

REFERENCE TITLE: emergency contraception; pharmacies

State of Arizona
Senate
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Second Regular Session
2014

SB 1259

Introduced by
Senators Tovar, Dalessandro, Gallardo, Hobbs, Pancrazi: Ableser, Farley,
Meza

AN ACT

AMENDING TITLE 32, CHAPTER 18, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1978; AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3217; AMENDING SECTION 36-132, ARIZONA REVISED STATUTES; RELATING TO EMERGENCY CONTRACEPTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 32, chapter 18, article 3, Arizona Revised Statutes,
3 is amended by adding section 32-1978, to read:

4 32-1978. Duty to fill prescriptions: notification:
5 accommodation: exceptions: definition

6 A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PHARMACY THAT IS
7 LICENSED PURSUANT TO THIS CHAPTER MUST PROPERLY FILL VALID PRESCRIPTION
8 ORDERS PRESENTED TO THE PHARMACY BY OR FOR A CUSTOMER.

9 B. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PHARMACY THAT IS
10 LICENSED PURSUANT TO THIS CHAPTER MUST REQUIRE ITS EMPLOYEES TO NOTIFY THE
11 PHARMACY IN WRITING OF ALL CATEGORIES OR TYPES OF PRESCRIPTION DRUGS AND
12 DEVICES THAT THE EMPLOYEE WOULD DECLINE TO FILL BECAUSE OF THE EMPLOYEE'S
13 SINCERELY HELD RELIGIOUS BELIEFS. ON RECEIVING THIS NOTIFICATION, THE
14 PHARMACY MUST ATTEMPT TO ACCOMMODATE THE EMPLOYEE IF THE ACCOMMODATION CAN BE
15 MADE WITHOUT CAUSING UNDUE HARDSHIP TO THE PHARMACY OR ITS CUSTOMERS. IN
16 DETERMINING WHETHER A PROPOSED ACCOMMODATION WOULD CAUSE AN UNDUE HARDSHIP,
17 THE PHARMACY MAY CONSIDER:

18 1. WHETHER THE PROPOSED ACCOMMODATION WOULD DELAY THE FILLING OF
19 PRESCRIPTION ORDERS AND RESULT IN THE PHARMACY NOT BEING ABLE TO FILL CERTAIN
20 PRESCRIPTIONS IN THE EQUIVALENT TIME AS THE PHARMACY IS FILLING OTHER
21 PRESCRIPTIONS OF IN-STOCK DRUGS OR DEVICES AT THAT TIME.

22 2. THE PHARMACY'S ABILITY TO FILL A CUSTOMER'S PRESCRIPTION AT THAT
23 PHARMACY LOCATION.

24 3. THE PHARMACY'S FINANCIAL COSTS IN IMPLEMENTING THE ACCOMMODATION.

25 4. THE DAMAGE TO THE PHARMACY'S REPUTATION OR GOODWILL IN THE
26 COMMUNITY DUE TO ITS FAILURE TO PROVIDE TIMELY PRESCRIPTION-FILLING SERVICES.

27 C. IF A CUSTOMER ASKS FOR A PRESCRIPTION DRUG OR DEVICE THAT IS NOT IN
28 STOCK, THE PHARMACY MUST OFFER THE CUSTOMER EACH OF THE FOLLOWING OPTIONS AND
29 PERFORM THE CHOSEN OPTION WITHOUT DELAY:

30 1. OBTAIN THE DRUG OR DEVICE UNDER THE PHARMACY'S STANDARD PROCEDURES
31 FOR EXPEDITED ORDERING OF ANY DRUG OR DEVICE THAT IS NOT IN STOCK.

32 2. TRANSFER THE PRESCRIPTION ORDER TO ANOTHER LOCAL PHARMACY OF THE
33 CUSTOMER'S CHOICE UNDER THE PHARMACY'S STANDARD PROCEDURES FOR TRANSFERRING
34 PRESCRIPTION ORDERS FOR DRUGS OR DEVICES.

35 3. RETURN THE UNFILLED PRESCRIPTION ORDER TO THE CUSTOMER AND REFER
36 THE CUSTOMER TO ANOTHER LOCAL PHARMACY. THE PHARMACY MUST MAKE A REASONABLE
37 EFFORT TO REFER THE CUSTOMER TO A PHARMACY THAT STOCKS THE DRUG OR DEVICE AND
38 THAT IS NEAR ENOUGH TO THE REFERRING SITE TO ENSURE THAT THE CUSTOMER HAS
39 TIMELY ACCESS TO THE DRUG OR DEVICE.

