

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

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HB 2332

Introduced by
Representatives Salman: Andrade, Bolding, Cano, DeGrazia, Engel,
Fernandez, Friese, Gabaldón, Hernandez A, Hernandez D, Jermaine,
Longdon, Peten, Powers Hannley, Rodriguez, Sierra, Teller, Terán,
Tsosie, Senator Mendez

AN ACT

REPEALING SECTION 13-3603.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 20-121, 20-826, 20-1057.08, 20-1402, 20-1404, 20-2329 AND 32-1901, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 18, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1973.01; AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3226; AMENDING SECTION 35-196.02, ARIZONA REVISED STATUTES; REPEALING SECTION 35-196.05, ARIZONA REVISED STATUTES; AMENDING SECTION 36-132, ARIZONA REVISED STATUTES; REPEALING SECTION 36-145, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-404, 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 36-2162, ARIZONA REVISED STATUTES; REPEALING SECTION 36-2162.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-2163, 36-2301 AND 36-2301.01, ARIZONA REVISED STATUTES; REPEALING SECTIONS 36-2930.03 AND 36-3604, ARIZONA REVISED STATUTES; AMENDING SECTIONS 38-612 AND 43-1088, ARIZONA REVISED STATUTES; REPEALING LAWS 2011, CHAPTER 9, SECTIONS 3, 4, 5 AND 6, LAWS 2011, CHAPTER 10, SECTIONS 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, LAWS 2014, CHAPTER 33, SECTIONS 4, 5 AND 6, LAWS 2016, CHAPTER 267, SECTIONS 6 AND 7, LAWS 2017, CHAPTER 133, SECTIONS 6, 7 AND 8 AND LAWS 2018, CHAPTER 219, 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3 Section 13-3603.02, Arizona Revised Statutes, is repealed.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 20-121, Arizona Revised Statutes, is amended to
5 read:

6 20-121. Health care; abortion coverage

7 ~~A.~~ Consistent with the provisions of the patient protection and
8 affordable care act (P.L. 111-148), any qualified health insurance policy,
9 contract or plan offered ~~through any health care exchange operating~~ in
10 this state ~~shall not~~ MAY provide coverage for abortions.

11 ~~B. Subsection A of this section does not apply to coverage for any
12 abortion.~~

13 ~~1. That is necessary to save the life of the woman having the
14 abortion.~~

15 ~~2. That is necessary to avert substantial and irreversible
16 impairment of a major bodily function of the woman having the abortion.~~

17 ~~3. When the pregnancy is the result of rape or incest.~~

18 Sec. 3. Section 20-826, Arizona Revised Statutes, is amended to
19 read:

20 20-826. Subscription contracts; definitions

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

24 B. Each contract shall plainly state the services to which the
25 subscriber is entitled and those to which the subscriber is not entitled
26 under the plan, and shall constitute a direct obligation of the providers
27 of services with which the corporation has contracted for hospital,
28 medical, dental or optometric services.

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

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

34 2. Any home health services that are performed by a licensed home
35 health agency and that a physician has prescribed in lieu of hospital
36 services, as defined by the director, providing the hospital services
37 would have been covered.

38 3. Any diagnostic service that a physician has performed outside a
39 hospital in lieu of inpatient service, providing the inpatient service
40 would have been covered.

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

1 D. Each contract for dental or optometric services shall be so
2 written that the corporation shall pay benefits for contracted dental or
3 optometric services provided by dentists or optometrists.

4 E. Any contract, except accidental death and dismemberment, applied
5 for that provides family coverage, as to such coverage of family members,
6 shall also provide that the benefits applicable for children shall be
7 payable with respect to a newly born child of the insured from the instant
8 of such child's birth, to a child adopted by the insured, regardless of
9 the age at which the child was adopted, and to a child who has been placed
10 for adoption with the insured and for whom the application and approval
11 procedures for adoption pursuant to section 8-105 or 8-108 have been
12 completed to the same extent that such coverage applies to other members
13 of the family. The coverage for newly born or adopted children or
14 children placed for adoption shall include coverage of injury or sickness,
15 including necessary care and treatment of medically diagnosed congenital
16 defects and birth abnormalities. If payment of a specific premium is
17 required to provide coverage for a child, the contract may require that
18 notification of birth, adoption or adoption placement of the child and
19 payment of the required premium must be furnished to the insurer within
20 thirty-one days after the date of birth, adoption or adoption placement in
21 order to have the coverage continue beyond the thirty-one day period.

