

REFERENCE TITLE: **abortion; religious employers; contraception; repeal**

State of Arizona  
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2015

## **SB 1431**

Introduced by

Senators Hobbs, Dalessandro, Farley; Representatives Cardenas, Meyer,  
Steele, Velasquez, Wheeler: Fernandez, Gabaldón, Gonzales, Otondo, Rios

### **AN ACT**

REPEALING SECTION 13-3603.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 20-826, 20-1057.08, 20-1402, 20-1404 AND 20-2329, ARIZONA REVISED STATUTES; 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 35-196.02, ARIZONA REVISED STATUTES; REPEALING SECTION 35-196.05, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-132, 36-449.01, 36-449.02, 36-449.03, 36-2151, 36-2152 AND 36-2153, ARIZONA REVISED STATUTES; REPEALING SECTIONS 36-2156, 36-2157, 36-2158 AND 36-2159, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-2161 AND 36-2163, ARIZONA REVISED STATUTES; REPEALING SECTION 36-3604, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1088, ARIZONA REVISED STATUTES; REPEALING LAWS 2011, CHAPTER 9, SECTIONS 3, 4, 5 AND 6, LAWS 2011, CHAPTER 10, SECTIONS 7, 8 AND 9, LAWS 2011, CHAPTER 55, SECTION 3, LAWS 2012, CHAPTER 250, SECTIONS 9, 10, 11 AND 12, LAWS 2012, CHAPTER 288, SECTIONS 2 AND 3, LAWS 2012, CHAPTER 337, SECTION 6 AND LAWS 2014, CHAPTER 33, SECTION 5; RELATING TO ABORTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 13-3603.02, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 20-826, Arizona Revised Statutes, is amended to read:

5 20-826. Subscription contracts: definitions

6 A. A contract between a corporation and its subscribers shall not be  
7 issued unless the form of such contract is approved in writing by the  
8 director.

9 B. Each contract shall plainly state the services to which the  
10 subscriber is entitled and those to which the subscriber is not entitled  
11 under the plan, and shall constitute a direct obligation of the providers of  
12 services with which the corporation has contracted for hospital, medical,  
13 dental or optometric services.

14 C. Each contract, except for dental services or optometric services,  
15 shall be so written that the corporation shall pay benefits for each of the  
16 following:

17 1. Performance of any surgical service that is covered by the terms of  
18 such contract, regardless of the place of service.

19 2. Any home health services that are performed by a licensed home  
20 health agency and that a physician has prescribed in lieu of hospital  
21 services, as defined by the director, providing the hospital services would  
22 have been covered.

23 3. Any diagnostic service that a physician has performed outside a  
24 hospital in lieu of inpatient service, providing the inpatient service would  
25 have been covered.

26 4. Any service performed in a hospital's outpatient department or in a  
27 freestanding surgical facility, if such service would have been covered if  
28 performed as an inpatient service.

29 D. Each contract for dental or optometric services shall be so written  
30 that the corporation shall pay benefits for contracted dental or optometric  
31 services provided by dentists or optometrists.

32 E. Any contract, except accidental death and dismemberment, applied  
33 for that provides family coverage, as to such coverage of family members,  
34 shall also provide that the benefits applicable for children shall be payable  
35 with respect to a newly born child of the insured from the instant of such  
36 child's birth, to a child adopted by the insured, regardless of the age at  
37 which the child was adopted, and to a child who has been placed for adoption  
38 with the insured and for whom the application and approval procedures for  
39 adoption pursuant to section 8-105 or 8-108 have been completed to the same  
40 extent that such coverage applies to other members of the family. The  
41 coverage for newly born or adopted children or children placed for adoption  
42 shall include coverage of injury or sickness, including necessary care and  
43 treatment of medically diagnosed congenital defects and birth abnormalities.  
44 If payment of a specific premium is required to provide coverage for a child,  
45 the contract may require that notification of birth, adoption or adoption

1 placement of the child and payment of the required premium must be furnished  
2 to the insurer within thirty-one days after the date of birth, adoption or  
3 adoption placement in order to have the coverage continue beyond the  
4 thirty-one day period.

5 F. Each contract that is delivered or issued for delivery in this  
6 state after December 25, 1977 and that provides that coverage of a dependent  
7 child shall terminate on attainment of the limiting age for dependent  
8 children specified in the contract shall also provide in substance that  
9 attainment of such limiting age shall not operate to terminate the coverage  
10 of such child while the child is and continues to be both incapable of  
11 self-sustaining employment by reason of intellectual disability or physical  
12 disability and chiefly dependent on the subscriber for support and  
13 maintenance. Proof of such incapacity and dependency shall be furnished to  
14 the corporation by the subscriber within thirty-one days of the child's  
15 attainment of the limiting age and subsequently as may be required by the  
16 corporation, but not more frequently than annually after the two-year period  
17 following the child's attainment of the limiting age.

18 G. No corporation may cancel or refuse to renew any subscriber's  
19 contract without giving notice of such cancellation or nonrenewal to the  
20 subscriber under such contract. A notice by the corporation to the  
21 subscriber of cancellation or nonrenewal of a subscription contract shall be  
22 mailed to the named subscriber at least forty-five days before the effective  
23 date of such cancellation or nonrenewal. The notice shall include or be  
24 accompanied by a statement in writing of the reasons for such action by the  
25 corporation. Failure of the corporation to comply with this subsection shall  
26 invalidate any cancellation or nonrenewal except a cancellation or nonrenewal  
27 for nonpayment of premium.

28 H. A contract that provides coverage for surgical services for a  
29 mastectomy shall also provide coverage incidental to the patient's covered  
30 mastectomy for surgical services for reconstruction of the breast on which  
31 the mastectomy was performed, surgery and reconstruction of the other breast  
32 to produce a symmetrical appearance, prostheses, treatment of physical  
33 complications for all stages of the mastectomy, including lymphedemas, and at  
34 least two external postoperative prostheses subject to all of the terms and  
35 conditions of the policy.

36 I. A contract that provides coverage for surgical services for a  
37 mastectomy shall also provide coverage for mammography screening performed on  
38 dedicated equipment for diagnostic purposes on referral by a patient's  
39 physician, subject to all of the terms and conditions of the policy and  
40 according to the following guidelines:

41 1. A baseline mammogram for a woman from age thirty-five to  
42 thirty-nine.

43 2. A mammogram for a woman from age forty to forty-nine every two  
44 years or more frequently based on the recommendation of the woman's  
45 physician.

1           3. A mammogram every year for a woman fifty years of age and over.  
2           J. Any contract that is issued to the insured and that provides  
3 coverage for maternity benefits shall also provide that the maternity  
4 benefits apply to the costs of the birth of any child legally adopted by the  
5 insured if all of the following are true:  
6           1. The child is adopted within one year of birth.  
7           2. The insured is legally obligated to pay the costs of birth.  
8           3. All preexisting conditions and other limitations have been met by  
9 the insured.  
10          4. The insured has notified the insurer of the insured's acceptability  
11 to adopt children pursuant to section 8-105, within sixty days after such  
12 approval or within sixty days after a change in insurance policies, plans or  
13 companies.  
14          K. The coverage prescribed by subsection J of this section is excess  
15 to any other coverage the natural mother may have for maternity benefits  
16 except coverage made available to persons pursuant to title 36, chapter 29  
17 but not including coverage made available to persons defined as eligible  
18 under section 36-2901, paragraph 6, subdivisions (b), (c), (d) and (e). If  
19 such other coverage exists, the agency, attorney or individual arranging the  
20 adoption shall make arrangements for the insurance to pay those costs that  
21 may be covered under that policy and shall advise the adopting parent in  
22 writing of the existence and extent of the coverage without disclosing any  
23 confidential information such as the identity of the natural parent. The  
24 insured adopting parents shall notify their insurer of the existence and  
25 extent of the other coverage.  
26          L. The director may disapprove any contract if the benefits provided  
27 in the form of such contract are unreasonable in relation to the premium  
28 charged.  
29          M. The director shall adopt emergency rules applicable to persons who  
30 are leaving active service in the armed forces of the United States and  
31 returning to civilian status including:  
32          1. Conditions of eligibility.  
33          2. Coverage of dependents.  
34          3. Preexisting conditions.  
35          4. Termination of insurance.  
36          5. Probationary periods.  
37          6. Limitations.  
38          7. Exceptions.  
39          8. Reductions.  
40          9. Elimination periods.  
41          10. Requirements for replacement.  
42          11. Any other condition of subscription contracts.  
43          N. Any contract that provides maternity benefits shall not restrict  
44 benefits for any hospital length of stay in connection with childbirth for  
45 the mother or the newborn child to less than forty-eight hours following a

normal vaginal delivery or ninety-six hours following a cesarean section. The contract shall not require the provider to obtain authorization from the corporation for prescribing the minimum length of stay required by this subsection. The contract may provide that an attending provider in consultation with the mother may discharge the mother or the newborn child before the expiration of the minimum length of stay required by this subsection. The corporation shall not:

1. Deny the mother or the newborn child eligibility or continued eligibility to enroll or to renew coverage under the terms of the contract solely for the purpose of avoiding the requirements of this subsection.

2. Provide monetary payments or rebates to mothers to encourage those mothers to accept less than the minimum protections available pursuant to this subsection.

3. Penalize or otherwise reduce or limit the reimbursement of an attending provider because that provider provided care to any insured under the contract in accordance with this subsection.

4. Provide monetary or other incentives to an attending provider to induce that provider to provide care to an insured under the contract in a manner that is inconsistent with this subsection.

5. Except as described in subsection O of this section, restrict benefits for any portion of a period within the minimum length of stay in a manner that is less favorable than the benefits provided for any preceding portion of that stay.

O. Nothing in subsection N of this section:

1. Requires a mother to give birth in a hospital or to stay in the hospital for a fixed period of time following the birth of the child.

2. Prevents a corporation from imposing deductibles, coinsurance or other cost sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or a newborn child under the contract, except that any coinsurance or other cost sharing for any portion of a period within a hospital length of stay required pursuant to subsection N of this section shall not be greater than the coinsurance or cost sharing for any preceding portion of that stay.

3. Prevents a corporation from negotiating the level and type of reimbursement with a provider for care provided in accordance with subsection N of this section.

P. Any contract that provides coverage for diabetes shall also provide coverage for equipment and supplies that are medically necessary and that are prescribed by a health care provider, including:

1. Blood glucose monitors.

2. Blood glucose monitors for the legally blind.

3. Test strips for glucose monitors and visual reading and urine testing strips.

4. Insulin preparations and glucagon.

5. Insulin cartridges.

- 1           6. Drawing up devices and monitors for the visually impaired.
- 2           7. Injection aids.
- 3           8. Insulin cartridges for the legally blind.
- 4           9. Syringes and lancets, including automatic lancing devices.
- 5           10. Prescribed oral agents for controlling blood sugar that are
- 6 included on the plan formulary.
- 7           11. To the extent coverage is required under medicare, podiatric
- 8 appliances for prevention of complications associated with diabetes.
- 9           12. Any other device, medication, equipment or supply for which
- 10 coverage is required under medicare from and after January 1, 1999. The
- 11 coverage required in this paragraph is effective six months after the
- 12 coverage is required under medicare.
- 13           Q. Nothing in subsection P of this section prohibits a medical service
- 14 corporation, a hospital service corporation or a hospital, medical, dental
- 15 and optometric service corporation from imposing deductibles, coinsurance or
- 16 other cost sharing in relation to benefits for equipment or supplies for the
- 17 treatment of diabetes.
- 18           R. Any hospital or medical service contract that provides coverage for
- 19 prescription drugs shall not limit or exclude coverage for any prescription
- 20 drug prescribed for the treatment of cancer on the basis that the
- 21 prescription drug has not been approved by the United States food and drug
- 22 administration for the treatment of the specific type of cancer for which the
- 23 prescription drug has been prescribed, if the prescription drug has been
- 24 recognized as safe and effective for treatment of that specific type of
- 25 cancer in one or more of the standard medical reference compendia prescribed
- 26 in subsection S of this section or medical literature that meets the criteria
- 27 prescribed in subsection S of this section. The coverage required under this
- 28 subsection includes covered medically necessary services associated with the
- 29 administration of the prescription drug. This subsection does not:
- 30           1. Require coverage of any prescription drug used in the treatment of
- 31 a type of cancer if the United States food and drug administration has
- 32 determined that the prescription drug is contraindicated for that type of
- 33 cancer.
- 34           2. Require coverage for any experimental prescription drug that is not
- 35 approved for any indication by the United States food and drug
- 36 administration.
- 37           3. Alter any law with regard to provisions that limit the coverage of
- 38 prescription drugs that have not been approved by the United States food and
- 39 drug administration.
- 40           4. Notwithstanding section 20-841.05, require reimbursement or
- 41 coverage for any prescription drug that is not included in the drug formulary
- 42 or list of covered prescription drugs specified in the contract.
- 43           5. Notwithstanding section 20-841.05, prohibit a contract from
- 44 limiting or excluding coverage of a prescription drug, if the decision to

limit or exclude coverage of the prescription drug is not based primarily on the coverage of prescription drugs required by this section.

6. Prohibit the use of deductibles, coinsurance, copayments or other cost sharing in relation to drug benefits and related medical benefits offered.

S. For the purposes of subsection R of this section:

1. The acceptable standard medical reference compendia are the following:

(a) The American hospital formulary service drug information, a publication of the American society of health system pharmacists.

(b) The national comprehensive cancer network drugs and biologics compendium.

(c) Thomson Micromedex compendium DrugDex.

(d) Elsevier gold standard's clinical pharmacology compendium.

(e) Other authoritative compendia as identified by the secretary of the United States department of health and human services.

2. Medical literature may be accepted if all of the following apply:

(a) At least two articles from major peer reviewed professional medical journals have recognized, based on scientific or medical criteria, the drug's safety and effectiveness for treatment of the indication for which the drug has been prescribed.

(b) No article from a major peer reviewed professional medical journal has concluded, based on scientific or medical criteria, that the drug is unsafe or ineffective or that the drug's safety and effectiveness cannot be determined for the treatment of the indication for which the drug has been prescribed.

(c) The literature meets the uniform requirements for manuscripts submitted to biomedical journals established by the international committee of medical journal editors or is published in a journal specified by the United States department of health and human services as acceptable peer reviewed medical literature pursuant to section 186(t)(2)(B) of the social security act (42 United States Code section 1395x(t)(2)(B)).

T. A corporation shall not issue or deliver any advertising matter or sales material to any person in this state until the corporation files the advertising matter or sales material with the director. This subsection does not require a corporation to have the prior approval of the director to issue or deliver the advertising matter or sales material. If the director finds that the advertising matter or sales material, in whole or in part, is false, deceptive or misleading, the director may issue an order disapproving the advertising matter or sales material, directing the corporation to cease and desist from issuing, circulating, displaying or using the advertising matter or sales material within a period of time specified by the director but not less than ten days and imposing any penalties prescribed in this title. At least five days before issuing an order pursuant to this subsection, the director shall provide the corporation with a written notice of the basis of

1 the order to provide the corporation with an opportunity to cure the alleged  
2 deficiency in the advertising matter or sales material within a single five  
3 day period for the particular advertising matter or sales material at issue.  
4 The corporation may appeal the director's order pursuant to title 41,  
5 chapter 6, article 10. Except as otherwise provided in this subsection, a  
6 corporation may obtain a stay of the effectiveness of the order as prescribed  
7 in section 20-162. If the director certifies in the order and provides a  
8 detailed explanation of the reasons in support of the certification that  
9 continued use of the advertising matter or sales material poses a threat to  
10 the health, safety or welfare of the public, the order may be entered  
11 immediately without opportunity for cure and the effectiveness of the order  
12 is not stayed pending the hearing on the notice of appeal but the hearing  
13 shall be promptly instituted and determined.

14 U. Any contract that is offered by a hospital service corporation or  
15 medical service corporation and that contains a prescription drug benefit  
16 shall provide coverage of medical foods to treat inherited metabolic  
17 disorders as provided by this section.

18 V. The metabolic disorders triggering medical foods coverage under  
19 this section shall:

20 1. Be part of the newborn screening program prescribed in section  
21 36-694.

22 2. Involve amino acid, carbohydrate or fat metabolism.

23 3. Have medically standard methods of diagnosis, treatment and  
24 monitoring, including quantification of metabolites in blood, urine or spinal  
25 fluid or enzyme or DNA confirmation in tissues.