40 D. THIS SECTION DOES NOT PROHIBIT A PHARMACY FROM REFUSING TO DISPENSE
41 A PRESCRIPTION DRUG OR DEVICE IF THERE IS A VALID MEDICAL CONCERN THAT THE
42 DRUG OR DEVICE WILL CAUSE PROBLEMS DUE TO THERAPEUTIC DUPLICATIONS,
43 CONTRAINDICATIONS, DRUG INTERACTIONS, INCORRECT DOSAGE OR DURATION OF DRUG
44 TREATMENT OR ABUSE OR MISUSE.

1 E. A PHARMACY MUST TREAT EACH CUSTOMER WITH RESPECT AND DIGNITY, MAKE
2 GOOD FAITH EFFORTS NOT TO EMBARRASS OR Demean THE CUSTOMER AND ATTEMPT TO
3 ENSURE A SEAMLESS DELIVERY OF PRESCRIPTION SERVICES, REGARDLESS OF WHETHER
4 THE PHARMACY HAS MADE AN ACCOMMODATION FOR AN EMPLOYEE PURSUANT TO
5 SUBSECTION B OF THIS SECTION.

6 F. A PHARMACY THAT VIOLATES THIS SECTION COMMITS AN ACT OF
7 UNPROFESSIONAL CONDUCT AND IS SUBJECT TO DISCIPLINARY ACTION PURSUANT TO THIS
8 CHAPTER.

9 G. THE BOARD SHALL INITIATE AN INVESTIGATION OF ANY ALLEGATION OF A
10 VIOLATION OF THIS SECTION WITHIN SEVEN DAYS AFTER RECEIVING A COMPLAINT.

11 H. FOR THE PURPOSES OF THIS SECTION, "EMPLOYEE" INCLUDES A CURRENT
12 EMPLOYEE AND AN APPLICANT FOR EMPLOYMENT.

13 Sec. 2. Title 32, chapter 32, article 1, Arizona Revised Statutes, is
14 amended by adding section 32-3217, to read:

15 32-3217. Rape victims; emergency contraception; referral;
16 definitions

17 A. A HEALTH PROFESSIONAL WHO PROVIDES CARE TO A FEMALE PATIENT OF
18 REPRODUCTIVE AGE WHO STATES THAT SHE IS THE VICTIM OF RAPE AT A MINIMUM MUST:

19 1. PROVIDE THE PATIENT WITH MEDICAL INFORMATION ABOUT EMERGENCY
20 CONTRACEPTION.

21 2. VERBALLY INFORM THE PATIENT THAT THE HEALTH PROFESSIONAL WILL
22 PROVIDE OR PRESCRIBE EMERGENCY CONTRACEPTION AT THE PATIENT'S REQUEST.

23 3. PROVIDE OR PRESCRIBE EMERGENCY CONTRACEPTION AT THE PATIENT'S
24 REQUEST. IF THE HEALTH PROFESSIONAL PROVIDES AN EMERGENCY CONTRACEPTION
25 DRUG, THE HEALTH PROFESSIONAL MUST PROVIDE THE PATIENT WITH AN INITIAL DOSE
26 AND ANY FOLLOW-UP DOSES THAT THE PATIENT CAN SELF-ADMINISTER OR PRESCRIBE THE
27 ENTIRE COURSE OF TREATMENT.

28 B. A HEALTH PROFESSIONAL MAY SATISFY THE REQUIREMENTS OF THIS SECTION
29 BY REFERRING THE PATIENT TO ANOTHER PROVIDER FOR FORENSIC MEDICAL CARE AND
30 EMERGENCY CONTRACEPTION.

31 C. A HEALTH PROFESSIONAL WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF
32 CONTRACEPTIVE METHODS MAY SATISFY THE REQUIREMENTS OF THIS SECTION BY
33 IMMEDIATELY REFERRING THE PATIENT TO ANOTHER HEALTH PROFESSIONAL WHO IS
34 IMMEDIATELY AVAILABLE AND WHO WILL COMPLY WITH THE REQUIREMENTS OF THIS
35 SECTION.

36 D. FOR THE PURPOSES OF THIS SECTION:

37 1. "CARE" MEANS MEDICAL EXAMINATIONS, PROCEDURES AND SERVICES PROVIDED
38 TO A PATIENT WITHIN SEVENTY-TWO HOURS AFTER A RAPE.

39 2. "EMERGENCY CONTRACEPTION" MEANS A DRUG OR DEVICE THAT PREVENTS
40 PREGNANCY AFTER SEXUAL INTERCOURSE.