22 F. Each contract that is delivered or issued for delivery in this
23 state after December 25, 1977 and that provides that coverage of a
24 dependent child shall terminate on attainment of the limiting age for
25 dependent children specified in the contract shall also provide in
26 substance that attainment of such limiting age shall not operate to
27 terminate the coverage of such child while the child is and continues to
28 be both incapable of self-sustaining employment by reason of intellectual
29 disability or physical disability and chiefly dependent on the subscriber
30 for support and maintenance. Proof of such incapacity and dependency
31 shall be furnished to the corporation by the subscriber within thirty-one
32 days of the child's attainment of the limiting age and subsequently as may
33 be required by the corporation, but not more frequently than annually
34 after the two-year period following the child's attainment of the limiting
35 age.

36 G. No corporation may cancel or refuse to renew any subscriber's
37 contract without giving notice of such cancellation or nonrenewal to the
38 subscriber under such contract. A notice by the corporation to the
39 subscriber of cancellation or nonrenewal of a subscription contract shall
40 be mailed to the named subscriber at least forty-five days before the
41 effective date of such cancellation or nonrenewal. The notice shall
42 include or be accompanied by a statement in writing of the reasons for
43 such action by the corporation. Failure of the corporation to comply with
44 this subsection shall invalidate any cancellation or nonrenewal except a
45 cancellation or nonrenewal for nonpayment of premium.

1 H. A contract that provides coverage for surgical services for a
2 mastectomy shall also provide coverage incidental to the patient's covered
3 mastectomy for surgical services for reconstruction of the breast on which
4 the mastectomy was performed, surgery and reconstruction of the other
5 breast to produce a symmetrical appearance, prostheses, treatment of
6 physical complications for all stages of the mastectomy, including
7 lymphedemas, and at least two external postoperative prostheses subject to
8 all of the terms and conditions of the policy.

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

14 1. A baseline mammogram for a woman from age thirty-five to
15 thirty-nine.

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

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

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

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

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

26 3. All preexisting conditions and other limitations have been met
27 by the insured.

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

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

1 L. The director may disapprove any contract if the benefits
2 provided in the form of such contract are unreasonable in relation to the
3 premium charged.

4 M. The director shall adopt emergency rules applicable to persons
5 who are leaving active service in the armed forces of the United States
6 and returning to civilian status including:

- 7 1. Conditions of eligibility.
- 8 2. Coverage of dependents.
- 9 3. Preexisting conditions.
- 10 4. Termination of insurance.
- 11 5. Probationary periods.
- 12 6. Limitations.
- 13 7. Exceptions.
- 14 8. Reductions.
- 15 9. Elimination periods.
- 16 10. Requirements for replacement.
- 17 11. Any other condition of subscription contracts.