26 4. Require specially processed or treated medical foods that are  
27 generally available only under the supervision and direction of a physician  
28 who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse  
29 practitioner who is licensed pursuant to title 32, chapter 15, that must be  
30 consumed throughout life and without which the person may suffer serious  
31 mental or physical impairment.

32 W. Medical foods eligible for coverage under this section shall be  
33 prescribed or ordered under the supervision of a physician licensed pursuant  
34 to title 32, chapter 13 or 17 as medically necessary for the therapeutic  
35 treatment of an inherited metabolic disease.

36 X. A hospital service corporation or medical service corporation shall  
37 cover at least fifty ~~per-cent~~ PERCENT of the cost of medical foods prescribed  
38 to treat inherited metabolic disorders and covered pursuant to this section.  
39 A hospital service corporation or medical service corporation may limit the  
40 maximum annual benefit for medical foods under this section to five thousand  
41 dollars, which applies to the cost of all prescribed modified low protein  
42 foods and metabolic formula.

43 Y. Any contract between a corporation and its subscribers is subject  
44 to the following:



1           1. If the contract provides coverage for prescription drugs, the  
2 contract shall provide coverage for any prescribed drug or device that is  
3 approved by the United States food and drug administration for use as a  
4 contraceptive. A corporation may use a drug formulary, multitiered drug  
5 formulary or list but that formulary or list shall include oral, implant and  
6 injectable contraceptive drugs, intrauterine devices and prescription barrier  
7 methods if the corporation does not impose deductibles, coinsurance,  
8 copayments or other cost containment measures for contraceptive drugs that  
9 are greater than the deductibles, coinsurance, copayments or other cost  
10 containment measures for other drugs on the same level of the formulary or  
11 list.

12           2. If the contract provides coverage for outpatient health care  
13 services, the contract shall provide coverage for outpatient contraceptive  
14 services. For the purposes of this paragraph, "outpatient contraceptive  
15 services" means consultations, examinations, procedures and medical services  
16 provided on an outpatient basis and related to the use of approved United  
17 States food and drug administration prescription contraceptive methods to  
18 prevent unintended pregnancies.

19           3. This subsection does not apply to contracts issued to individuals  
20 on a nongroup basis.

21           ~~Z. Notwithstanding subsection Y of this section, a religiously~~  
22 ~~affiliated employer may require that the corporation provide a contract~~  
23 ~~without coverage for specific items or services required under subsection Y~~  
24 ~~of this section because providing or paying for coverage of the specific~~  
25 ~~items or services is contrary to the religious beliefs of the religiously~~  
26 ~~affiliated employer offering the plan. If a religiously affiliated employer~~  
27 ~~objects to providing coverage for specific items or services required under~~  
28 ~~subsection Y of this section, a written affidavit shall be filed with the~~  
29 ~~corporation stating the objection. On receipt of the affidavit, the~~  
30 ~~corporation shall issue to the religiously affiliated employer a contract~~  
31 ~~that excludes coverage for specific items or services required under~~  
32 ~~subsection Y of this section. The corporation shall retain the affidavit for~~  
33 ~~the duration of the contract and any renewals of the contract. This~~  
34 ~~subsection shall not exclude coverage for prescription contraceptive methods~~  
35 ~~ordered by a health care provider with prescriptive authority for medical~~  
36 ~~indications other than for contraceptive, abortifacient, abortion or~~  
37 ~~sterilization purposes. A religiously affiliated employer offering the plan~~  
38 ~~may state religious beliefs in its affidavit and may require the subscriber~~  
39 ~~to first pay for the prescription and then submit a claim to the hospital~~  
40 ~~service corporation, medical service corporation or hospital, medical, dental~~  
41 ~~and optometric service corporation along with evidence that the prescription~~  
42 ~~is not for a purpose covered by the objection. A hospital service~~  
43 ~~corporation, medical service corporation or hospital, medical, dental and~~  
44 ~~optometric service corporation may charge an administrative fee for handling~~  
45 ~~these claims.~~

~~AA. Subsection Z of this section does not authorize a religiously affiliated employer to obtain an employee's protected health information or to violate the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 1936) or any federal regulations adopted pursuant to that act.~~

~~BB. Subsection Z of this section shall not be construed to restrict or limit any protections against employment discrimination that are prescribed in federal or state law.~~

Z. NOTWITHSTANDING SUBSECTION Y OF THIS SECTION, A RELIGIOUS EMPLOYER WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF PRESCRIBED CONTRACEPTIVE METHODS MAY REQUIRE THAT THE CORPORATION PROVIDE A CONTRACT WITHOUT COVERAGE FOR ALL UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED CONTRACEPTIVE METHODS. A RELIGIOUS EMPLOYER SHALL SUBMIT A WRITTEN AFFIDAVIT TO THE CORPORATION STATING THAT IT IS A RELIGIOUS EMPLOYER. ON RECEIPT OF THE AFFIDAVIT, THE CORPORATION SHALL ISSUE TO THE RELIGIOUS EMPLOYER A CONTRACT THAT EXCLUDES COVERAGE OF PRESCRIPTION CONTRACEPTIVE METHODS. THE CORPORATION SHALL RETAIN THE AFFIDAVIT FOR THE DURATION OF THE CONTRACT AND ANY RENEWALS OF THE CONTRACT. BEFORE ENROLLMENT IN THE PLAN, EVERY RELIGIOUS EMPLOYER THAT INVOKES THIS EXEMPTION SHALL PROVIDE PROSPECTIVE SUBSCRIBERS WRITTEN NOTICE THAT THE RELIGIOUS EMPLOYER REFUSES TO COVER ALL UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED CONTRACEPTIVE METHODS FOR RELIGIOUS REASONS. THIS SUBSECTION MAY NOT EXCLUDE COVERAGE FOR PRESCRIPTION CONTRACEPTIVE METHODS ORDERED BY A HEALTH CARE PROVIDER WITH PRESCRIPTIVE AUTHORITY FOR MEDICAL INDICATIONS OTHER THAN TO PREVENT AN UNINTENDED PREGNANCY. A CORPORATION MAY REQUIRE THE SUBSCRIBER TO FIRST PAY FOR THE PRESCRIPTION AND THEN SUBMIT A CLAIM TO THE CORPORATION ALONG WITH EVIDENCE THAT THE PRESCRIPTION IS FOR A NONCONTRACEPTIVE PURPOSE. A CORPORATION MAY CHARGE AN ADMINISTRATIVE FEE FOR HANDLING THESE CLAIMS. A RELIGIOUS EMPLOYER MAY NOT DISCRIMINATE AGAINST AN EMPLOYEE WHO INDEPENDENTLY CHOOSES TO OBTAIN INSURANCE COVERAGE OR PRESCRIPTIONS FOR CONTRACEPTIVES FROM ANOTHER SOURCE.

~~CC.~~ AA. For the purposes of:

1. This section:

(a) "Inherited metabolic disorder" means a disease caused by an inherited abnormality of body chemistry and includes a disease tested under the newborn screening program prescribed in section 36-694.

(b) "Medical foods" means modified low protein foods and metabolic formula.

(c) "Metabolic formula" means foods that are all of the following:

(i) Formulated to be consumed or administered enterally under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.

(ii) Processed or formulated to be deficient in one or more of the nutrients present in typical foodstuffs.

(iii) Administered for the medical and nutritional management of a person who has limited capacity to metabolize foodstuffs or certain nutrients

1 contained in the foodstuffs or who has other specific nutrient requirements  
2 as established by medical evaluation.

3 (iv) Essential to a person's optimal growth, health and metabolic  
4 homeostasis.

5 (d) "Modified low protein foods" means foods that are all of the  
6 following:

7 (i) Formulated to be consumed or administered enterally under the  
8 supervision of a physician who is licensed pursuant to title 32, chapter 13  
9 or 17.

10 (ii) Processed or formulated to contain less than one gram of protein  
11 per unit of serving, but does not include a natural food that is naturally  
12 low in protein.

13 (iii) Administered for the medical and nutritional management of a  
14 person who has limited capacity to metabolize foodstuffs or certain nutrients  
15 contained in the foodstuffs or who has other specific nutrient requirements  
16 as established by medical evaluation.

17 (iv) Essential to a person's optimal growth, health and metabolic  
18 homeostasis.

19 2. Subsection E of this section, "child", for purposes of initial  
20 coverage of an adopted child or a child placed for adoption but not for  
21 purposes of termination of coverage of such child, means a person under  
22 eighteen years of age.

23 3. ~~Subsections SUBSECTION Z and AA of this section, "religiously~~  
24 ~~affiliated employer" means either: "RELIGIOUS EMPLOYER" MEANS AN ENTITY FOR~~  
25 ~~WHICH ALL OF THE FOLLOWING APPLY:~~

26 ~~(a) An entity for which all of the following apply:~~

27 ~~(i) (a) The entity primarily employs persons who share the religious~~  
28 ~~tenets of the entity.~~

29 ~~(ii) (b) The entity primarily serves persons who share the religious~~  
30 ~~tenets of the entity.~~

31 ~~(iii) (c) The entity is a nonprofit organization as described in~~  
32 ~~section 6033(a)(3)(A)(i) or (iii) of the internal revenue code of 1986, as~~  
33 ~~amended.~~

34 ~~(b) An entity whose articles of incorporation clearly state that it is~~  
35 ~~a religiously motivated organization and whose religious beliefs are central~~  
36 ~~to the organization's operating principles.~~

37 Sec. 3. Section 20-1057.08, Arizona Revised Statutes, is amended to  
38 read:

39 20-1057.08. Prescription contraceptive drugs and devices;  
40 definition

41 A. If a health care services organization issues evidence of coverage  
42 that provides coverage for:

43 1. Prescription drugs, the evidence of coverage shall provide coverage  
44 for any prescribed drug or device that is approved by the United States food  
45 and drug administration for use as a contraceptive. A health care services

1 organization may use a drug formulary, multitiered drug formulary or list but  
 2 that formulary or list shall include oral, implant and injectable  
 3 contraceptive drugs, intrauterine devices and prescription barrier methods if  
 4 the health care services organization does not impose deductibles,  
 5 coinsurance, copayments or other cost containment measures for contraceptive  
 6 drugs that are greater than the deductibles, coinsurance, copayments or other  
 7 cost containment measures for other drugs on the same level of the formulary  
 8 or list.

9 2. Outpatient health care services, the evidence of coverage shall  
 10 provide coverage for outpatient contraceptive services. For the purposes of  
 11 this paragraph, "outpatient contraceptive services" means consultations,  
 12 examinations, procedures and medical services provided on an outpatient basis  
 13 and related to the use of **APPROVED** United States food and drug **ADMINISTRATION**  
 14 prescription contraceptive methods to prevent unintended pregnancies.

15 B. Notwithstanding subsection A of this section, ~~a religiously~~  
 16 ~~affiliated employer may require that the health care services organization~~  
 17 ~~provide an evidence of coverage without coverage for specific items or~~  
 18 ~~services required under subsection A of this section because providing or~~  
 19 ~~paying for coverage of the specific items or services is contrary to the~~  
 20 ~~religious beliefs of the religiously affiliated employer offering the plan.~~  
 21 ~~If a religiously affiliated employer objects to providing coverage for~~  
 22 ~~specific items or services required under subsection A of this section, a~~  
 23 ~~written affidavit shall be filed with the health care services organization~~  
 24 ~~stating the objection. On receipt of the affidavit, the health care services~~  
 25 ~~organization shall issue to the religiously affiliated employer an evidence~~  
 26 ~~of coverage that excludes coverage for specific items or services required~~  
 27 ~~under subsection A of this section. A RELIGIOUS EMPLOYER WHOSE RELIGIOUS~~  
 28 ~~TENETS PROHIBIT THE USE OF PRESCRIBED CONTRACEPTIVE METHODS MAY REQUIRE THAT~~  
 29 ~~THE HEALTH CARE SERVICES ORGANIZATION PROVIDE COVERAGE THAT EXCLUDES ALL~~  
 30 ~~UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED CONTRACEPTIVE METHODS. A~~  
 31 ~~RELIGIOUS EMPLOYER SHALL SUBMIT A WRITTEN AFFIDAVIT TO THE HEALTH CARE~~  
 32 ~~SERVICES ORGANIZATION STATING THAT IT IS A RELIGIOUS EMPLOYER. ON RECEIPT OF~~  
 33 ~~THE AFFIDAVIT, THE HEALTH CARE SERVICES ORGANIZATION SHALL PROVIDE COVERAGE~~  
 34 ~~TO THE RELIGIOUS EMPLOYER THAT EXCLUDES PRESCRIPTION CONTRACEPTIVE METHODS.~~  
 35 The health care services organization shall retain the affidavit for the  
 36 duration of the coverage and any renewals of the coverage.

37 C. BEFORE ENROLLMENT IN THE HEALTH CARE PLAN, EVERY RELIGIOUS EMPLOYER  
 38 THAT INVOKES THE EXEMPTION PRESCRIBED IN SUBSECTION B OF THIS SECTION SHALL  
 39 PROVIDE PROSPECTIVE ENROLLEES WRITTEN NOTICE THAT THE RELIGIOUS EMPLOYER  
 40 REFUSES TO COVER ALL UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED  
 41 CONTRACEPTIVE METHODS FOR RELIGIOUS REASONS.

42 ~~C.~~ D. Subsection B of this section does not exclude coverage for  
 43 prescription contraceptive methods ordered by a health care provider with  
 44 prescriptive authority for medical indications other than ~~for contraceptive,~~  
 45 ~~abortifacient, abortion or sterilization purposes. A religiously affiliated~~

~~employer offering the plan may state religious beliefs in its affidavit and~~  
**TO PREVENT AN UNINTENDED PREGNANCY. A HEALTH CARE SERVICES ORGANIZATION** may  
 require the enrollee to first pay for the prescription and then submit a  
 claim to the health care services organization along with evidence that the  
 prescription is ~~not for a purpose covered by the objection~~ **FOR A**  
**NONCONTRACEPTIVE PURPOSE.** A health care services organization may charge an  
 administrative fee for handling claims under this subsection.

~~D. Subsections B and C of this section do not authorize a religiously  
 affiliated employer to obtain an employee's protected health information or  
 to violate the health insurance portability and accountability act of 1996  
 (P.L. 104-191; 110 Stat. 1936) or any federal regulations adopted pursuant to  
 that act.~~

~~E. Subsections B and C of this section shall not be construed to  
 restrict or limit any protections against employment discrimination that are  
 prescribed in federal or state law.~~

**E. A RELIGIOUS EMPLOYER MAY NOT DISCRIMINATE AGAINST AN EMPLOYEE WHO  
 INDEPENDENTLY CHOOSES TO OBTAIN INSURANCE COVERAGE OR PRESCRIPTIONS FOR  
 CONTRACEPTIVES FROM ANOTHER SOURCE.**

F. This section does not apply to evidences of coverage issued to  
 individuals on a nongroup basis.

~~G. For the purposes of this section, "religiously affiliated employer"  
 means either:~~

~~1. An entity for which all of the following apply:~~

**G. FOR THE PURPOSES OF THIS SECTION, "RELIGIOUS EMPLOYER" MEANS AN  
 ENTITY FOR WHICH ALL OF THE FOLLOWING APPLY:**

~~(a)~~ 1. The entity primarily employs persons who share the religious  
 tenets of the entity.

~~(b)~~ 2. The entity serves primarily persons who share the religious  
 tenets of the entity.

~~(c)~~ 3. The entity is a nonprofit organization as described in section  
 6033(a)(3)(A)(i) or (iii) of the internal revenue code of 1986, as amended.

~~2. An entity whose articles of incorporation clearly state that it is  
 a religiously motivated organization and whose religious beliefs are central  
 to the organization's operating principles.~~

Sec. 4. Section 20-1402, Arizona Revised Statutes, is amended to read:  
**20-1402. Provisions of group disability policies; definitions**

A. Each group disability policy shall contain in substance the  
 following provisions:

1. A provision that, in the absence of fraud, all statements made by  
 the policyholder or by any insured person shall be deemed representations and  
 not warranties, and that no statement made for the purpose of effecting  
 insurance shall avoid such insurance or reduce benefits unless contained in a  
 written instrument signed by the policyholder or the insured person, a copy  
 of which has been furnished to the policyholder or to the person or  
 beneficiary.

