed to practice in that state pursuant to  
41 licensing statutes in that state similar to title 32, chapter 13, 15, 17 or  
42 25 and shall complete a provider agreement for this state.

1           L. Covered outpatient services shall be subcontracted by a primary  
2 care physician or primary care practitioner to other licensed health care  
3 providers to the extent practicable for purposes including, but not limited  
4 to, making health care services available to underserved areas, reducing  
5 costs of providing medical care and reducing transportation costs.

6           M. The director shall adopt rules that prescribe the coordination of  
7 medical care for persons who are eligible for system services. The rules  
8 shall include provisions for the transfer of patients, the transfer of  
9 medical records and the initiation of medical care.