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

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

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

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

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

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

- 1 0. Nothing in subsection N of this section:
2 1. Requires a mother to give birth in a hospital or to stay in the
3 hospital for a fixed period of time following the birth of the child.
4 2. Prevents a corporation from imposing deductibles, coinsurance or
5 other cost sharing in relation to benefits for hospital lengths of stay in
6 connection with childbirth for a mother or a newborn child under the
7 contract, except that any coinsurance or other cost sharing for any
8 portion of a period within a hospital length of stay required pursuant to
9 subsection N of this section shall not be greater than the coinsurance or
10 cost sharing for any preceding portion of that stay.
11 3. Prevents a corporation from negotiating the level and type of
12 reimbursement with a provider for care provided in accordance with
13 subsection N of this section.
14 P. Any contract that provides coverage for diabetes shall also
15 provide coverage for equipment and supplies that are medically necessary
16 and that are prescribed by a health care provider, including:
17 1. Blood glucose monitors.
18 2. Blood glucose monitors for the legally blind.
19 3. Test strips for glucose monitors and visual reading and urine
20 testing strips.
21 4. Insulin preparations and glucagon.
22 5. Insulin cartridges.
23 6. Drawing up devices and monitors for the visually impaired.
24 7. Injection aids.
25 8. Insulin cartridges for the legally blind.
26 9. Syringes and lancets, including automatic lancing devices.
27 10. Prescribed oral agents for controlling blood sugar that are
28 included on the plan formulary.
29 11. To the extent coverage is required under medicare, podiatric
30 appliances for prevention of complications associated with diabetes.
31 12. Any other device, medication, equipment or supply for which
32 coverage is required under medicare from and after January 1, 1999. The
33 coverage required in this paragraph is effective six months after the
34 coverage is required under medicare.
35 Q. Nothing in subsection P of this section prohibits a medical
36 service corporation, a hospital service corporation or a hospital,
37 medical, dental and optometric service corporation from imposing
38 deductibles, coinsurance or other cost sharing in relation to benefits for
39 equipment or supplies for the treatment of diabetes.
40 R. Any hospital or medical service contract that provides coverage
41 for prescription drugs shall not limit or exclude coverage for any
42 prescription drug prescribed for the treatment of cancer on the basis that
43 the prescription drug has not been approved by the United States food and
44 drug administration for the treatment of the specific type of cancer for
45 which the prescription drug has been prescribed, if the prescription drug

1 has been recognized as safe and effective for treatment of that specific
2 type of cancer in one or more of the standard medical reference compendia
3 prescribed in subsection S of this section or medical literature that
4 meets the criteria prescribed in subsection S of this section. The
5 coverage required under this subsection includes covered medically
6 necessary services associated with the administration of the prescription
7 drug. This subsection does not:

8 1. Require coverage of any prescription drug used in the treatment
9 of a type of cancer if the United States food and drug administration has
10 determined that the prescription drug is contraindicated for that type of
11 cancer.

12 2. Require coverage for any experimental prescription drug that is
13 not approved for any indication by the United States food and drug
14 administration.

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

18 4. Notwithstanding section 20-841.05, require reimbursement or
19 coverage for any prescription drug that is not included in the drug
20 formulary or list of covered prescription drugs specified in the contract.

21 5. Notwithstanding section 20-841.05, prohibit a contract from
22 limiting or excluding coverage of a prescription drug, if the decision to
23 limit or exclude coverage of the prescription drug is not based primarily
24 on the coverage of prescription drugs required by this section.

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

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

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

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

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

35 (c) Thomson Micromedex compendium DrugDex.

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

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

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

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

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

6 (c) The literature meets the uniform requirements for manuscripts
7 submitted to biomedical journals established by the international
8 committee of medical journal editors or is published in a journal
9 specified by the United States department of health and human services as
10 acceptable peer reviewed medical literature pursuant to section
11 186(t)(2)(B) of the social security act (42 United States Code section
12 1395x(t)(2)(B)).

13 T. A corporation shall not issue or deliver any advertising matter
14 or sales material to any person in this state until the corporation files
15 the advertising matter or sales material with the director. This
16 subsection does not require a corporation to have the prior approval of
17 the director to issue or deliver the advertising matter or sales
18 material. If the director finds that the advertising matter or sales
19 material, in whole or in part, is false, deceptive or misleading, the
20 director may issue an order disapproving the advertising matter or sales
21 material, directing the corporation to cease and desist from issuing,
22 circulating, displaying or using the advertising matter or sales material
23 within a period of time specified by the director but not less than ten
24 days and imposing any penalties prescribed in this title. At least five
25 days before issuing an order pursuant to this subsection, the director
26 shall provide the corporation with a written notice of the basis of the
27 order to provide the corporation with an opportunity to cure the alleged
28 deficiency in the advertising matter or sales material within a single
29 ~~five-day~~ FIVE-DAY period for the particular advertising matter or sales
30 material at issue. The corporation may appeal the director's order
31 pursuant to title 41, chapter 6, article 10. Except as otherwise provided
32 in this subsection, a corporation may obtain a stay of the effectiveness
33 of the order as prescribed in section 20-162. If the director certifies
34 in the order and provides a detailed explanation of the reasons in support
35 of the certification that continued use of the advertising matter or sales
36 material poses a threat to the health, safety or welfare of the public,
37 the order may be entered immediately without opportunity for cure and the
38 effectiveness of the order is not stayed pending the hearing on the notice
39 of appeal but the hearing shall be promptly instituted and determined.