1           2. A provision that the insurer will furnish to the policyholder, for  
2 delivery to each employee or member of the insured group, an individual  
3 certificate setting forth in summary form a statement of the essential  
4 features of the insurance coverage of the employee or member and to whom  
5 benefits are payable. If dependents or family members are included in the  
6 coverage additional certificates need not be issued for delivery to the  
7 dependents or family members. Any policy, except accidental death and  
8 dismemberment, applied for that provides family coverage, as to such coverage  
9 of family members, shall also provide that the benefits applicable for  
10 children shall be payable with respect to a newly born child of the insured  
11 from the instant of such child's birth, to a child adopted by the insured,  
12 regardless of the age at which the child was adopted, and to a child who has  
13 been placed for adoption with the insured and for whom the application and  
14 approval procedures for adoption pursuant to section 8-105 or 8-108 have been  
15 completed to the same extent that such coverage applies to other members of  
16 the family. The coverage for newly born or adopted children or children  
17 placed for adoption shall include coverage of injury or sickness including  
18 the necessary care and treatment of medically diagnosed congenital defects  
19 and birth abnormalities. If payment of a specific premium is required to  
20 provide coverage for a child, the policy may require that notification of  
21 birth, adoption or adoption placement of the child and payment of the  
22 required premium must be furnished to the insurer within thirty-one days  
23 after the date of birth, adoption or adoption placement in order to have the  
24 coverage continue beyond such thirty-one day period.

25           3. A provision that to the group originally insured may be added from  
26 time to time eligible new employees or members or dependents, as the case may  
27 be, in accordance with the terms of the policy.

28           4. Each contract shall be so written that the corporation shall pay  
29 benefits:

30           (a) For performance of any surgical service that is covered by the  
31 terms of such contract, regardless of the place of service.

32           (b) For any home health services that are performed by a licensed home  
33 health agency and that a physician has prescribed in lieu of hospital  
34 services, as defined by the director, providing the hospital services would  
35 have been covered.

36           (c) For any diagnostic service that a physician has performed outside  
37 a hospital in lieu of inpatient service, providing the inpatient service  
38 would have been covered.

39           (d) For any service performed in a hospital's outpatient department or  
40 in a freestanding surgical facility, providing such service would have been  
41 covered if performed as an inpatient service.

42           5. A group disability insurance policy that provides coverage for the  
43 surgical expense of a mastectomy shall also provide coverage incidental to  
44 the patient's covered mastectomy for the expense of reconstructive surgery of  
45 the breast on which the mastectomy was performed, surgery and reconstruction

1 of the other breast to produce a symmetrical appearance, prostheses,  
2 treatment of physical complications for all stages of the mastectomy,  
3 including lymphedemas, and at least two external postoperative prostheses  
4 subject to all of the terms and conditions of the policy.

5 6. A contract, except a supplemental contract covering a specified  
6 disease or other limited benefits, that provides coverage for surgical  
7 services for a mastectomy shall also provide coverage for mammography  
8 screening performed on dedicated equipment for diagnostic purposes on  
9 referral by a patient's physician, subject to all of the terms and conditions  
10 of the policy and according to the following guidelines:

11 (a) A baseline mammogram for a woman from age thirty-five to  
12 thirty-nine.

13 (b) A mammogram for a woman from age forty to forty-nine every two  
14 years or more frequently based on the recommendation of the woman's  
15 physician.

16 (c) A mammogram every year for a woman fifty years of age and over.

17 7. Any contract that is issued to the insured and that provides  
18 coverage for maternity benefits shall also provide that the maternity  
19 benefits apply to the costs of the birth of any child legally adopted by the  
20 insured if all the following are true:

21 (a) The child is adopted within one year of birth.

22 (b) The insured is legally obligated to pay the costs of birth.

23 (c) All preexisting conditions and other limitations have been met by  
24 the insured.

25 (d) The insured has notified the insurer of the insured's  
26 acceptability to adopt children pursuant to section 8-105, within sixty days  
27 after such approval or within sixty days after a change in insurance  
28 policies, plans or companies.

29 8. The coverage prescribed by paragraph 7 of this subsection is excess  
30 to any other coverage the natural mother may have for maternity benefits  
31 except coverage made available to persons pursuant to title 36, chapter 29,  
32 but not including coverage made available to persons defined as eligible  
33 under section 36-2901, paragraph 6, subdivisions (b), (c), (d) and (e). If  
34 such other coverage exists the agency, attorney or individual arranging the  
35 adoption shall make arrangements for the insurance to pay those costs that  
36 may be covered under that policy and shall advise the adopting parent in  
37 writing of the existence and extent of the coverage without disclosing any  
38 confidential information such as the identity of the natural parent. The  
39 insured adopting parents shall notify their insurer of the existence and  
40 extent of the other coverage.

41 B. Any policy that provides maternity benefits shall not restrict  
42 benefits for any hospital length of stay in connection with childbirth for  
43 the mother or the newborn child to less than forty-eight hours following a  
44 normal vaginal delivery or ninety-six hours following a cesarean section.  
45 The policy shall not require the provider to obtain authorization from the

insurer for prescribing the minimum length of stay required by this subsection. The policy may provide that an attending provider in consultation with the mother may discharge the mother or the newborn child before the expiration of the minimum length of stay required by this subsection. The insurer shall not:

1. Deny the mother or the newborn child eligibility or continued eligibility to enroll or to renew coverage under the terms of the policy solely for the purpose of avoiding the requirements of this subsection.

2. Provide monetary payments or rebates to mothers to encourage those mothers to accept less than the minimum protections available pursuant to this subsection.

3. Penalize or otherwise reduce or limit the reimbursement of an attending provider because that provider provided care to any insured under the policy in accordance with this subsection.

4. Provide monetary or other incentives to an attending provider to induce that provider to provide care to an insured under the policy in a manner that is inconsistent with this subsection.

5. Except as described in subsection C of this section, restrict benefits for any portion of a period within the minimum length of stay in a manner that is less favorable than the benefits provided for any preceding portion of that stay.

C. Nothing in subsection B of this section:

1. Requires a mother to give birth in a hospital or to stay in the hospital for a fixed period of time following the birth of the child.

2. Prevents an insurer from imposing deductibles, coinsurance or other cost sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or a newborn child under the policy, except that any coinsurance or other cost sharing for any portion of a period within a hospital length of stay required pursuant to subsection B of this section shall not be greater than the coinsurance or cost sharing for any preceding portion of that stay.

3. Prevents an insurer from negotiating the level and type of reimbursement with a provider for care provided in accordance with subsection B of this section.

D. Any contract that provides coverage for diabetes shall also provide coverage for equipment and supplies that are medically necessary and that are prescribed by a health care provider including:

1. Blood glucose monitors.

2. Blood glucose monitors for the legally blind.

3. Test strips for glucose monitors and visual reading and urine testing strips.

4. Insulin preparations and glucagon.

5. Insulin cartridges.

6. Drawing up devices and monitors for the visually impaired.

7. Injection aids.



1           8. Insulin cartridges for the legally blind.

2           9. Syringes and lancets including automatic lancing devices.

3           10. Prescribed oral agents for controlling blood sugar that are  
4 included on the plan formulary.

5           11. To the extent coverage is required under medicare, podiatric  
6 appliances for prevention of complications associated with diabetes.

7           12. Any other device, medication, equipment or supply for which  
8 coverage is required under medicare from and after January 1, 1999. The  
9 coverage required in this paragraph is effective six months after the  
10 coverage is required under medicare.

11          E. Nothing in subsection D of this section prohibits a group  
12 disability insurer from imposing deductibles, coinsurance or other cost  
13 sharing in relation to benefits for equipment or supplies for the treatment  
14 of diabetes.

15          F. Any contract that provides coverage for prescription drugs shall  
16 not limit or exclude coverage for any prescription drug prescribed for the  
17 treatment of cancer on the basis that the prescription drug has not been  
18 approved by the United States food and drug administration for the treatment  
19 of the specific type of cancer for which the prescription drug has been  
20 prescribed, if the prescription drug has been recognized as safe and  
21 effective for treatment of that specific type of cancer in one or more of the  
22 standard medical reference compendia prescribed in subsection G of this  
23 section or medical literature that meets the criteria prescribed in  
24 subsection G of this section. The coverage required under this subsection  
25 includes covered medically necessary services associated with the  
26 administration of the prescription drug. This subsection does not:

27           1. Require coverage of any prescription drug used in the treatment of  
28 a type of cancer if the United States food and drug administration has  
29 determined that the prescription drug is contraindicated for that type of  
30 cancer.

31           2. Require coverage for any experimental prescription drug that is not  
32 approved for any indication by the United States food and drug  
33 administration.

34           3. Alter any law with regard to provisions that limit the coverage of  
35 prescription drugs that have not been approved by the United States food and  
36 drug administration.

37           4. Require reimbursement or coverage for any prescription drug that is  
38 not included in the drug formulary or list of covered prescription drugs  
39 specified in the contract.

40           5. Prohibit a contract from limiting or excluding coverage of a  
41 prescription drug, if the decision to limit or exclude coverage of the  
42 prescription drug is not based primarily on the coverage of prescription  
43 drugs required by this section.

1           6. Prohibit the use of deductibles, coinsurance, copayments or other  
2 cost sharing in relation to drug benefits and related medical benefits  
3 offered.

4           G. For the purposes of subsection F of this section:

5           1. The acceptable standard medical reference compendia are the  
6 following:

7           (a) The American hospital formulary service drug information, a  
8 publication of the American society of health system pharmacists.

9           (b) The national comprehensive cancer network drugs and biologics  
10 compendium.

11           (c) Thomson Micromedex compendium DrugDex.

12           (d) Elsevier gold standard's clinical pharmacology compendium.

13           (e) Other authoritative compendia as identified by the secretary of  
14 the United States department of health and human services.

15           2. Medical literature may be accepted if all of the following apply:

16           (a) At least two articles from major peer reviewed professional  
17 medical journals have recognized, based on scientific or medical criteria,  
18 the drug's safety and effectiveness for treatment of the indication for which  
19 the drug has been prescribed.

20           (b) No article from a major peer reviewed professional medical journal  
21 has concluded, based on scientific or medical criteria, that the drug is  
22 unsafe or ineffective or that the drug's safety and effectiveness cannot be  
23 determined for the treatment of the indication for which the drug has been  
24 prescribed.

25           (c) The literature meets the uniform requirements for manuscripts  
26 submitted to biomedical journals established by the international committee  
27 of medical journal editors or is published in a journal specified by the  
28 United States department of health and human services as acceptable peer  
29 reviewed medical literature pursuant to section 186(t)(2)(B) of the social  
30 security act (42 United States Code section 1395x(t)(2)(B)).

31           H. Any contract that is offered by a group disability insurer and that  
32 contains a prescription drug benefit shall provide coverage of medical foods  
33 to treat inherited metabolic disorders as provided by this section.

34           I. The metabolic disorders triggering medical foods coverage under  
35 this section shall:

36           1. Be part of the newborn screening program prescribed in section  
37 36-694.

38           2. Involve amino acid, carbohydrate or fat metabolism.

39           3. Have medically standard methods of diagnosis, treatment and  
40 monitoring including quantification of metabolites in blood, urine or spinal  
41 fluid or enzyme or DNA confirmation in tissues.

42           4. Require specially processed or treated medical foods that are  
43 generally available only under the supervision and direction of a physician  
44 who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse  
45 practitioner who is licensed pursuant to title 32, chapter 15, that must be

1 consumed throughout life and without which the person may suffer serious  
2 mental or physical impairment.

3 J. Medical foods eligible for coverage under this section shall be  
4 prescribed or ordered under the supervision of a physician licensed pursuant  
5 to title 32, chapter 13 or 17 or a registered nurse practitioner who is  
6 licensed pursuant to title 32, chapter 15 as medically necessary for the  
7 therapeutic treatment of an inherited metabolic disease.

8 K. An insurer shall cover at least fifty ~~per-cent~~ PERCENT of the cost  
9 of medical foods prescribed to treat inherited metabolic disorders and  
10 covered pursuant to this section. An insurer may limit the maximum annual  
11 benefit for medical foods under this section to five thousand dollars, which  
12 applies to the cost of all prescribed modified low protein foods and  
13 metabolic formula.

14 L. Any group disability policy that provides coverage for:

15 1. Prescription drugs shall also provide coverage for any prescribed  
16 drug or device that is approved by the United States food and drug  
17 administration for use as a contraceptive. A group disability insurer may  
18 use a drug formulary, multitiered drug formulary or list but that formulary  
19 or list shall include oral, implant and injectable contraceptive drugs,  
20 intrauterine devices and prescription barrier methods if the group disability  
21 insurer does not impose deductibles, coinsurance, copayments or other cost  
22 containment measures for contraceptive drugs that are greater than the  
23 deductibles, coinsurance, copayments or other cost containment measures for  
24 other drugs on the same level of the formulary or list.

25 2. Outpatient health care services shall also provide coverage for  
26 outpatient contraceptive services. For the purposes of this paragraph,  
27 "outpatient contraceptive services" means consultations, examinations,  
28 procedures and medical services provided on an outpatient basis and related  
29 to the use of approved United States food and drug administration  
30 prescription contraceptive methods to prevent unintended pregnancies.

31 M. Notwithstanding subsection L of this section, ~~a religiously~~  
32 ~~affiliated employer may require that the insurer provide a group disability~~  
33 ~~policy without coverage for specific items or services required under~~  
34 ~~subsection L of this section because providing or paying for coverage of the~~  
35 ~~specific items or services is contrary to the religious beliefs of the~~  
36 ~~religiously affiliated employer offering the plan. If a religiously~~  
37 ~~affiliated employer objects to providing coverage for specific items or~~  
38 ~~services required under subsection L of this section, a written affidavit~~  
39 ~~shall be filed with the insurer stating the objection. On receipt of the~~  
40 ~~affidavit, the insurer shall issue to the religiously affiliated employer a~~  
41 ~~group disability policy that excludes coverage for specific items or services~~  
42 ~~required under subsection L of this section. A RELIGIOUS EMPLOYER WHOSE~~  
43 ~~RELIGIOUS TENETS PROHIBIT THE USE OF PRESCRIBED CONTRACEPTIVE METHODS MAY~~  
44 ~~REQUIRE THAT THE INSURER PROVIDE A GROUP DISABILITY POLICY WITHOUT COVERAGE~~  
45 ~~FOR ALL UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED CONTRACEPTIVE~~

1 METHODS. A RELIGIOUS EMPLOYER SHALL SUBMIT A WRITTEN AFFIDAVIT TO THE  
 2 INSURER STATING THAT IT IS A RELIGIOUS EMPLOYER. ON RECEIPT OF THE  
 3 AFFIDAVIT, THE INSURER SHALL ISSUE TO THE RELIGIOUS EMPLOYER A GROUP  
 4 DISABILITY POLICY THAT EXCLUDES COVERAGE OF PRESCRIPTION CONTRACEPTIVE  
 5 METHODS. The insurer shall retain the affidavit for the duration of the  
 6 group disability policy and any renewals of the policy. BEFORE A POLICY IS  
 7 ISSUED, EVERY RELIGIOUS EMPLOYER THAT INVOKES THIS EXEMPTION SHALL PROVIDE  
 8 PROSPECTIVE INSURED WRITTEN NOTICE THAT THE RELIGIOUS EMPLOYER REFUSES TO  
 9 COVER ALL UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED CONTRACEPTIVE  
 10 METHODS FOR RELIGIOUS REASONS. This subsection shall not exclude coverage  
 11 for prescription contraceptive methods ordered by a health care provider with  
 12 prescriptive authority for medical indications other than ~~for contraceptive,~~  
 13 ~~abortifacient, abortion or sterilization purposes. A religiously affiliated~~  
 14 ~~employer offering the policy may state religious beliefs in its affidavit and~~  
 15 TO PREVENT AN UNINTENDED PREGNANCY. AN INSURER may require the insured to  
 16 first pay for the prescription and then submit a claim to the insurer along  
 17 with evidence that the prescription is ~~not for a purpose covered by the~~  
 18 ~~objection~~ FOR A NONCONTRACEPTIVE PURPOSE. An insurer may charge an  
 19 administrative fee for handling these claims. A RELIGIOUS EMPLOYER MAY NOT  
 20 DISCRIMINATE AGAINST AN EMPLOYEE WHO INDEPENDENTLY CHOOSES TO OBTAIN  
 21 INSURANCE COVERAGE OR PRESCRIPTIONS FOR CONTRACEPTIVES FROM ANOTHER SOURCE.