41 3. "HEALTH PROFESSIONAL" MEANS A PERSON WHO IS LICENSED TO PRESCRIBE
42 MEDICATION PURSUANT TO CHAPTER 13, 15, 17, 25 OR 29 OF THIS TITLE.

43 4. "NONCONSENSUAL" MEANS:

44 (a) THE PATIENT WAS COERCED BY THE IMMEDIATE USE OR THREATENED USE OF
45 FORCE AGAINST THE PATIENT.

1 (b) THE PATIENT WAS INCAPABLE OF CONSENT BY REASON OF MENTAL DISORDER,
2 MENTAL DEFECT, DRUGS, ALCOHOL, SLEEP OR ANY OTHER SIMILAR IMPAIRMENT OF
3 COGNITION AND THE CONDITION IS KNOWN OR SHOULD REASONABLY HAVE BEEN KNOWN TO
4 THE PERPETRATOR OF THE RAPE. FOR THE PURPOSES OF THIS SUBDIVISION, "MENTAL
5 DEFECT" MEANS THE PATIENT IS UNABLE TO COMPREHEND THE DISTINCTLY SEXUAL
6 NATURE OF THE CONDUCT OR IS INCAPABLE OF UNDERSTANDING OR EXERCISING THE
7 RIGHT TO REFUSE TO ENGAGE IN THE CONDUCT WITH ANOTHER.

8 5. "RAPE" MEANS NONCONSENSUAL SEXUAL INTERCOURSE INVOLVING PENETRATION
9 OF THE VULVA.

10 Sec. 3. Section 36-132, Arizona Revised Statutes, is amended to read:

11 36-132. Department of health services; functions; contracts

12 A. The department ~~shall~~, in addition to other powers and duties vested
13 in it by law, **SHALL**:

14 1. Protect the health of the people of the state.

15 2. Promote the development, maintenance, efficiency and effectiveness
16 of local health departments or districts of sufficient population and area
17 that they can be sustained with reasonable economy and efficient
18 administration, provide technical consultation and assistance to local health
19 departments or districts, provide financial assistance to local health
20 departments or districts and services that meet minimum standards of
21 personnel and performance and in accordance with a plan and budget submitted
22 by the local health department or districts to the department for approval,
23 and recommend the qualifications of all personnel.

24 3. Collect, preserve, tabulate and interpret all information required
25 by law in reference to births, deaths and all vital facts, and obtain,
26 collect and preserve information relating to the health of the people of the
27 state and the prevention of diseases as may be useful in the discharge of
28 functions of the department not in conflict with ~~the provisions of~~ chapter 3
29 of this title, and sections 36-693, 36-694 and 39-122.

30 4. Operate such sanitariums, hospitals or other facilities assigned to
31 the department by law or by the governor.

32 5. Conduct a statewide program of health education relevant to the
33 powers and duties of the department, prepare educational materials and
34 disseminate information as to conditions affecting health, including basic
35 information for the promotion of good health on the part of individuals and
36 communities, and prepare and disseminate technical information concerning
37 public health to the health professions, local health officials and
38 hospitals. In cooperation with the department of education, the department
39 of health services shall prepare and disseminate materials and give technical
40 assistance for the purpose of education of children in hygiene, sanitation
41 and personal and public health, and provide consultation and assistance in
42 community organization to counties, communities and groups of people.

43 6. Administer or supervise a program of public health nursing,
44 prescribe the minimum qualifications of all public health nurses engaged in

1 official public health work, and encourage and aid in coordinating local
2 public health nursing services.

3 7. Encourage and aid in coordinating local programs concerning control
4 of preventable diseases in accordance with statewide plans that shall be
5 formulated by the department.

6 8. Encourage and aid in coordinating local programs concerning
7 maternal and child health, including midwifery, antepartum and postpartum
8 care, infant and preschool health and the health of ~~school children~~
9 SCHOOLCHILDREN, including special fields such as the prevention of blindness
10 and conservation of sight and hearing.

11 9. Encourage and aid in the coordination of local programs concerning
12 nutrition of the people of the state.

13 10. Encourage, administer and provide dental health care services and
14 aid in coordinating local programs concerning dental public health, in
15 cooperation with the Arizona dental association. The department may bill and
16 receive payment for costs associated with providing dental health care
17 services and shall deposit the monies in the oral health fund established by
18 section 36-138.

19 11. Establish and maintain adequate serological, bacteriological,
20 parasitological, entomological and chemical laboratories with qualified
21 assistants and facilities necessary for routine examinations and analyses and
22 for investigations and research in matters affecting public health.