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

44 V. The metabolic disorders triggering medical foods coverage under
45 this section shall:

- 1 1. Be part of the newborn screening program prescribed in section
2 36-694.
- 3 2. Involve amino acid, carbohydrate or fat metabolism.
- 4 3. Have medically standard methods of diagnosis, treatment and
5 monitoring, including quantification of metabolites in blood, urine or
6 spinal fluid or enzyme or DNA confirmation in tissues.
- 7 4. Require specially processed or treated medical foods that are
8 generally available only under the supervision and direction of a
9 physician who is licensed pursuant to title 32, chapter 13 or 17 or a
10 registered nurse practitioner who is licensed pursuant to title 32,
11 chapter 15, that must be consumed throughout life and without which the
12 person may suffer serious mental or physical impairment.
- 13 W. Medical foods eligible for coverage under this section shall be
14 prescribed or ordered under the supervision of a physician licensed
15 pursuant to title 32, chapter 13 or 17 as medically necessary for the
16 therapeutic treatment of an inherited metabolic disease.
- 17 X. A hospital service corporation or medical service corporation
18 shall cover at least fifty ~~per cent~~ PERCENT of the cost of medical foods
19 prescribed to treat inherited metabolic disorders and covered pursuant to
20 this section. A hospital service corporation or medical service
21 corporation may limit the maximum annual benefit for medical foods under
22 this section to ~~five thousand dollars~~ \$5,000, which applies to the cost of
23 all prescribed modified low protein foods and metabolic formula.
- 24 Y. Any contract between a corporation and its subscribers is
25 subject to the following:
- 26 1. If the contract provides coverage for prescription drugs, the
27 contract shall provide coverage for any prescribed drug or device that is
28 approved by the United States food and drug administration for use as a
29 contraceptive. A corporation may use a drug formulary, multitiered drug
30 formulary or list but that formulary or list shall include oral, implant
31 and injectable contraceptive drugs, intrauterine devices and prescription
32 barrier methods if the corporation does not impose deductibles,
33 coinsurance, copayments or other cost containment measures for
34 contraceptive drugs that are greater than the deductibles, coinsurance,
35 copayments or other cost containment measures for other drugs on the same
36 level of the formulary or list.
- 37 2. If the contract provides coverage for outpatient health care
38 services, the contract shall provide coverage for outpatient contraceptive
39 services. For the purposes of this paragraph, "outpatient contraceptive
40 services" means consultations, examinations, procedures and medical
41 services provided on an outpatient basis and related to the use of
42 approved United States food and drug administration prescription
43 contraceptive methods to prevent unintended pregnancies.
- 44 3. This subsection does not apply to contracts issued to
45 individuals on a nongroup basis.

1 ~~Z. Notwithstanding subsection Y of this section, a religiously~~
2 ~~affiliated employer may require that the corporation provide a contract~~
3 ~~without coverage for specific items or services required under subsection~~
4 ~~Y of this section because providing or paying for coverage of the specific~~
5 ~~items or services is contrary to the religious beliefs of the religiously~~
6 ~~affiliated employer offering the plan. If a religiously affiliated~~
7 ~~employer objects to providing coverage for specific items or services~~
8 ~~required under subsection Y of this section, a written affidavit shall be~~
9 ~~filed with the corporation stating the objection. On receipt of the~~
10 ~~affidavit, the corporation shall issue to the religiously affiliated~~
11 ~~employer a contract that excludes coverage for specific items or services~~
12 ~~required under subsection Y of this section. The corporation shall retain~~
13 ~~the affidavit for the duration of the contract and any renewals of the~~
14 ~~contract. This subsection shall not exclude coverage for prescription~~
15 ~~contraceptive methods ordered by a health care provider with prescriptive~~
16 ~~authority for medical indications other than for contraceptive,~~
17 ~~abortifacient, abortion or sterilization purposes. A religiously~~
18 ~~affiliated employer offering the plan may state religious beliefs in its~~
19 ~~affidavit and may require the subscriber to first pay for the prescription~~
20 ~~and then submit a claim to the hospital service corporation, medical~~
21 ~~service corporation or hospital, medical, dental and optometric service~~
22 ~~corporation along with evidence that the prescription is not for a purpose~~
23 ~~covered by the objection. A hospital service corporation, medical service~~
24 ~~corporation or hospital, medical, dental and optometric service~~
25 ~~corporation may charge an administrative fee for handling these claims.~~