22 ~~N. Subsection M of this section does not authorize a religiously~~  
 23 ~~affiliated employer to obtain an employee's protected health information or~~  
 24 ~~to violate the health insurance portability and accountability act of 1996~~  
 25 ~~(P.L. 104-191; 110 Stat. 1936) or any federal regulations adopted pursuant to~~  
 26 ~~that act.~~

27 ~~O. Subsection M of this section shall not be construed to restrict or~~  
 28 ~~limit any protections against employment discrimination that are prescribed~~  
 29 ~~in federal or state law.~~

30 ~~P.~~ N. For the purposes of:

31 1. This section:

32 (a) "Inherited metabolic disorder" means a disease caused by an  
 33 inherited abnormality of body chemistry and includes a disease tested under  
 34 the newborn screening program prescribed in section 36-694.

35 (b) "Medical foods" means modified low protein foods and metabolic  
 36 formula.

37 (c) "Metabolic formula" means foods that are all of the following:

38 (i) Formulated to be consumed or administered enterally under the  
 39 supervision of a physician who is licensed pursuant to title 32, chapter 13  
 40 or 17 or a registered nurse practitioner who is licensed pursuant to title  
 41 32, chapter 15.

42 (ii) Processed or formulated to be deficient in one or more of the  
 43 nutrients present in typical foodstuffs.

44 (iii) Administered for the medical and nutritional management of a  
 45 person who has limited capacity to metabolize foodstuffs or certain nutrients

1 contained in the foodstuffs or who has other specific nutrient requirements  
2 as established by medical evaluation.

3 (iv) Essential to a person's optimal growth, health and metabolic  
4 homeostasis.

5 (d) "Modified low protein foods" means foods that are all of the  
6 following:

7 (i) Formulated to be consumed or administered enterally under the  
8 supervision of a physician who is licensed pursuant to title 32, chapter 13  
9 or 17 or a registered nurse practitioner who is licensed pursuant to title  
10 32, chapter 15.

11 (ii) Processed or formulated to contain less than one gram of protein  
12 per unit of serving, but does not include a natural food that is naturally  
13 low in protein.

14 (iii) Administered for the medical and nutritional management of a  
15 person who has limited capacity to metabolize foodstuffs or certain nutrients  
16 contained in the foodstuffs or who has other specific nutrient requirements  
17 as established by medical evaluation.

18 (iv) Essential to a person's optimal growth, health and metabolic  
19 homeostasis.

20 2. Subsection A of this section, the term "child", for purposes of  
21 initial coverage of an adopted child or a child placed for adoption but not  
22 for purposes of termination of coverage of such child, means a person under  
23 the age of eighteen years.

24 ~~3. Subsections M and N of this section, "religiously affiliated~~  
25 ~~employer" means either:~~

26 ~~(a) An entity for which all of the following apply:~~

27 3. SUBSECTION M OF THIS SECTION, "RELIGIOUS EMPLOYER" MEANS AN ENTITY  
28 FOR WHICH ALL OF THE FOLLOWING APPLY:

29 ~~(i)~~ (a) The entity primarily employs persons who share the religious  
30 tenets of the entity.

31 ~~(ii)~~ (b) The entity serves primarily persons who share the religious  
32 tenets of the entity.

33 ~~(iii)~~ (c) The entity is a nonprofit organization as described in  
34 section 6033(a)(3)(A)(i) or (iii) of the internal revenue code of 1986, as  
35 amended.

36 ~~(b) An entity whose articles of incorporation clearly state that it is~~  
37 ~~a religiously motivated organization and whose religious beliefs are central~~  
38 ~~to the organization's operating principles.~~

39 Sec. 5. Section 20-1404, Arizona Revised Statutes, is amended to read:

40 20-1404. Blanket disability insurance; definitions

41 A. Blanket disability insurance is that form of disability insurance  
42 covering special groups of persons as enumerated in one of the following  
43 paragraphs:

44 1. Under a policy or contract issued to any common carrier or to any  
45 operator, owner or lessee of a means of transportation, which shall be deemed

1 the policyholder, covering a group defined as all persons who may become  
2 passengers on such common carrier or means of transportation.

3 2. Under a policy or contract issued to an employer, who shall be  
4 deemed the policyholder, covering all employees or any group of employees  
5 defined by reference to hazards incident to an activity or activities or  
6 operations of the policyholder. Dependents of the employees and guests of  
7 the employer or employees may also be included where exposed to the same  
8 hazards.

9 3. Under a policy or contract issued to a college, school or other  
10 institution of learning or to the head or principal thereof, who or which  
11 shall be deemed the policyholder, covering students, teachers, employees or  
12 volunteers.

13 4. Under a policy or contract issued in the name of any volunteer fire  
14 department or any first aid, civil defense or other such volunteer group, or  
15 agency having jurisdiction thereof, which shall be deemed the policyholder,  
16 covering all or any group of the members, participants or volunteers of such  
17 fire department or first aid, civil defense or other group.

18 5. Under a policy or contract issued to a creditor, who shall be  
19 deemed the policyholder, to insure debtors of the creditor.

20 6. Under a policy or contract issued to a sports team or to a camp or  
21 sponsor thereof, which team or camp or sponsor thereof shall be deemed the  
22 policyholder, covering members, campers, employees, officials, supervisors or  
23 volunteers.

24 7. Under a policy or contract issued to an incorporated or  
25 unincorporated religious, charitable, recreational, educational or civic  
26 organization, or branch thereof, which organization shall be deemed the  
27 policyholder, covering any group of members, participants or volunteers  
28 defined by reference to hazards incident to an activity or activities or  
29 operations sponsored or supervised by or on the premises of the policyholder.

30 8. Under a policy or contract issued to a newspaper or other  
31 publisher, which shall be deemed the policyholder, covering its carriers.

32 9. Under a policy or contract issued to a restaurant, hotel, motel,  
33 resort, innkeeper or other group with a high degree of potential customer  
34 liability, which shall be deemed the policyholder, covering patrons or  
35 guests.

36 10. Under a policy or contract issued to a health care provider or  
37 other arranger of health services, which shall be deemed the policyholder,  
38 covering patients, donors or surrogates provided that the coverage is not  
39 made a condition of receiving care.

40 11. Under a policy or contract issued to a bank, financial vendor or  
41 other financial institution, or to a parent holding company or to the  
42 trustee, trustees or agent designated by one or more banks, financial vendors  
43 or other financial institutions, which shall be deemed the policyholder,  
44 covering account holders, debtors, guarantors or purchasers.

12. Under a policy or contract issued to an incorporated or unincorporated association of persons having a common interest or calling, which association shall be deemed the policyholder, formed for purposes other than obtaining insurance, covering members of such association.

13. Under a policy or contract issued to a travel agency or other organization that provides travel-related services, which agency or organization shall be deemed the policyholder, to cover all persons for whom travel-related services are provided.

14. Under a policy or contract that is issued to any other substantially similar group and that, in the discretion of the director, may be subject to the issuance of a blanket disability policy or contract. The director may exercise discretion on an individual risk basis or class of risks, or both.

B. An individual application need not be required from a person covered under a blanket disability policy or contract, nor shall it be necessary for the insurer to furnish each person with a certificate.

C. All benefits under any blanket disability policy shall be payable to the person insured, or to the insured's designated beneficiary or beneficiaries, or to the insured's estate, except that if the person insured is a minor, such benefits may be made payable to the insured's parent or guardian or any other person actually supporting the insured, and except that the policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services, at the insurer's option, may be paid directly to the hospital or person rendering such services, but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

D. Nothing contained in this section shall be deemed to affect the legal liability of policyholders for the death of or injury to any member of the group.

E. Any policy or contract, except accidental death and dismemberment, applied for that provides family coverage, as to such coverage of family members, shall also provide that the benefits applicable for children shall be payable with respect to a newly born child of the insured from the instant of such child's birth, to a child adopted by the insured, regardless of the age at which the child was adopted, and to a child who has been placed for adoption with the insured and for whom the application and approval procedures for adoption pursuant to section 8-105 or 8-108 have been completed to the same extent that such coverage applies to other members of the family. The coverage for newly born or adopted children or children placed for adoption shall include coverage of injury or sickness including necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for a child, the policy or contract may require that notification of

1 birth, adoption or adoption placement of the child and payment of the  
2 required premium must be furnished to the insurer within thirty-one days  
3 after the date of birth, adoption or adoption placement in order to have the  
4 coverage continue beyond the thirty-one day period.

5 F. Each policy or contract shall be so written that the insurer shall  
6 pay benefits:

7 1. For performance of any surgical service that is covered by the  
8 terms of such contract, regardless of the place of service.

9 2. For any home health services that are performed by a licensed home  
10 health agency and that a physician has prescribed in lieu of hospital  
11 services, as defined by the director, providing the hospital services would  
12 have been covered.

13 3. For any diagnostic service that a physician has performed outside a  
14 hospital in lieu of inpatient service, providing the inpatient service would  
15 have been covered.

16 4. For any service performed in a hospital's outpatient department or  
17 in a freestanding surgical facility, providing such service would have been  
18 covered if performed as an inpatient service.

19 G. A blanket disability insurance policy that provides coverage for  
20 the surgical expense of a mastectomy shall also provide coverage incidental  
21 to the patient's covered mastectomy for the expense of reconstructive surgery  
22 of the breast on which the mastectomy was performed, surgery and  
23 reconstruction of the other breast to produce a symmetrical appearance,  
24 prostheses, treatment of physical complications for all stages of the  
25 mastectomy, including lymphedemas, and at least two external postoperative  
26 prostheses subject to all of the terms and conditions of the policy.

27 H. A contract that provides coverage for surgical services for a  
28 mastectomy shall also provide coverage for mammography screening performed on  
29 dedicated equipment for diagnostic purposes on referral by a patient's  
30 physician, subject to all of the terms and conditions of the policy and  
31 according to the following guidelines:

32 1. A baseline mammogram for a woman from age thirty-five to  
33 thirty-nine.

34 2. A mammogram for a woman from age forty to forty-nine every two  
35 years or more frequently based on the recommendation of the woman's  
36 physician.

37 3. A mammogram every year for a woman fifty years of age and over.

38 I. Any contract that is issued to the insured and that provides  
39 coverage for maternity benefits shall also provide that the maternity  
40 benefits apply to the costs of the birth of any child legally adopted by the  
41 insured if all the following are true:

42 1. The child is adopted within one year of birth.

43 2. The insured is legally obligated to pay the costs of birth.

44 3. All preexisting conditions and other limitations have been met by  
45 the insured.



4. The insured has notified the insurer of his acceptability to adopt children pursuant to section 8-105, within sixty days after such approval or within sixty days after a change in insurance policies, plans or companies.

J. The coverage prescribed by subsection I of this section is excess to any other coverage the natural mother may have for maternity benefits except coverage made available to persons pursuant to title 36, chapter 29, but not including coverage made available to persons defined as eligible under section 36-2901, paragraph 6, subdivisions (b), (c), (d) and (e). If such other coverage exists the agency, attorney or individual arranging the adoption shall make arrangements for the insurance to pay those costs that may be covered under that policy and shall advise the adopting parent in writing of the existence and extent of the coverage without disclosing any confidential information such as the identity of the natural parent. The insured adopting parents shall notify their insurer of the existence and extent of the other coverage.

K. Any contract that provides maternity benefits shall not restrict benefits for any hospital length of stay in connection with childbirth for the mother or the newborn child to less than forty-eight hours following a normal vaginal delivery or ninety-six hours following a cesarean section. The contract shall not require the provider to obtain authorization from the insurer for prescribing the minimum length of stay required by this subsection. The contract may provide that an attending provider in consultation with the mother may discharge the mother or the newborn child before the expiration of the minimum length of stay required by this subsection. The insurer shall not:

1. Deny the mother or the newborn child eligibility or continued eligibility to enroll or to renew coverage under the terms of the contract solely for the purpose of avoiding the requirements of this subsection.

2. Provide monetary payments or rebates to mothers to encourage those mothers to accept less than the minimum protections available pursuant to this subsection.

3. Penalize or otherwise reduce or limit the reimbursement of an attending provider because that provider provided care to any insured under the contract in accordance with this subsection.

4. Provide monetary or other incentives to an attending provider to induce that provider to provide care to an insured under the contract in a manner that is inconsistent with this subsection.

5. Except as described in subsection L of this section, restrict benefits for any portion of a period within the minimum length of stay in a manner that is less favorable than the benefits provided for any preceding portion of that stay.

L. Nothing in subsection K of this section:

1. Requires a mother to give birth in a hospital or to stay in the hospital for a fixed period of time following the birth of the child.

2. Prevents an insurer from imposing deductibles, coinsurance or other cost sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or a newborn child under the contract, except that any coinsurance or other cost sharing for any portion of a period within a hospital length of stay required pursuant to subsection K of this section shall not be greater than the coinsurance or cost sharing for any preceding portion of that stay.

3. Prevents an insurer from negotiating the level and type of reimbursement with a provider for care provided in accordance with subsection K of this section.

M. Any contract that provides coverage for diabetes shall also provide coverage for equipment and supplies that are medically necessary and that are prescribed by a health care provider including:

1. Blood glucose monitors.
2. Blood glucose monitors for the legally blind.
3. Test strips for glucose monitors and visual reading and urine testing strips.
4. Insulin preparations and glucagon.
5. Insulin cartridges.
6. Drawing up devices and monitors for the visually impaired.
7. Injection aids.
8. Insulin cartridges for the legally blind.
9. Syringes and lancets including automatic lancing devices.
10. Prescribed oral agents for controlling blood sugar that are included on the plan formulary.
11. To the extent coverage is required under medicare, podiatric appliances for prevention of complications associated with diabetes.
12. Any other device, medication, equipment or supply for which coverage is required under medicare from and after January 1, 1999. The coverage required in this paragraph is effective six months after the coverage is required under medicare.

N. Nothing in subsection M of this section prohibits a blanket disability insurer from imposing deductibles, coinsurance or other cost sharing in relation to benefits for equipment or supplies for the treatment of diabetes.

O. Any contract that provides coverage for prescription drugs shall not limit or exclude coverage for any prescription drug prescribed for the treatment of cancer on the basis that the prescription drug has not been approved by the United States food and drug administration for the treatment of the specific type of cancer for which the prescription drug has been prescribed, if the prescription drug has been recognized as safe and effective for treatment of that specific type of cancer in one or more of the standard medical reference compendia prescribed in subsection P of this section or medical literature that meets the criteria prescribed in subsection P of this section. The coverage required under this subsection

1 includes covered medically necessary services associated with the  
2 administration of the prescription drug. This subsection does not:

3 1. Require coverage of any prescription drug used in the treatment of  
4 a type of cancer if the United States food and drug administration has  
5 determined that the prescription drug is contraindicated for that type of  
6 cancer.

7 2. Require coverage for any experimental prescription drug that is not  
8 approved for any indication by the United States food and drug  
9 administration.

10 3. Alter any law with regard to provisions that limit the coverage of  
11 prescription drugs that have not been approved by the United States food and  
12 drug administration.

13 4. Require reimbursement or coverage for any prescription drug that is  
14 not included in the drug formulary or list of covered prescription drugs  
15 specified in the contract.

16 5. Prohibit a contract from limiting or excluding coverage of a  
17 prescription drug, if the decision to limit or exclude coverage of the  
18 prescription drug is not based primarily on the coverage of prescription  
19 drugs required by this section.

20 6. Prohibit the use of deductibles, coinsurance, copayments or other  
21 cost sharing in relation to drug benefits and related medical benefits  
22 offered.

23 P. For the purposes of subsection O of this section:

24 1. The acceptable standard medical reference compendia are the  
25 following:

26 (a) The American hospital formulary service drug information, a  
27 publication of the American society of health system pharmacists.

28 (b) The national comprehensive cancer network drugs and biologics  
29 compendium.

30 (c) Thomson Micromedex compendium DrugDex.

31 (d) Elsevier gold standard's clinical pharmacology compendium.

32 (e) Other authoritative compendia as identified by the secretary of  
33 the United States department of health and human services.

34 2. Medical literature may be accepted if all of the following apply:

35 (a) At least two articles from major peer reviewed professional  
36 medical journals have recognized, based on scientific or medical criteria,  
37 the drug's safety and effectiveness for treatment of the indication for which  
38 the drug has been prescribed.

39 (b) No article from a major peer reviewed professional medical journal  
40 has concluded, based on scientific or medical criteria, that the drug is  
41 unsafe or ineffective or that the drug's safety and effectiveness cannot be  
42 determined for the treatment of the indication for which the drug has been  
43 prescribed.