23 12. Supervise, inspect and enforce the rules concerning the operation
24 of public bathing places and public and semipublic swimming pools adopted
25 pursuant to section 36-136, subsection H, paragraph 10.

26 13. Take all actions necessary or appropriate to ensure that bottled
27 water sold to the public and water used to process, store, handle, serve and
28 transport food and drink are free from filth, disease-causing substances and
29 organisms and unwholesome, poisonous, deleterious or other foreign
30 substances. All state agencies and local health agencies involved with water
31 quality shall provide to the department any assistance requested by the
32 director to ensure that this paragraph is effectuated.

33 14. Enforce the state food, caustic alkali and acid laws in accordance
34 with chapter 2, article 2 of this title, chapter 8, article 1 of this title
35 and chapter 9, article 4 of this title, and collaborate in the enforcement of
36 the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United
37 States Code sections 1 through 905).

38 15. Recruit and train personnel for state, local and district health
39 departments.

40 16. Conduct continuing evaluations of state, local and district public
41 health programs, study and appraise state health problems and develop broad
42 plans for use by the department and for recommendation to other agencies,
43 professions and local health departments for the best solution of these
44 problems.

1 17. License and regulate health care institutions according to chapter
2 4 of this title.

3 18. Issue or direct the issuance of licenses and permits required by
4 law.

5 19. Participate in the state civil defense program and develop the
6 necessary organization and facilities to meet wartime or other disasters.

7 20. Subject to the availability of monies, develop and administer
8 programs in perinatal health care, including:

9 (a) Screening in early pregnancy for detecting high risk conditions.

10 (b) Comprehensive prenatal health care.

11 (c) Maternity, delivery and postpartum care.

12 (d) Perinatal consultation, including transportation of the pregnant
13 woman to a perinatal care center when medically indicated.

14 (e) Perinatal education oriented toward professionals and consumers,
15 focusing on early detection and adequate intervention to avert premature
16 labor and delivery.

17 21. License and regulate the health and safety of group homes for the
18 developmentally disabled. The department shall issue a license to an
19 accredited facility for a period of the accreditation, except that no
20 licensing period shall be longer than three years. The department is
21 authorized to conduct an inspection of an accredited facility to ensure that
22 the facility meets health and safety licensure standards. The results of the
23 accreditation survey shall be public information. A copy of the final
24 accreditation report shall be filed with the department of health services.
25 For the purposes of this paragraph, "accredited" means accredited by a
26 nationally recognized accreditation organization.

27 22. SUBJECT TO THE AVAILABILITY OF MONIES, INCLUDING FEDERAL MONIES
28 THAT ARE AVAILABLE FOR TEENAGER PREGNANCY PREVENTION PROGRAMS, ADMINISTER OR
29 SUPERVISE A PROGRAM TO REDUCE THE RISKS OF UNINTENDED PREGNANCY BY IMPROVING
30 AWARENESS OF EMERGENCY CONTRACEPTION. THE PROGRAM MUST PROVIDE INFORMATION
31 ON THE DEPARTMENT'S WEBSITE AND SOCIAL NETWORKING SITES ABOUT THE PURPOSE,
32 RISKS AND AVAILABILITY OF EMERGENCY CONTRACEPTION.

33 B. The department may accept from the state or federal government, or
34 any agency of the state or federal government, and from private donors,
35 trusts, foundations or eleemosynary corporations or organizations grants or
36 donations for or in aid of the construction or maintenance of any program,
37 project, research or facility authorized by this title, or in aid of the
38 extension or enforcement of any program, project or facility authorized,
39 regulated or prohibited by this title, and enter into contracts with the
40 federal government, or an agency of the federal government, and with private
41 donors, trusts, foundations or eleemosynary corporations or organizations, to
42 carry out such purposes. All monies made available under this section are
43 special project grants. The department may also expend these monies to
44 further applicable scientific research within this state.

1 C. The department, in establishing fees authorized by this section,
2 shall comply with title 41, chapter 6. The department shall not set a fee at
3 more than the department's cost of providing the service for which the fee is
4 charged. State agencies are exempt from all fees imposed pursuant to this
5 section.

6 D. The department may enter into contracts with organizations that
7 perform nonrenal organ transplant operations and organizations that primarily
8 assist in the management of end stage renal disease and related problems to
9 provide, as payors of last resort, prescription medications necessary to
10 supplement treatment and transportation to and from treatment facilities.
11 The contracts may provide for department payment of administrative costs it
12 specifically authorizes.