

REFERENCE TITLE: emergency contraception

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2552

Introduced by
Representatives Steele, Benally, Cardenas, Sherwood, Velasquez, Wheeler,
Senators Bradley, Farley, Hobbs, Quezada: Representatives Andrade,
Bolding, Clark, Espinoza, Friese, Gabaldón, Gonzales, Hale, Mendez, Meyer,
Otondo, Rios, Saldate

AN ACT

AMENDING TITLE 32, CHAPTER 18, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1979; AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3219; 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 32-1979, to read:

4 32-1979. 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 SHALL REQUIRE ITS EMPLOYEES TO NOTIFY IT IN
11 WRITING OF ALL CATEGORIES OR TYPES OF PRESCRIPTION DRUGS AND DEVICES THAT THE
12 EMPLOYEE WOULD DECLINE TO FILL BECAUSE OF THE EMPLOYEE'S SINCERELY HELD
13 RELIGIOUS BELIEFS. ON RECEIVING THIS NOTIFICATION, THE PHARMACY SHALL
14 ATTEMPT TO ACCOMMODATE THE EMPLOYEE IF THE ACCOMMODATION CAN BE MADE WITHOUT
15 CAUSING UNDUE HARDSHIP TO THE PHARMACY OR ITS CUSTOMERS. IN DETERMINING
16 WHETHER A PROPOSED ACCOMMODATION WOULD CAUSE AN UNDUE HARDSHIP, THE PHARMACY
17 MAY CONSIDER:

18 1. WHETHER THE PROPOSED ACCOMMODATION WOULD DELAY THE FILLING OF
19 PRESCRIPTION ORDERS AND RESULT IN THE PHARMACY BEING UNABLE 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 THE 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 SHALL OFFER THE CUSTOMER EACH OF THE FOLLOWING OPTIONS
29 AND 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 SHALL 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 SHALL 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 32-3219, to read:

15 32-3219. 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
19 SHALL:

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

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

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

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

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

37 D. FOR THE PURPOSES OF THIS SECTION:

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

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

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

44 4. "NONCONSENSUAL" MEANS:

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

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

10 5. "RAPE" MEANS NONCONSENSUAL SEXUAL INTERCOURSE INVOLVING PENETRATION
11 OF THE VULVA.

12 Sec. 3. Section 36-132, Arizona Revised Statutes, is amended to read:
13 36-132. Department of health services; functions; contracts

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

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

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

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

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

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

1 6. Administer or supervise a program of public health nursing,
2 prescribe the minimum qualifications of all public health nurses engaged in
3 official public health work, and encourage and aid in coordinating local
4 public health nursing services.

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

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

13 9. Encourage and aid in the coordination of local programs concerning
14 nutrition of the people of the state.

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

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

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

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

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

40 15. Recruit and train personnel for state, local and district health
41 departments.

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

1 professions and local health departments for the best solution of these
2 problems.

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

5 18. Issue or direct the issuance of licenses and permits required by
6 law.

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

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

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

12 (b) Comprehensive prenatal health care.

13 (c) Maternity, delivery and postpartum care.

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

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

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

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

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

1 special project grants. The department may also expend these monies to
2 further applicable scientific research within this state.

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

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