44 (c) The literature meets the uniform requirements for manuscripts  
45 submitted to biomedical journals established by the international committee

1 of medical journal editors or is published in a journal specified by the  
 2 United States department of health and human services as acceptable peer  
 3 reviewed medical literature pursuant to section 186(t)(2)(B) of the social  
 4 security act (42 United States Code section 1395x(t)(2)(B)).

5 Q. Any contract that is offered by a blanket disability insurer and  
 6 that contains a prescription drug benefit shall provide coverage of medical  
 7 foods to treat inherited metabolic disorders as provided by this section.

8 R. The metabolic disorders triggering medical foods coverage under  
 9 this section shall:

10 1. Be part of the newborn screening program prescribed in section  
 11 36-694.

12 2. Involve amino acid, carbohydrate or fat metabolism.

13 3. Have medically standard methods of diagnosis, treatment and  
 14 monitoring including quantification of metabolites in blood, urine or spinal  
 15 fluid or enzyme or DNA confirmation in tissues.

16 4. Require specially processed or treated medical foods that are  
 17 generally available only under the supervision and direction of a physician  
 18 who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse  
 19 practitioner who is licensed pursuant to title 32, chapter 15, that must be  
 20 consumed throughout life and without which the person may suffer serious  
 21 mental or physical impairment.

22 S. Medical foods eligible for coverage under this section shall be  
 23 prescribed or ordered under the supervision of a physician licensed pursuant  
 24 to title 32, chapter 13 or 17 or a registered nurse practitioner who is  
 25 licensed pursuant to title 32, chapter 15 as medically necessary for the  
 26 therapeutic treatment of an inherited metabolic disease.

27 T. An insurer shall cover at least fifty ~~per-cent~~ PERCENT of the cost  
 28 of medical foods prescribed to treat inherited metabolic disorders and  
 29 covered pursuant to this section. An insurer may limit the maximum annual  
 30 benefit for medical foods under this section to five thousand dollars which  
 31 applies to the cost of all prescribed modified low protein foods and  
 32 metabolic formula.

33 U. Any blanket disability policy that provides coverage for:

34 1. Prescription drugs shall also provide coverage for any prescribed  
 35 drug or device that is approved by the United States food and drug  
 36 administration for use as a contraceptive. A blanket disability insurer may  
 37 use a drug formulary, multitiered drug formulary or list but that formulary  
 38 or list shall include oral, implant and injectable contraceptive drugs,  
 39 intrauterine devices and prescription barrier methods if the blanket  
 40 disability insurer does not impose deductibles, coinsurance, copayments or  
 41 other cost containment measures for contraceptive drugs that are greater than  
 42 the deductibles, coinsurance, copayments or other cost containment measures  
 43 for other drugs on the same level of the formulary or list.

44 2. Outpatient health care services shall also provide coverage for  
 45 outpatient contraceptive services. For the purposes of this paragraph,

1 "outpatient contraceptive services" means consultations, examinations,  
 2 procedures and medical services provided on an outpatient basis and related  
 3 to the use of approved United States food and drug administration  
 4 prescription contraceptive methods to prevent unintended pregnancies.

5 V. Notwithstanding subsection U of this section, ~~a religiously~~  
 6 ~~affiliated employer may require that the insurer provide a blanket disability~~  
 7 ~~policy without coverage for specific items or services required under~~  
 8 ~~subsection U of this section because providing or paying for coverage of the~~  
 9 ~~specific items or services is contrary to the religious beliefs of the~~  
 10 ~~religiously affiliated employer offering the plan. If a religiously~~  
 11 ~~affiliated employer objects to providing coverage for specific items or~~  
 12 ~~services required under subsection U of this section, a written affidavit~~  
 13 ~~shall be filed with the insurer stating the objection. On receipt of the~~  
 14 ~~affidavit, the insurer shall issue to the religiously affiliated employer a~~  
 15 ~~blanket disability policy that excludes coverage for specific items or~~  
 16 ~~services required under subsection U of this section. A RELIGIOUS EMPLOYER~~  
 17 ~~WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF PRESCRIBED CONTRACEPTIVE METHODS~~  
 18 ~~MAY REQUIRE THAT THE INSURER PROVIDE A BLANKET DISABILITY POLICY WITHOUT~~  
 19 ~~COVERAGE FOR ALL UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED~~  
 20 ~~CONTRACEPTIVE METHODS. A RELIGIOUS EMPLOYER SHALL SUBMIT A WRITTEN AFFIDAVIT~~  
 21 ~~TO THE INSURER STATING THAT IT IS A RELIGIOUS EMPLOYER. ON RECEIPT OF THE~~  
 22 ~~AFFIDAVIT, THE INSURER SHALL ISSUE TO THE RELIGIOUS EMPLOYER A BLANKET~~  
 23 ~~DISABILITY POLICY THAT EXCLUDES COVERAGE OF PRESCRIPTION CONTRACEPTIVE~~  
 24 ~~METHODS. The insurer shall retain the affidavit for the duration of the~~  
 25 ~~blanket disability policy and any renewals of the policy. BEFORE A POLICY IS~~  
 26 ~~ISSUED, EVERY RELIGIOUS EMPLOYER THAT INVOKES THIS EXEMPTION SHALL PROVIDE~~  
 27 ~~PROSPECTIVE INSURED'S WRITTEN NOTICE THAT THE RELIGIOUS EMPLOYER REFUSES TO~~  
 28 ~~COVER ALL UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED CONTRACEPTIVE~~  
 29 ~~METHODS FOR RELIGIOUS REASONS. This subsection shall not exclude coverage~~  
 30 ~~for prescription contraceptive methods ordered by a health care provider with~~  
 31 ~~prescriptive authority for medical indications other than for contraceptive,~~  
 32 ~~abortifacient, abortion or sterilization purposes. A religiously affiliated~~  
 33 ~~employer offering the policy may state religious beliefs in its affidavit and~~  
 34 ~~TO PREVENT AN UNINTENDED PREGNANCY. AN INSURER may require the insured to~~  
 35 ~~first pay for the prescription and then submit a claim to the insurer along~~  
 36 ~~with evidence that the prescription is not for a purpose covered by the~~  
 37 ~~objection FOR A NONCONTRACEPTIVE PURPOSE. An insurer may charge an~~  
 38 ~~administrative fee for handling these claims under this subsection. A~~  
 39 ~~RELIGIOUS EMPLOYER MAY NOT DISCRIMINATE AGAINST AN EMPLOYEE WHO INDEPENDENTLY~~  
 40 ~~CHOOSSES TO OBTAIN INSURANCE COVERAGE OR PRESCRIPTIONS FOR CONTRACEPTIVES FROM~~  
 41 ~~ANOTHER SOURCE.~~

42 ~~W. Subsection V of this section does not authorize a religiously~~  
 43 ~~affiliated employer to obtain an employee's protected health information or~~  
 44 ~~to violate the health insurance portability and accountability act of 1996~~

~~(P.L. 104-191; 110 Stat. 1936) or any federal regulations adopted pursuant to that act.~~

~~X. Subsection V of this section shall not be construed to restrict or limit any protections against employment discrimination that are prescribed in federal or state law.~~

~~Y.~~ W. For the purposes of:

1. This section:

(a) "Inherited metabolic disorder" means a disease caused by an inherited abnormality of body chemistry and includes a disease tested under the newborn screening program prescribed in section 36-694.

(b) "Medical foods" means modified low protein foods and metabolic formula.

(c) "Metabolic formula" means foods that are all of the following:

(i) Formulated to be consumed or administered enterally under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse practitioner who is licensed pursuant to title 32, chapter 15.

(ii) Processed or formulated to be deficient in one or more of the nutrients present in typical foodstuffs.

(iii) Administered for the medical and nutritional management of a person who has limited capacity to metabolize foodstuffs or certain nutrients contained in the foodstuffs or who has other specific nutrient requirements as established by medical evaluation.

(iv) Essential to a person's optimal growth, health and metabolic homeostasis.

(d) "Modified low protein foods" means foods that are all of the following:

(i) Formulated to be consumed or administered enterally under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse practitioner who is licensed pursuant to title 32, chapter 15.

(ii) Processed or formulated to contain less than one gram of protein per unit of serving, but does not include a natural food that is naturally low in protein.

(iii) Administered for the medical and nutritional management of a person who has limited capacity to metabolize foodstuffs or certain nutrients contained in the foodstuffs or who has other specific nutrient requirements as established by medical evaluation.

(iv) Essential to a person's optimal growth, health and metabolic homeostasis.

2. Subsection E of this section, the term "child", for purposes of initial coverage of an adopted child or a child placed for adoption but not for purposes of termination of coverage of such child, means a person under eighteen years of age.

~~3. Subsections V and W of this section, "religiously affiliated employer" means either:~~

~~(a) An entity for which all of the following apply:~~

3. SUBSECTION V OF THIS SECTION, "RELIGIOUS EMPLOYER" MEANS AN ENTITY FOR WHICH ALL OF THE FOLLOWING APPLY:

~~(i)~~ (a) The entity primarily employs persons who share the religious tenets of the entity.

~~(ii)~~ (b) The entity serves primarily persons who share the religious tenets of the entity.

~~(iii)~~ (c) The entity is a nonprofit organization as described in section 6033(a)(3)(A)(i) or (iii) of the internal revenue code of 1986, as amended.

~~(b) An entity whose articles of incorporation clearly state that it is a religiously motivated organization and whose religious beliefs are central to the organization's operating principles.~~

Sec. 6. Section 20-2329, Arizona Revised Statutes, is amended to read:

20-2329. Prescription contraceptive drugs and devices;  
definition

A. An accountable health plan that provides a health benefits plan that provides coverage for:

1. Prescription drugs shall also provide coverage for any prescribed drug or device that is approved by the United States food and drug administration for use as a contraceptive. An accountable health plan may use a drug formulary, multitiered drug formulary or list but that formulary or list shall include oral, implant and injectable contraceptive drugs, intrauterine devices and prescription barrier methods if the accountable health plan does not impose deductibles, coinsurance, copayments or other cost containment measures for contraceptive drugs that are greater than the deductibles, coinsurance, copayments or other cost containment measures for other drugs on the same level of the formulary or list.

2. Outpatient health care services shall also provide coverage for outpatient contraceptive services. For the purposes of this paragraph, "outpatient contraceptive services" means consultations, examinations, procedures and medical services provided on an outpatient basis and related to the use of APPROVED United States food and drug ADMINISTRATION prescription contraceptive methods to prevent unintended pregnancies.

B. Notwithstanding subsection A of this section, ~~a religiously affiliated employer may require that the accountable health plan provide a health benefits plan without coverage for specific items or services required under subsection A of this section because providing or paying for coverage of the specific items or services is contrary to the religious beliefs of the religiously affiliated employer offering the plan. If a religiously affiliated employer objects to providing coverage for specific items or services required under subsection A of this section, a written affidavit shall be filed with the accountable health plan stating the objection. On~~

~~receipt of the affidavit, the accountable health plan shall issue to the religiously affiliated employer a health benefits plan that excludes coverage for specific items or services required under subsection A of this section. A RELIGIOUS EMPLOYER WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF PRESCRIBED CONTRACEPTIVE METHODS MAY REQUIRE THAT THE ACCOUNTABLE HEALTH PLAN PROVIDE A HEALTH BENEFITS PLAN WITHOUT COVERAGE FOR ALL UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED CONTRACEPTIVE METHODS. A RELIGIOUS EMPLOYER SHALL SUBMIT A WRITTEN AFFIDAVIT TO THE ACCOUNTABLE HEALTH PLAN STATING THAT IT IS A RELIGIOUS EMPLOYER. ON RECEIPT OF THE AFFIDAVIT, THE ACCOUNTABLE HEALTH PLAN SHALL ISSUE TO THE RELIGIOUS EMPLOYER A HEALTH BENEFITS PLAN THAT EXCLUDES COVERAGE OF PRESCRIPTION CONTRACEPTIVE METHODS. The accountable health plan shall retain the affidavit for the duration of the health benefits plan and any renewals of the plan.~~

C. BEFORE ENROLLMENT IN THE PLAN, EVERY RELIGIOUS EMPLOYER THAT INVOKES THE EXEMPTION PRESCRIBED IN SUBSECTION B OF THIS SECTION SHALL PROVIDE PROSPECTIVE ENROLLEES WRITTEN NOTICE THAT THE RELIGIOUS EMPLOYER REFUSES TO COVER ALL UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED CONTRACEPTIVE METHODS FOR RELIGIOUS REASONS.

~~C.~~ D. Subsection B of this section shall not exclude coverage for prescription contraceptive methods ordered by a health care provider with prescriptive authority for medical indications other than ~~for contraceptive, abortifacient, abortion or sterilization purposes~~ TO PREVENT AN UNINTENDED PREGNANCY. ~~A religiously affiliated employer offering the plan may state religious beliefs in its affidavit and~~ AN ACCOUNTABLE HEALTH PLAN may require the enrollee to first pay for the prescription and then submit a claim to the accountable health plan along with evidence that the prescription is ~~not for a purpose covered by the objection~~ FOR A NONCONTRACEPTIVE PURPOSE. An accountable health plan may charge an administrative fee for handling claims under this subsection.

~~D. Subsections B and C of this section do not authorize a religiously affiliated employer to obtain an employee's protected health information or to violate the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 1936) or any federal regulations adopted pursuant to that act.~~

~~E. Subsections B and C of this section shall not be construed to restrict or limit any protections against employment discrimination that are prescribed in federal or state law.~~

~~F. For the purposes of this section, "religiously affiliated employer" means either:~~

~~1. An entity for which all of the following apply:~~

~~(a) The entity primarily employs persons who share the religious tenets of the entity.~~

~~(b) The entity serves primarily persons who share the religious tenets of the entity.~~



~~(c) The entity is a nonprofit organization as described in section 6033(a)(3)(A)(i) or (iii) of the internal revenue code of 1986, as amended.~~

~~2. An entity whose articles of incorporation clearly state that it is a religiously motivated organization and whose religious beliefs are central to the organization's operating principles.~~

E. A RELIGIOUS EMPLOYER MAY NOT DISCRIMINATE AGAINST AN EMPLOYEE WHO INDEPENDENTLY CHOOSES TO OBTAIN INSURANCE COVERAGE OR PRESCRIPTIONS FOR CONTRACEPTIVES FROM ANOTHER SOURCE.

F. FOR THE PURPOSES OF THIS SECTION, "RELIGIOUS EMPLOYER" MEANS AN ENTITY FOR WHICH ALL OF THE FOLLOWING APPLY:

1. THE ENTITY PRIMARILY EMPLOYS PERSONS WHO SHARE THE RELIGIOUS TENETS OF THE ENTITY.

2. THE ENTITY SERVES PRIMARILY PERSONS WHO SHARE THE RELIGIOUS TENETS OF THE ENTITY.

3. THE ENTITY IS A NONPROFIT ORGANIZATION AS DESCRIBED IN SECTION 6033(a)(3)(A)(i) OR (iii) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

Sec. 7. Title 32, chapter 18, article 3, Arizona Revised Statutes, is amended by adding section 32-1979, to read:

32-1979. Duty to fill prescriptions; notification; accommodation; exceptions; definition

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

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

1. WHETHER THE PROPOSED ACCOMMODATION WOULD DELAY THE FILLING OF PRESCRIPTION ORDERS AND RESULT IN THE PHARMACY BEING UNABLE TO FILL CERTAIN PRESCRIPTIONS IN THE EQUIVALENT TIME AS THE PHARMACY IS FILLING OTHER PRESCRIPTIONS OF IN-STOCK DRUGS OR DEVICES AT THAT TIME.

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

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

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

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

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

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

6           3. RETURN THE UNFILLED PRESCRIPTION ORDER TO THE CUSTOMER AND REFER  
7 THE CUSTOMER TO ANOTHER LOCAL PHARMACY. THE PHARMACY SHALL MAKE A REASONABLE  
8 EFFORT TO REFER THE CUSTOMER TO A PHARMACY THAT STOCKS THE DRUG OR DEVICE AND  
9 THAT IS NEAR ENOUGH TO THE REFERRING SITE TO ENSURE THAT THE CUSTOMER HAS  
10 TIMELY ACCESS TO THE DRUG OR DEVICE.

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

16           E. A PHARMACY SHALL TREAT EACH CUSTOMER WITH RESPECT AND DIGNITY, MAKE  
17 GOOD FAITH EFFORTS NOT TO EMBARRASS OR DEMEAN THE CUSTOMER AND ATTEMPT TO  
18 ENSURE A SEAMLESS DELIVERY OF PRESCRIPTION SERVICES, REGARDLESS OF WHETHER  
19 THE PHARMACY HAS MADE AN ACCOMMODATION FOR AN EMPLOYEE PURSUANT TO  
20 SUBSECTION B OF THIS SECTION.