26 ~~AA. Subsection Z of this section does not authorize a religiously~~
27 ~~affiliated employer to obtain an employee's protected health information~~
28 ~~or to violate the health insurance portability and accountability act of~~
29 ~~1996 (P.L. 104-191, 110 Stat. 1936) or any federal regulations adopted~~
30 ~~pursuant to that act.~~

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

34 Z. NOTWITHSTANDING SUBSECTION Y OF THIS SECTION, A RELIGIOUS
35 EMPLOYER WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF PRESCRIBED
36 CONTRACEPTIVE METHODS MAY REQUIRE THAT THE CORPORATION PROVIDE A CONTRACT
37 WITHOUT COVERAGE FOR ALL APPROVED UNITED STATES FOOD AND DRUG
38 ADMINISTRATION PRESCRIPTION CONTRACEPTIVE METHODS. THE RELIGIOUS EMPLOYER
39 SHALL SUBMIT A WRITTEN AFFIDAVIT TO THE CORPORATION STATING THAT IT IS A
40 RELIGIOUS EMPLOYER. ON RECEIPT OF THE AFFIDAVIT, THE CORPORATION SHALL
41 ISSUE TO THE RELIGIOUS EMPLOYER A CONTRACT THAT EXCLUDES COVERAGE OF
42 PRESCRIPTION CONTRACEPTIVE METHODS. THE CORPORATION SHALL RETAIN THE
43 AFFIDAVIT FOR THE DURATION OF THE CONTRACT AND ANY RENEWALS OF THE
44 CONTRACT. BEFORE ENROLLMENT IN THE PLAN, EACH RELIGIOUS EMPLOYER THAT
45 INVOKES THIS EXEMPTION SHALL PROVIDE PROSPECTIVE SUBSCRIBERS WITH WRITTEN

1 NOTICE THAT THE RELIGIOUS EMPLOYER REFUSES TO COVER ALL APPROVED UNITED
2 STATES FOOD AND DRUG ADMINISTRATION PRESCRIPTION CONTRACEPTIVE METHODS FOR
3 RELIGIOUS REASONS. THIS SUBSECTION DOES NOT EXCLUDE COVERAGE FOR
4 PRESCRIPTION CONTRACEPTIVE METHODS ORDERED BY A HEALTH CARE PROVIDER WITH
5 PRESCRIPTIVE AUTHORITY FOR MEDICAL INDICATIONS OTHER THAN TO PREVENT AN
6 UNINTENDED PREGNANCY. THE CORPORATION MAY REQUIRE THE SUBSCRIBER TO FIRST
7 PAY FOR THE PRESCRIPTION AND THEN SUBMIT A CLAIM TO THE CORPORATION ALONG
8 WITH EVIDENCE THAT THE PRESCRIPTION IS FOR A NONCONTRACEPTIVE PURPOSE.
9 THE CORPORATION MAY CHARGE AN ADMINISTRATIVE FEE FOR HANDLING THESE
10 CLAIMS. A RELIGIOUS EMPLOYER MAY NOT DISCRIMINATE AGAINST AN EMPLOYEE WHO
11 INDEPENDENTLY CHOOSES TO OBTAIN INSURANCE COVERAGE OR PRESCRIPTIONS FOR
12 CONTRACEPTIVES FROM ANOTHER SOURCE.

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

14 1. This section:

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

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

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

21 (i) Formulated to be consumed or administered enterally under the
22 supervision of a physician who is licensed pursuant to title 32, chapter
23 13 or 17.

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

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

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

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

34 (i) Formulated to be consumed or administered enterally under the
35 supervision of a physician who is licensed pursuant to title 32, chapter
36 13 or 17.