21           F. A PHARMACY THAT VIOLATES THIS SECTION COMMITS AN ACT OF  
22 UNPROFESSIONAL CONDUCT AND IS SUBJECT TO DISCIPLINARY ACTION PURSUANT TO THIS  
23 CHAPTER.

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

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

28           Sec. 8. Title 32, chapter 32, article 1, Arizona Revised Statutes, is  
29 amended by adding section 32-3219, to read:

30           32-3219. Rape victims; emergency contraception; referral;  
31                                   definitions

32           A. A HEALTH PROFESSIONAL WHO PROVIDES CARE TO A FEMALE PATIENT OF  
33 REPRODUCTIVE AGE WHO STATES THAT SHE IS THE VICTIM OF RAPE AT A MINIMUM  
34 SHALL:

35           1. PROVIDE THE PATIENT WITH MEDICAL INFORMATION ABOUT EMERGENCY  
36 CONTRACEPTION.

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

39           3. PROVIDE OR PRESCRIBE EMERGENCY CONTRACEPTION AT THE PATIENT'S  
40 REQUEST. IF THE HEALTH PROFESSIONAL PROVIDES AN EMERGENCY CONTRACEPTION  
41 DRUG, THE HEALTH PROFESSIONAL SHALL PROVIDE THE PATIENT WITH AN INITIAL DOSE  
42 AND ANY FOLLOW-UP DOSES THAT THE PATIENT CAN SELF-ADMINISTER OR PRESCRIBE THE  
43 ENTIRE COURSE OF TREATMENT.

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

4 C. A HEALTH PROFESSIONAL WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF  
5 CONTRACEPTIVE METHODS MAY SATISFY THE REQUIREMENTS OF THIS SECTION BY  
6 IMMEDIATELY REFERRING THE PATIENT TO ANOTHER HEALTH PROFESSIONAL WHO IS  
7 IMMEDIATELY AVAILABLE AND WHO WILL COMPLY WITH THE REQUIREMENTS OF THIS  
8 SECTION.

9 D. FOR THE PURPOSES OF THIS SECTION:

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

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

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

16 4. "NONCONSENSUAL" MEANS:

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

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

26 5. "RAPE" MEANS NONCONSENSUAL SEXUAL INTERCOURSE INVOLVING PENETRATION  
27 OF THE VULVA.

28 Sec. 9. Section 35-196.02, Arizona Revised Statutes, is amended to  
29 read:

30 35-196.02. Use of public funds or insurance for abortion  
31 prohibited; exception

32 A. Notwithstanding any provisions of law to the contrary, no public  
33 funds nor tax monies of this state or any political subdivision of this state  
34 nor any federal funds passing through the state treasury or the treasury of  
35 any political subdivision of this state may be expended for payment to any  
36 person or entity for the performance of any abortion unless an abortion is  
37 necessary to save the life of the woman having the abortion.

38 B. Notwithstanding any other law, public monies or tax monies of this  
39 state or any political subdivision of this state shall not be expended  
40 directly or indirectly to pay the costs, premiums or charges associated with  
41 a health insurance policy, contract or plan that provides coverage, benefits  
42 or services related to the performance of any abortion unless an abortion is  
43 necessary to either:

44 1. Save the life of the woman having the abortion.

2. Avert substantial and irreversible impairment of a major bodily function of the woman having the abortion.

~~C. Notwithstanding any other law, public monies or tax monies of this state or any political subdivision of this state or any federal funds passing through the state treasury or the treasury of any political subdivision of this state or monies paid by students as part of tuition or fees to a state university or a community college shall not be expended or allocated for training to perform abortions.~~

~~D.~~ C. This section does not prohibit the state from complying with the requirements of federal law in title XIX and title XXI of the social security act.

Sec. 10. Repeal

Section 35-196.05, Arizona Revised Statutes, is repealed.

Sec. 11. Section 36-132, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation

1 and personal and public health, and provide consultation and assistance in  
2 community organization to counties, communities and groups of people.

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

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

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

15 9. Encourage and aid in the coordination of local programs concerning  
16 nutrition of the people of the state.

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

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

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

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

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

42 15. Recruit and train personnel for state, local and district health  
43 departments.

44 16. Conduct continuing evaluations of state, local and district public  
45 health programs, study and appraise state health problems and develop broad

1 plans for use by the department and for recommendation to other agencies,  
2 professions and local health departments for the best solution of these  
3 problems.

4 17. License and regulate health care institutions according to chapter  
5 4 of this title.

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

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

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

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

13 (b) Comprehensive prenatal health care.

14 (c) Maternity, delivery and postpartum care.

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

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

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

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

36 B. The department may accept from the state or federal government, or  
37 any agency of the state or federal government, and from private donors,  
38 trusts, foundations or eleemosynary corporations or organizations grants or  
39 donations for or in aid of the construction or maintenance of any program,  
40 project, research or facility authorized by this title, or in aid of the  
41 extension or enforcement of any program, project or facility authorized,  
42 regulated or prohibited by this title, and enter into contracts with the  
43 federal government, or an agency of the federal government, and with private  
44 donors, trusts, foundations or eleemosynary corporations or organizations, to  
45 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 facilities.  
13 The contracts may provide for department payment of administrative costs it  
14 specifically authorizes.

15 Sec. 12. Section 36-449.01, Arizona Revised Statutes, is amended to  
16 read:

17 36-449.01. Definitions

18 In this article, unless the context otherwise requires:

19 1. "Abortion" means the use of ~~any means~~ A SURGICAL INSTRUMENT OR A  
20 MACHINE with the intent to terminate a woman's pregnancy for reasons other  
21 than to increase the probability of a live birth, to preserve the life or  
22 health of the child after a live birth, to terminate an ectopic pregnancy or  
23 to remove a dead fetus. Abortion does not include birth control devices or  
24 oral contraceptives.

25 2. "Abortion clinic" means a facility, other than ~~a~~ AN ACCREDITED  
26 hospital, in which ~~five or more first trimester abortions in any month or any~~  
27 ~~second or third trimester~~ FIRST, SECOND OR THIRD TRIMESTER abortions are  
28 performed.

29 3. "Director" means the director of the department of health services.

30 ~~4. "Medication abortion" means the use of any medication, drug or~~  
31 ~~other substance that is intended to cause or induce an abortion.~~

32 ~~5. "Perform" includes the initial administration of any medication,~~  
33 ~~drug or other substance intended to cause or induce an abortion.~~

34 ~~6. "Surgical abortion" has the same meaning prescribed in section~~  
35 ~~36-2151.~~

36 ~~7.~~ 4. "Viable fetus" has the same meaning prescribed in section  
37 36-2301.01.

38 Sec. 13. Section 36-449.02, Arizona Revised Statutes, is amended to  
39 read:

40 36-449.02. Abortion clinics; licensure requirements; rules

41 A. Beginning on April 1, 2000, an abortion clinic shall meet the same  
42 licensure requirements as prescribed in article 2 of this chapter for health  
43 care institutions.

44 B. An abortion clinic that holds an unclassified health care facility  
45 license issued before August 6, 1999 may retain that classification until

1 April 1, 2000 subject to compliance with all laws that relate to unclassified  
2 health care facilities.

3 C. Beginning on April 1, 2000, abortion clinics shall comply with  
4 department requirements for abortion clinics and department rules that govern  
5 abortion clinics.

6 ~~D. If the director determines that there is reasonable cause to~~  
7 ~~believe an abortion clinic is not adhering to the licensing requirements of~~  
8 ~~this article or any other law or rule concerning abortion, the director and~~  
9 ~~any duly designated employee or agent of the director, including county~~  
10 ~~health representatives and county or municipal fire inspectors, consistent~~  
11 ~~with standard medical practices, may enter on and into the premises of the~~  
12 ~~abortion clinic that is licensed or required to be licensed pursuant to this~~  
13 ~~article during regular business hours of the abortion clinic to determine~~  
14 ~~compliance with this article, rules adopted pursuant to this article, local~~  
15 ~~fire ordinances or rules and any other law or rule relating to abortion.~~

16 ~~E. An application for licensure pursuant to this article constitutes~~  
17 ~~permission for, and complete acquiescence in, an entry or inspection of the~~  
18 ~~premises during the pendency of the application and, if licensed, during the~~  
19 ~~term of the license.~~

20 ~~F. If an inspection conducted pursuant to this section reveals that an~~  
21 ~~abortion clinic is not adhering to the licensing requirements prescribed~~  
22 ~~pursuant to this article or any other law or rule concerning abortion, the~~  
23 ~~director may take action authorized by this article.~~

24 ~~G. An abortion clinic whose license has been suspended or revoked~~  
25 ~~pursuant to this article or section 36-424 is subject to inspection on~~  
26 ~~application for relicensure or reinstatement of the license.~~

27 ~~H. In any proceeding in which the constitutionality, legality or~~  
28 ~~application of this section is challenged, the attorney general or any county~~  
29 ~~or city attorney who wishes to defend the law has the right to intervene as a~~  
30 ~~party and is deemed to have proper standing in the matter. The only~~  
31 ~~objection that may be raised to a motion to intervene as of right pursuant to~~  
32 ~~this subsection is that the proposed intervenor does not have a good faith~~  
33 ~~intention to defend the law. Any party or proposed intervenor may raise this~~  
34 ~~objection. Notwithstanding section 41-192, the department may employ legal~~  
35 ~~counsel and make an expenditure or incur an indebtedness for legal services~~  
36 ~~for the purposes of defending this section.~~

37 Sec. 14. Section 36-449.03, Arizona Revised Statutes, is amended to  
38 read:

39 36-449.03. Abortion clinics; rules

40 A. The director shall adopt rules for an abortion clinic's physical  
41 facilities. At a minimum these rules shall prescribe standards for:

- 42 1. Adequate private space that is specifically designated for
- 43 interviewing, counseling and medical evaluations.
- 44 2. Dressing rooms for staff and patients.
- 45 3. Appropriate lavatory areas.



- 1           4. Areas for preprocedure hand washing.
- 2           5. Private procedure rooms.
- 3           6. Adequate lighting and ventilation for abortion procedures.
- 4           7. Surgical or gynecologic examination tables and other fixed
- 5 equipment.
- 6           8. Postprocedure recovery rooms that are supervised, staffed and
- 7 equipped to meet the patients' needs.
- 8           9. Emergency exits to accommodate a stretcher or gurney.
- 9           10. Areas for cleaning and sterilizing instruments.
- 10          11. Adequate areas for the secure storage of medical records and
- 11 necessary equipment and supplies.
- 12          12. The display in the abortion clinic, in a place that is conspicuous
- 13 to all patients, of the clinic's current license issued by the department.
- 14          B. The director shall adopt rules to prescribe abortion clinic
- 15 supplies and equipment standards, including supplies and equipment that are
- 16 required to be immediately available for use or in an emergency. At a
- 17 minimum these rules shall:
- 18           1. Prescribe required equipment and supplies, including medications,
- 19 required for the conduct, in an appropriate fashion, of any abortion
- 20 procedure that the medical staff of the clinic anticipates performing and for
- 21 monitoring the progress of each patient throughout the procedure and recovery
- 22 period.
- 23           2. Require that the number or amount of equipment and supplies at the
- 24 clinic is adequate at all times to assure sufficient quantities of clean and
- 25 sterilized durable equipment and supplies to meet the needs of each patient.
- 26           3. Prescribe required equipment, supplies and medications that shall
- 27 be available and ready for immediate use in an emergency and requirements for
- 28 written protocols and procedures to be followed by staff in an emergency,
- 29 such as the loss of electrical power.
- 30           4. Prescribe required equipment and supplies for required laboratory
- 31 tests and requirements for protocols to calibrate and maintain laboratory
- 32 equipment at the abortion clinic or operated by clinic staff.
- 33           5. Require ultrasound equipment **IN THOSE FACILITIES THAT PROVIDE**
- 34 **ABORTIONS AFTER TWELVE WEEKS' GESTATION.**
- 35           6. Require that all equipment is safe for the patient and the staff,
- 36 meets applicable federal standards and is checked annually to ensure safety
- 37 and appropriate calibration.
- 38          C. The director shall adopt rules relating to abortion clinic
- 39 personnel. At a minimum these rules shall require that:
- 40           1. The abortion clinic designate a medical director of the abortion
- 41 clinic who is licensed pursuant to title 32, chapter 13, 17 or 29.
- 42           2. Physicians performing ~~abortions~~ **SURGERY** are licensed pursuant to
- 43 title 32, chapter 13 or 17, demonstrate competence in the procedure involved
- 44 and are acceptable to the medical director of the abortion clinic.

1           3. A physician WITH ADMITTING PRIVILEGES AT AN ACCREDITED HOSPITAL IN  
2 THIS STATE is available. ~~±~~

3           ~~(a) For a surgical abortion who has admitting privileges at a health~~  
4 ~~care institution that is classified by the director as a hospital pursuant to~~  
5 ~~section 36-405, subsection B and that is within thirty miles of the abortion~~  
6 ~~clinic.~~

7           ~~(b) For a medication abortion who has admitting privileges at a health~~  
8 ~~care institution that is classified by the director as a hospital pursuant to~~  
9 ~~section 36-405, subsection B.~~

10          4. If a physician is not present, a registered nurse, nurse  
11 practitioner, licensed practical nurse or physician assistant is present and  
12 remains at the clinic when abortions are performed to provide postoperative  
13 monitoring and care, ~~or monitoring and care after inducing a medication~~  
14 ~~abortion,~~ until each patient who had an abortion that day is discharged.

15          5. Surgical assistants receive training in counseling, patient  
16 advocacy and the specific responsibilities of the services the surgical  
17 assistants provide.

18          6. Volunteers receive training in the specific responsibilities of the  
19 services the volunteers provide, including counseling and patient advocacy as  
20 provided in the rules adopted by the director for different types of  
21 volunteers based on their responsibilities.

22          D. The director shall adopt rules relating to the medical screening  
23 and evaluation of each abortion clinic patient. At a minimum these rules  
24 shall require:

25           1. A medical history, including the following:

26           (a) Reported allergies to medications, antiseptic solutions or latex.

27           (b) Obstetric and gynecologic history.

28           (c) Past surgeries.

29           2. A physical examination, including a bimanual examination estimating  
30 uterine size and palpation of the adnexa.

31           3. The appropriate laboratory tests, including:

32           (a) FOR AN ABORTION IN WHICH AN ULTRASOUND EXAMINATION IS NOT  
33 PERFORMED BEFORE THE ABORTION PROCEDURE, urine or blood tests for pregnancy  
34 performed before the abortion procedure.

35           (b) A test for anemia.

36           (c) Rh typing, unless reliable written documentation of blood type is  
37 available.

38           (d) Other tests as indicated from the physical examination.

39          4. An ultrasound evaluation for all patients WHO ELECT TO HAVE AN  
40 ABORTION AFTER TWELVE WEEKS' GESTATION. The rules shall require that if a  
41 person who is not a physician performs an ultrasound examination, that person  
42 shall have documented evidence that the person completed a course in the  
43 operation of ultrasound equipment as prescribed in rule. The physician or  
44 other health care professional shall review, at the request of the patient,

1 the ultrasound evaluation results with the patient before the abortion  
2 procedure is performed, including the probable gestational age of the fetus.

3 5. That the physician is responsible for estimating the gestational  
4 age of the fetus based on the ultrasound examination and obstetric standards  
5 in keeping with established standards of care regarding the estimation of  
6 fetal age as defined in rule and shall write the estimate in the patient's  
7 medical history. The physician shall keep original prints of each ultrasound  
8 examination of a patient in the patient's medical history file.

9 E. The director shall adopt rules relating to the abortion procedure.  
10 At a minimum these rules shall require:

11 1. That medical personnel is available to all patients throughout the  
12 abortion procedure.

13 2. Standards for the safe conduct of abortion procedures that conform  
14 to obstetric standards in keeping with established standards of care  
15 regarding the estimation of fetal age as defined in rule.

16 3. Appropriate use of local anesthesia, analgesia and sedation if  
17 ordered by the physician.

18 4. The use of appropriate precautions, such as the establishment of  
19 intravenous access at least for patients undergoing second or third trimester  
20 abortions.

21 5. The use of appropriate monitoring of the vital signs and other  
22 defined signs and markers of the patient's status throughout the abortion  
23 procedure and during the recovery period until the patient's condition is  
24 deemed to be stable in the recovery room.

25 ~~6. That any medication, drug or other substance used to induce an~~  
26 ~~abortion is administered in compliance with the protocol that is authorized~~  
27 ~~by the United States food and drug administration and that is outlined in the~~  
28 ~~final printing labeling instructions for that medication, drug or substance.~~

29 F. The director shall adopt rules that prescribe minimum recovery room  
30 standards. At a minimum these rules shall require that:

31 1. ~~For a surgical abortion, Immediate postprocedure care, or care~~  
32 ~~provided after inducing a medication abortion,~~ consists of observation in a  
33 supervised recovery room for as long as the patient's condition warrants.

34 2. The clinic arrange hospitalization if any complication beyond the  
35 management capability of the staff occurs or is suspected.

36 3. A licensed health professional who is trained in the management of  
37 the recovery area and is capable of providing basic cardiopulmonary  
38 resuscitation and related emergency procedures remains on the premises of the  
39 abortion clinic until all patients are discharged.

40 4. ~~For a surgical abortion, A physician with admitting privileges at~~  
41 ~~a health care institution that is classified by the director as a hospital~~  
42 ~~pursuant to section 36-405, subsection B and that is within thirty miles of~~  
43 ~~the abortion clinic~~ AN ACCREDITED HOSPITAL IN THIS STATE remains on the  
44 premises of the abortion clinic until all patients are stable and are ready  
45 to leave the recovery room and to facilitate the transfer of emergency cases

1 if hospitalization of the patient or viable fetus is necessary. A physician  
2 shall sign the discharge order and be readily accessible and available until  
3 the last patient is discharged.

4 5. A physician discusses Rh0(d) immune globulin with each patient for  
5 whom it is indicated and assures it is offered to the patient in the  
6 immediate postoperative period or that it will be available to her within  
7 seventy-two hours after completion of the abortion procedure. If the patient  
8 refuses, a refusal form approved by the department shall be signed by the  
9 patient and a witness and included in the medical record.

10 6. Written instructions with regard to postabortion coitus, signs of  
11 possible problems and general aftercare are given to each patient. Each  
12 patient shall have specific instructions regarding access to medical care for  
13 complications, including a telephone number to call for medical emergencies.

14 7. There is a specified minimum length of time that a patient remains  
15 in the recovery room by type of abortion procedure and duration of gestation.

16 8. The physician assures that a licensed health professional from the  
17 abortion clinic makes a good faith effort to contact the patient by  
18 telephone, with the patient's consent, within twenty-four hours after  
19 ~~a surgical abortion~~ SURGERY to assess the patient's recovery.

20 9. Equipment and services are located in the recovery room to provide  
21 appropriate emergency resuscitative and life support procedures pending the  
22 transfer of the patient or viable fetus to the hospital.

23 G. The director shall adopt rules that prescribe standards for  
24 follow-up visits. At a minimum these rules shall require that:

25 1. ~~For a surgical abortion,~~ A postabortion medical visit is offered  
26 and, if requested, scheduled for three weeks after the abortion, including a  
27 medical examination and a review of the results of all laboratory tests. ~~For~~  
28 ~~a medication abortion, the rules shall require that a postabortion medical~~  
29 ~~visit is scheduled between one week and three weeks after the initial dose of~~  
30 ~~a medication abortion to confirm the pregnancy is completely terminated and~~  
31 ~~to assess the degree of bleeding.~~

32 2. A urine pregnancy test is obtained at the time of the follow-up  
33 visit to rule out continuing pregnancy. If a continuing pregnancy is  
34 suspected, the patient shall be evaluated and a physician who performs  
35 abortions shall be consulted.

36 H. The director shall adopt rules to prescribe minimum abortion clinic  
37 incident reporting. At a minimum these rules shall require that:

38 1. The abortion clinic records each incident resulting in a patient's  
39 or viable fetus' serious injury occurring at an abortion clinic and shall  
40 report them in writing to the department within ten days after the incident.  
41 For the purposes of this paragraph, "serious injury" means an injury that  
42 occurs at an abortion clinic and that creates a serious risk of substantial  
43 impairment of a major body organ ~~and includes any injury or condition that~~  
44 ~~requires ambulance transportation of the patient.~~

1           2. If a patient's death occurs, other than a fetal death properly  
2 reported pursuant to law, the abortion clinic reports it to the department  
3 not later than the next department work day.

4           3. Incident reports are filed with the department and appropriate  
5 professional regulatory boards.

6           ~~I. The director shall adopt rules relating to enforcement of this~~  
7 ~~article. At a minimum, these rules shall require that:~~

8           ~~1. For an abortion clinic that is not in substantial compliance with~~  
9 ~~this article and the rules adopted pursuant to this article or that is in~~  
10 ~~substantial compliance but refuses to carry out a plan of correction~~  
11 ~~acceptable to the department of any deficiencies that are listed on the~~  
12 ~~department's state of deficiency, the department may do any of the following:~~

13           ~~(a) Assess a civil penalty pursuant to section 36-431.01.~~

14           ~~(b) Impose an intermediate sanction pursuant to section 36-427.~~

15           ~~(c) Suspend or revoke a license pursuant to section 36-427.~~

16           ~~(d) Deny a license.~~

17           ~~(e) Bring an action for an injunction pursuant to section 36-430.~~

18           ~~2. In determining the appropriate enforcement action, the department~~  
19 ~~considers the threat of the health, safety and welfare of the abortion~~  
20 ~~clinic's patients or the general public, including:~~

21           ~~(a) Whether the abortion clinic has repeated violations of statutes or~~  
22 ~~rules.~~

23           ~~(b) Whether the abortion clinic has engaged in a pattern of~~  
24 ~~noncompliance.~~

25           ~~(c) The type, severity and number of violations.~~

26           ~~I.~~ I. The department shall not release personally identifiable  
27 patient or physician information.

28           ~~K.~~ J. The rules adopted by the director pursuant to this section do  
29 not limit the ability of a physician or other health professional to advise a  
30 patient on any health issue.

31           Sec. 15. Section 36-2151, Arizona Revised Statutes, is amended to  
32 read:

33           36-2151. Definitions

34           In this article, unless the context otherwise requires:

35           1. "Abortion" means the use of any means to terminate the clinically  
36 diagnosable pregnancy of a woman with knowledge that the termination by those  
37 means will cause, with reasonable likelihood, the death of the unborn child.  
38 Abortion does not include birth control devices, oral contraceptives used to  
39 inhibit or prevent ovulation, conception or the implantation of a fertilized  
40 ovum in the uterus or the use of any means to ~~save the life or preserve the~~  
41 ~~health of the unborn child~~ INCREASE THE PROBABILITY OF A LIVE BIRTH, to  
42 preserve the life or health of the child after a live birth, to terminate an  
43 ectopic pregnancy or to remove a dead fetus.

~~2. "Auscultation" means the act of listening for sounds made by internal organs of the unborn child, specifically for a heartbeat, using an ultrasound transducer and fetal heart rate monitor.~~

~~3.~~ 2. "Conception" means the fusion of a human spermatozoon with a human ovum.

~~4.~~ 3. "Gestational age" means the age of the unborn child as calculated from the first day of the last menstrual period of the pregnant woman.

~~5.~~ 4. "Health professional" has the same meaning prescribed in section 32-3201.

~~6.~~ 5. "Medical emergency" means a condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

~~7. "Medication abortion" means the use of any medication, drug or other substance that is intended to cause or induce an abortion.~~

~~8.~~ 6. "Physician" means a person who is licensed pursuant to title 32, chapter 13 or 17.

~~9.~~ 7. "Pregnant" or "pregnancy" means a female reproductive condition of having a developing unborn child in the body and that begins with conception.

~~10.~~ 8. "Probable gestational age" means the gestational age of the unborn child at the time the abortion is planned to be performed and as determined with reasonable probability by the attending physician.

~~11.~~ 9. "Surgical abortion" means the use of a surgical instrument or a machine to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will cause, with reasonable likelihood, the death of the unborn child. Surgical abortion does not include the use of any means to increase the probability of a live birth, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus. Surgical abortion does not include patient care incidental to the procedure.

~~12. "Ultrasound" means the use of ultrasonic waves for diagnostic or therapeutic purposes to monitor a developing unborn child.~~

~~13.~~ 10. "Unborn child" means the offspring of human beings from conception until birth.

Sec. 16. Section 36-2152, Arizona Revised Statutes, is amended to read:

36-2152. Parental consent; exception; hearings; time limits; violations; classification; civil relief; statute of limitations

A. In addition to the ~~other~~ requirements of ~~this chapter~~ SECTION 36-2153, a person shall not knowingly perform an abortion on a pregnant unemancipated minor unless the attending physician has secured the written

1 and notarized consent from one of the minor's parents or the minor's guardian  
2 or conservator or unless a judge of the superior court authorizes the  
3 physician to perform the abortion pursuant to subsection B of this section.  
4 Notwithstanding section 41-319, the notarized statement of parental consent  
5 and the description of the document or notarial act recorded in the notary  
6 journal are confidential and are not public records.

7 B. A judge of the superior court, on petition or motion, and after an  
8 appropriate hearing, shall authorize a physician to perform the abortion if  
9 the judge determines that the pregnant minor is mature and capable of giving  
10 informed consent to the proposed abortion. If the judge determines that the  
11 pregnant minor is not mature or if the pregnant minor does not claim to be  
12 mature, the judge shall determine whether the performance of an abortion on  
13 her without the consent from one of her parents or her guardian or  
14 conservator would be in her best interests and shall authorize a physician to  
15 perform the abortion without consent if the judge concludes that the pregnant  
16 minor's best interests would be served.

17 C. If the pregnant minor claims to be mature at a proceeding held  
18 pursuant to subsection B of this section, the minor must prove by clear and  
19 convincing evidence that she is sufficiently mature and capable of giving  
20 informed consent without consulting her parent or legal guardian based on her  
21 experience level, perspective and judgment. In assessing the pregnant  
22 minor's experience level, the court may consider, among other relevant  
23 factors, the minor's age and experiences working outside the home, living  
24 away from home, traveling on her own, handling personal finances and making  
25 other significant decisions. In assessing the pregnant minor's perspective,  
26 the court may consider, among other relevant factors, what steps the minor  
27 took to explore her options and the extent to which she considered and  
28 weighed the potential consequences of each option. In assessing the pregnant  
29 minor's judgment, the court may consider, among other relevant factors, the  
30 minor's conduct since learning of her pregnancy and her intellectual ability  
31 to understand her options and to make an informed decision.

32 D. The pregnant minor may participate in the court proceedings on her  
33 own behalf. The court ~~shall~~ MAY appoint a guardian ad litem for her. The  
34 court shall advise her that she has the right to court-appointed counsel and,  
35 on her request, shall provide her with counsel unless she appears through  
36 private counsel or she knowingly and intelligently waives her right to  
37 counsel.

38 E. Proceedings in the court under this section are confidential and  
39 have precedence over other pending matters. Members of the public shall not  
40 inspect, obtain copies of or otherwise have access to records of court  
41 proceedings under this section unless authorized by law. A judge who  
42 conducts proceedings under this section shall make in writing specific  
43 factual findings and legal conclusions supporting the decision and shall  
44 order a confidential record of the evidence to be maintained, including the  
45 judge's own findings and conclusions. The minor may file the petition using

1 a fictitious name. For THE purposes of this subsection, public does not  
2 include judges, clerks, administrators, professionals or other persons  
3 employed by or working under the supervision of the court or employees of  
4 other public agencies who are authorized by state or federal rule or law to  
5 inspect and copy closed court records.

6 F. The court shall hold the hearing and shall issue a ruling within  
7 forty-eight hours, excluding weekends and holidays, after the petition is  
8 filed. If the court fails to issue a ruling within this time period, the  
9 petition is deemed to have been granted and the consent requirement is  
10 waived.

11 G. An expedited confidential appeal is available to a pregnant minor  
12 for whom the court denies an order authorizing an abortion without parental  
13 consent. The appellate court shall hold the hearing and issue a ruling  
14 within forty-eight hours, excluding weekends and holidays, after the petition  
15 for appellate review is filed. Filing fees are not required of the pregnant  
16 minor at either the trial or the appellate level.

17 H. Parental consent or judicial authorization is not required under  
18 this section if either:

19 1. The pregnant minor certifies to the attending physician that the  
20 pregnancy resulted from sexual conduct with a minor by the minor's parent,  
21 stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or  
22 foster parent or by a person who lives in the same household with the minor  
23 and the minor's mother. The physician performing the abortion shall report  
24 the sexual conduct with a minor to the proper law enforcement officials  
25 pursuant to section 13-3620 and shall preserve and forward a sample of the  
26 fetal tissue to these officials for use in a criminal investigation.

27 2. The attending physician certifies in the pregnant minor's medical  
28 record that, on the basis of the physician's good faith clinical judgment,  
29 the pregnant minor has a condition that so complicates her medical condition  
30 as to necessitate the immediate abortion of her pregnancy to avert her death  
31 or for which a delay will create serious risk of substantial and irreversible  
32 impairment of major bodily function.

33 I. A person who performs an abortion in violation of this section is  
34 guilty of a class 1 misdemeanor. A person who intentionally causes, aids or  
35 assists a minor in obtaining an abortion in violation of this section is  
36 guilty of a class 1 misdemeanor. A person is not subject to any liability  
37 under this section if the person establishes by written evidence that the  
38 person relied on evidence sufficient to convince a careful and prudent person  
39 that the representations of the pregnant minor regarding information  
40 necessary to comply with this section are true.

41 J. In addition to other remedies available under the common or  
42 statutory law of this state, one or both of the minor's parents or the  
43 minor's guardian may bring a civil action in the superior court in the county  
44 in which the parents or the guardian resides to obtain appropriate relief for  
45 a violation of this section, unless the pregnancy resulted from the criminal



conduct of the parent or guardian. The civil action may be based on a claim that failure to obtain consent was a result of simple negligence, gross negligence, wantonness, wilfulness, intention or any other legal standard of care. ~~The civil action may be brought against the person who performs the abortion in violation of this section and any person who causes, aids or assists a minor to obtain an abortion without meeting the requirements of this section.~~ Relief pursuant to this subsection includes the following:

1. Money damages for all psychological, emotional and physical injuries that result from the violation of this section.

2. Statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater.

3. Reasonable attorney fees and costs.

K. A civil action brought pursuant to this section must be initiated within six years after the violation occurred.

~~L. The consent required by this section must be obtained on a form prescribed by the department of health services. At a minimum, the form must:~~

~~1. List the possible medical risks that may occur with any surgical, medical or diagnostic procedure, including the potential for infection, blood clots, hemorrhage, allergic reactions and death.~~

~~2. List the possible medical risks that may occur with a surgical abortion, including hemorrhage, uterine perforation, sterility, injury to the bowel or bladder, a possible hysterectomy as a result of a complication or injury during the procedure and failure to remove all products of conception that may result in an additional procedure.~~

~~3. List the possible medical risks that may occur with a medication abortion, including hemorrhage, infection, failure to remove all products of conception that may result in an additional procedure, sterility and the possible continuation of the pregnancy.~~

~~4. Require the pregnant minor's and the pregnant minor's parent's initials on each page of the form and a full signature on the final page of the form.~~

~~5. Include a space for the notary's signature and seal on the final page of the form.~~

~~M. The physician must maintain the form in the pregnant minor's records for seven years after the date of the procedure or five years after the date of the minor's maturity, whichever is longer.~~

Sec. 17. Section 36-2153, Arizona Revised Statutes, is amended to read:

36-2153. Informed consent; requirements; information; website; violation; civil relief; statute of limitations

A. An abortion shall not be performed or induced without the voluntary and informed consent of the woman on whom the abortion is to be performed or induced. Except in the case of a medical emergency ~~and in addition to the~~

~~other requirements of this chapter~~, consent to an abortion is voluntary and informed only if all of the following are true:

1. At least twenty-four hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, of:

(a) The name of the physician who will perform the abortion.

(b) The nature of the proposed procedure or treatment.

(c) The immediate and long-term medical risks associated with the procedure that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.

(d) Alternatives to the procedure or treatment that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.

(e) The probable gestational age of the unborn child at the time the abortion is to be performed.

(f) The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.

(g) The medical risks associated with carrying the child to term.

2. At least twenty-four hours before the abortion, the physician who is to perform the abortion, the referring physician or a qualified physician, physician assistant, nurse, psychologist or licensed behavioral health professional to whom the responsibility has been delegated by either physician has informed the woman, orally and in person, that:

(a) Medical assistance benefits may be available for prenatal care, childbirth and neonatal care.

(b) The father of the unborn child is liable to assist in the support of the child, even if he has offered to pay for the abortion. In the case of rape or incest, this information may be omitted.

(c) Public and private agencies and services are available to assist the woman during her pregnancy and after the birth of her child if she chooses not to have an abortion, whether she chooses to keep the child or place the child for adoption.

(d) It is unlawful for any person to coerce a woman to undergo an abortion.

(e) The woman is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

~~(f) The department of health services maintains a website that describes the unborn child and lists the agencies that offer alternatives to abortion.~~

~~(g) The woman has a right to review the website and that a printed copy of the materials on the website will be provided to her free of charge if she chooses to review these materials.~~

3. The information in paragraphs 1 and 2 of this subsection is provided to the woman individually and in a private room to protect her privacy and to ensure that the information focuses on her individual circumstances and that she has adequate opportunity to ask questions.

4. The woman certifies in writing before the abortion that the information required to be provided pursuant to paragraphs 1 and 2 of this subsection has been provided.

B. If a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert the woman's death or to avert substantial and irreversible impairment of a major bodily function.

~~C. The department of health services shall establish a website within ninety days after the effective date of this amendment to this section and shall annually update the website. The website must include a link to a printable version of all materials listed on the website. The materials must be written in an easily understood manner and printed in a typeface that is large enough to be clearly legible. The website must include all of the following materials:~~

~~1. Information that is organized geographically by location and that is designed to inform the woman about public and private agencies and services that are available to assist a woman through pregnancy, at childbirth and while her child is dependent, including adoption agencies. The materials shall include a comprehensive list of the agencies, a description of the services they offer and the manner in which these agencies may be contacted, including the agencies' telephone numbers and website addresses.~~

~~2. Information on the availability of medical assistance benefits for prenatal care, childbirth and neonatal care.~~

~~3. A statement that it is unlawful for any person to coerce a woman to undergo an abortion.~~

~~4. A statement that any physician who performs an abortion on a woman without obtaining the woman's voluntary and informed consent or without affording her a private medical consultation may be liable to the woman for damages in a civil action.~~

~~5. A statement that the father of a child is liable to assist in the support of that child, even if the father has offered to pay for an abortion, and that the law allows adoptive parents to pay costs of prenatal care, childbirth and neonatal care.~~

~~6. Information that is designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from fertilization to full term, including pictures or drawings representing the development of unborn children at two-week gestational increments and any relevant information on the possibility of the unborn child's survival. The pictures or drawings must contain the~~

~~dimensions of the unborn child and must be realistic and appropriate for each stage of pregnancy. The information provided pursuant to this paragraph must be objective, nonjudgmental and designed to convey only accurate scientific information about the unborn child at the various gestational ages.~~

~~7. Objective information that describes the methods of abortion procedures commonly employed, the medical risks commonly associated with each procedure, the possible detrimental psychological effects of abortion and the medical risks commonly associated with carrying a child to term.~~

~~D.~~ C. An individual who is not a physician shall not perform a surgical abortion.

~~E.~~ D. A person shall not write or communicate a prescription for a drug or drugs to induce an abortion or require or obtain payment for a service provided to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the twenty-four hour reflection period required by subsection A of this section.

~~F.~~ E. A person shall not intimidate or coerce in any way any person to obtain an abortion. A parent, a guardian or any other person shall not coerce a minor to obtain an abortion. If a minor is denied financial support by the minor's parents, guardians or custodian due to the minor's refusal to have an abortion performed, the minor is deemed emancipated for the purposes of eligibility for public assistance benefits, except that the emancipated minor may not use these benefits to obtain an abortion.

~~G. An abortion clinic as defined in section 36-449.01 shall conspicuously post signs that are visible to all who enter the abortion clinic, that are clearly readable and that state it is unlawful for any person to force a woman to have an abortion and a woman who is being forced to have an abortion has the right to contact any local or state law enforcement or social service agency to receive protection from any actual or threatened physical, emotional or psychological abuse. The signs shall be posted in the waiting room, consultation rooms and procedure rooms.~~

~~H. A person shall not require a woman to obtain an abortion as a provision in a contract or as a condition of employment.~~

~~I.~~ F. A physician who knowingly violates this section commits an act of unprofessional conduct and is subject to license suspension or revocation pursuant to title 32, chapter 13 or 17.

~~J.~~ G. In addition to other remedies available under the common or statutory law of this state, any of the following may file a civil action to obtain appropriate relief for a violation of this section:

1. A woman on whom an abortion has been performed without her informed consent as required by this section.

2. The father of the unborn child if married to the mother at the time she received the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.

3. The maternal grandparents of the unborn child if the mother was not at least eighteen years of age at the time of the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.

~~K~~ H. A civil action filed pursuant to subsection ~~J~~ G of this section shall be brought in the superior court in the county in which the woman on whom the abortion was performed resides and may be based on a claim that failure to obtain informed consent was a result of simple negligence, gross negligence, wantonness, wilfulness, intention or any other legal standard of care. Relief pursuant to subsection ~~J~~ G of this section includes the following:

1. Money damages for all psychological, emotional and physical injuries resulting from the violation of this section.

2. Statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater.

3. Reasonable attorney fees and costs.

~~L~~ I. A civil action brought pursuant to this section must be initiated within six years after the violation occurred.

Sec. 18. Repeal

Sections 36-2156, 36-2157, 36-2158 and 36-2159, Arizona Revised Statutes, are repealed.

Sec. 19. Section 36-2161, Arizona Revised Statutes, is amended to read:

36-2161. Abortions; reporting requirements

A. A hospital or facility in this state where abortions are performed must submit to the department of health services on a form prescribed by the department a report of each abortion performed in the hospital or facility. The report shall not identify the individual patient by name but must include the following information:

1. The name and address of the facility where the abortion was performed.

2. The type of facility where the abortion was performed.

3. The county where the abortion was performed.

4. The woman's age.

5. The woman's educational background by highest grade completed and, if applicable, level of college completed.

6. The county and state in which the woman resides.

7. The woman's race and ethnicity.

8. The woman's marital status.

9. The number of prior pregnancies and prior abortions of the woman.

10. The number of previous spontaneous terminations of pregnancy of the woman.

11. The gestational age of the unborn child at the time of the abortion.

12. The reason for the abortion, including whether the abortion is elective or due to maternal or fetal health considerations.

1       13. The type of procedure performed or prescribed and the date of the  
2 abortion.

3       14. Any preexisting medical conditions of the woman that would  
4 complicate pregnancy and any known medical complication that resulted from  
5 the abortion.

6       15. The basis for any medical judgment that a medical emergency existed  
7 that excused the physician from compliance with the requirements of this  
8 chapter.

9       16. The physician's statement if required pursuant to section  
10 36-2301.01.

11       17. If applicable, the weight of the aborted fetus for any abortion  
12 performed pursuant to section 36-2301.01.

13       ~~18. Whether an infant was born alive during or immediately after an~~  
14 ~~attempted abortion and the efforts made to promote, preserve and maintain the~~  
15 ~~life of the infant pursuant to section 36-2301.~~

16       B. The report must be signed by the physician who performed the  
17 abortion or, if a health professional other than a physician is authorized by  
18 law to prescribe or administer abortion medication, the signature and title  
19 of the person who prescribed or administered the abortion medication. The  
20 form may be signed electronically and shall indicate that the person who  
21 signs the report is attesting that the information in the report is correct  
22 to the best of the person's knowledge. The hospital or facility must  
23 transmit the report to the department within fifteen days after the last day  
24 of each reporting month.

25       C. Any report filed pursuant to this section shall be filed  
26 electronically at an internet website that is designated by the department  
27 unless the person required to file the report applies for a waiver from  
28 electronic reporting by submitting a written request to the department.

29       Sec. 20. Section 36-2163, Arizona Revised Statutes, is amended to  
30 read:

31       36-2163. Reports; confidentiality; annual statistical report;  
32       violations; classification; unprofessional conduct

33       A. A report required by this article shall not contain the name of the  
34 woman, common identifiers such as the woman's social security number, driver  
35 license number or insurance carrier identification numbers or any other  
36 information or identifiers that would make it possible to identify in any  
37 manner or under any circumstances an individual who has obtained or seeks to  
38 obtain an abortion.

39       B. The department of health services shall collect all abortion  
40 reports and complication reports and prepare a comprehensive annual  
41 statistical report based on the data gathered in the reports. The  
42 statistical report shall not lead to the disclosure of the identity of any  
43 person filing a report or about whom a report is filed. The department shall  
44 make the statistical report available on its website and for public  
45 inspection and copying.

1 C. The report prepared by the department pursuant to subsection B of  
2 this section shall include statistics from the administrative office of the  
3 courts containing the following information:

4 1. The number of petitions filed pursuant to section 36-2152,  
5 subsection B.

6 2. Of the petitions filed pursuant to section 36-2152, subsection B,  
7 the number in which the judge appointed a guardian ad litem or  
8 court-appointed counsel for the minor pursuant to section 36-2152,  
9 subsection D.

10 3. Of the petitions filed pursuant to section 36-2152, subsection B,  
11 the number in which the judge issued an order authorizing an abortion without  
12 parental consent.

13 4. Of the petitions filed pursuant to section 36-2152, subsection B,  
14 the number in which the judge issued an order denying the petition.

15 5. Of the petitions denied, the number appealed to the court of  
16 appeals.

17 6. The number of those appeals that resulted in the denials being  
18 affirmed.

19 7. The number of those appeals that resulted in the denial being  
20 reversed.

21 D. Except for a statistical report as provided in subsection B of this  
22 section, a report filed pursuant to this article is not a public record and  
23 is not available for public inspection, except that disclosure may be made to  
24 law enforcement officials on an order of a court after application showing  
25 good cause. The court may condition disclosure of the information on any  
26 appropriate safeguards it may impose.

27 E. Original copies of all reports filed pursuant to sections 36-2161  
28 and 36-2162 shall be available to the Arizona medical board and the Arizona  
29 board of osteopathic examiners in medicine and surgery for use in the  
30 performance of their official duties. The Arizona medical board and the  
31 Arizona board of osteopathic examiners in medicine and surgery shall maintain  
32 the confidentiality of any reports obtained pursuant to this subsection.

33 F. An employee, agent or contractor of the department who wilfully  
34 discloses any information obtained from reports filed pursuant to this  
35 article, other than disclosure authorized under subsections B, D and E of  
36 this section or as otherwise authorized by law, is guilty of a class 3  
37 misdemeanor.

38 G. A person who is required by this article to file a report, keep any  
39 records or supply any information and who wilfully fails to file that report,  
40 keep records or supply information as required by law is guilty of  
41 unprofessional conduct and is subject to discipline, including license  
42 suspension or revocation.

43 H. A person who wilfully delivers or discloses to the department any  
44 report, record or information known by that person to be false commits a  
45 class 1 misdemeanor.

I. In addition to the penalties prescribed by subsections F, G and H of this section, an organization or facility that wilfully violates the reporting requirements of this article is subject to discipline by the department including the SAME civil penalties prescribed in section ~~36-431.01~~ ~~36-126~~. ~~If an organization or facility that is licensed pursuant to chapter 4, article 10 of this title wilfully violates the reporting requirements of this article, the department may assess a civil penalty pursuant to section 36-431.01, impose an intermediate sanction pursuant to section 36-427, suspend or revoke a license pursuant to section 36-427, deny a license or bring an action for an injunction pursuant to section 36-430.~~

Sec. 21. Repeal

Section ~~36-3604~~, Arizona Revised Statutes, is repealed.

Sec. 22. Section 43-1088, Arizona Revised Statutes, is amended to read:

43-1088. Credit for contribution to qualifying charitable organizations; definitions

A. Except as provided in subsection B of this section, a credit is allowed against the taxes imposed by this title for voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G during the taxable year to a qualifying charitable organization not to exceed:

1. Two hundred dollars in any taxable year for a single individual or a head of household.

2. Four hundred dollars in any taxable year for a married couple filing a joint return.

B. If the voluntary cash contribution by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G is to a qualifying foster care charitable organization, the credit shall not exceed:

1. Four hundred dollars in any taxable year for a single individual or a head of household.

2. Eight hundred dollars in any taxable year for a married couple filing a joint return.

C. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

D. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this title for not more than five consecutive taxable years' income tax liability.

E. The credit allowed by this section is in lieu of a deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

F. Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the



1 contribution to the department of revenue on forms provided by the  
2 department.

3 G. A qualifying charitable organization shall provide the department  
4 of revenue with a written certification that it meets all criteria to be  
5 considered a qualifying charitable organization. The organization shall also  
6 notify the department of any changes that may affect the qualifications under  
7 this section.

8 H. The charitable organization's written certification must be signed  
9 by an officer of the organization under penalty of perjury. The written  
10 certification must include the following:

11 1. Verification of the organization's status under section 501(c)(3)  
12 of the internal revenue code or verification that the organization is a  
13 designated community action agency that receives community services block  
14 grant program monies pursuant to 42 United States Code section 9901.

15 2. Financial data indicating the organization's budget for the  
16 organization's prior operating year and the amount of that budget spent on  
17 services to residents of this state who either:

18 (a) Receive temporary assistance for needy families benefits.

19 (b) Are low-income residents of this state.

20 (c) Are chronically ill or children with physical disabilities.

21 3. A statement that the organization plans to continue spending at  
22 least fifty ~~per-cent~~ PERCENT of its budget on services to residents of this  
23 state who receive temporary assistance for needy families benefits, who are  
24 low-income residents of this state or who are chronically ill or children  
25 with physical disabilities.

26 ~~4. A statement that the organization does not provide, pay for or~~  
27 ~~provide coverage of abortions and does not financially support any other~~  
28 ~~entity that provides, pays for or provides coverage of abortions.~~

29 I. The department shall review each written certification and  
30 determine whether the organization meets all the criteria to be considered a  
31 qualifying charitable organization and notify the organization of its  
32 determination. The department may also periodically request recertification  
33 from the organization. The department shall compile and make available to  
34 the public a list of the qualifying charitable organizations.

35 J. For the purposes of this section:

36 1. "Chronically ill or children with physical disabilities" has the  
37 same meaning prescribed in section 36-260.

38 2. "Low-income residents" means persons whose household income is less  
39 than one hundred fifty ~~per-cent~~ PERCENT of the federal poverty level.

40 3. "Qualifying charitable organization" means a charitable  
41 organization that is exempt from federal income taxation under section  
42 501(c)(3) of the internal revenue code or is a designated community action  
43 agency that receives community services block grant program monies pursuant  
44 to 42 United States Code section 9901. The organization must spend at least  
45 fifty ~~per-cent~~ PERCENT of its budget on services to residents of this state

1 who receive temporary assistance for needy families benefits or low-income  
 2 residents of this state and their households or to chronically ill or  
 3 children with physical disabilities who are residents of this state.  
 4 Taxpayers choosing to make donations through an umbrella charitable  
 5 organization that collects donations on behalf of member charities shall  
 6 designate that the donation be directed to a member charitable organization  
 7 that would qualify under this section on a stand-alone basis. ~~Qualifying~~  
 8 ~~charitable organization does not include any entity that provides, pays for~~  
 9 ~~or provides coverage of abortions or that financially supports any other~~  
 10 ~~entity that provides, pays for or provides coverage of abortions.~~

11 4. "Qualifying foster care charitable organization" means a qualifying  
 12 charitable organization that each operating year provides services to at  
 13 least two hundred foster children in this state and spends at least fifty ~~per~~  
 14 ~~cent~~ PERCENT of its budget on services to foster children in this state. For  
 15 the purposes of this paragraph, "foster children" has the same meaning  
 16 prescribed in section 8-501.

17 5. "Services" means cash assistance, medical care, child care, food,  
 18 clothing, shelter, job placement and job training services or any other  
 19 assistance that is reasonably necessary to meet immediate basic needs and  
 20 that is provided and used in this state.

21 Sec. 23. Repeal

22 Laws 2011, chapter 9, sections 3, 4, 5 and 6, Laws 2011, chapter 10,  
 23 sections 7, 8 and 9, Laws 2011, chapter 55, section 3, Laws 2012, chapter  
 24 250, sections 9, 10, 11 and 12, Laws 2012, chapter 288, sections 2 and 3,  
 25 Laws 2012, chapter 337, section 6 and Laws 2014, chapter 33, section 5 are  
 26 repealed.

27 Sec. 24. Short title

28 This act may be cited as the "Women's Health Restoration Act".