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

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

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

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

5 3. ~~Subsections~~ SUBSECTION Z ~~and AA~~ of this section, "religiously
6 ~~affiliated~~ RELIGIOUS employer" means ~~either:~~

7 ~~(a)~~ an entity ~~for TO~~ which all of the following apply:

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

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

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

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

18 Sec. 4. Section 20-1057.08, Arizona Revised Statutes, is amended to
19 read:

20 20-1057.08. Prescription contraceptive drugs and devices;
21 definition

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

24 1. Prescription drugs, the evidence of coverage shall provide
25 coverage for any prescribed drug or device that is approved by the United
26 States food and drug administration for use as a contraceptive. A health
27 care services organization may use a drug formulary, multitiered drug
28 formulary or list but that formulary or list shall include oral, implant
29 and injectable contraceptive drugs, intrauterine devices and prescription
30 barrier methods if the health care services organization does not impose
31 deductibles, coinsurance, copayments or other cost containment measures
32 for contraceptive drugs that are greater than the deductibles,
33 coinsurance, copayments or other cost containment measures for other drugs
34 on the same level of the formulary or list.

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

42 B. Notwithstanding subsection A of this section, a ~~religiously~~
43 ~~affiliated~~ RELIGIOUS employer WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF
44 PRESCRIBED CONTRACEPTIVE METHODS may require that the health care services
45 organization provide ~~an evidence of~~ coverage ~~without coverage for specific~~

1 ~~items or services required under subsection A of this section because~~
 2 ~~providing or paying for coverage of the specific items or services is~~
 3 ~~contrary to the religious beliefs of the religiously affiliated employer~~
 4 ~~offering the plan. If a religiously affiliated~~ THAT EXCLUDES ALL APPROVED
 5 UNITED STATES FOOD AND DRUG ADMINISTRATION PRESCRIPTION CONTRACEPTIVE
 6 METHODS. THE RELIGIOUS employer ~~objects to providing coverage for~~
 7 ~~specific items or services required under subsection A of this section,~~
 8 SHALL SUBMIT a written affidavit ~~shall be filed with~~ TO the health care
 9 services organization stating ~~the objection~~ THAT IT IS A RELIGIOUS
 10 EMPLOYER. On receipt of the affidavit, the health care services
 11 organization shall ~~issue to the religiously affiliated~~ PROVIDE COVERAGE TO
 12 THE RELIGIOUS employer ~~an evidence of coverage~~ that excludes coverage for
 13 ~~specific items or services required under subsection A of this section OF~~
 14 PRESCRIPTION CONTRACEPTIVE METHODS. The health care services organization
 15 shall retain the affidavit for the duration of the coverage and any
 16 renewals of the coverage.

17 C. BEFORE ENROLLMENT IN THE HEALTH CARE PLAN, EACH RELIGIOUS
 18 EMPLOYER THAT INVOKES THE EXEMPTION PRESCRIBED IN SUBSECTION B OF THIS
 19 SECTION SHALL PROVIDE PROSPECTIVE ENROLLEES WITH WRITTEN NOTICE THAT THE
 20 RELIGIOUS EMPLOYER REFUSES TO COVER ALL APPROVED UNITED STATES FOOD AND
 21 DRUG ADMINISTRATION PRESCRIPTION CONTRACEPTIVE METHODS FOR RELIGIOUS
 22 REASONS.

23 ~~C.~~ D. Subsection B of this section does not exclude coverage for
 24 prescription contraceptive methods ordered by a health care provider with
 25 prescriptive authority for medical indications other than ~~for~~
 26 ~~contraceptive, abortifacient, abortion or sterilization purposes. A~~
 27 ~~religiously affiliated employer offering the plan may state religious~~
 28 ~~beliefs in its affidavit and~~ TO PREVENT AN UNINTENDED PREGNANCY. A HEALTH
 29 CARE SERVICES ORGANIZATION may require the enrollee to first pay for the
 30 prescription and then submit a claim to the health care services
 31 organization along with evidence that the prescription is ~~not~~ for a
 32 NONCONTRACEPTIVE purpose ~~covered by the objection~~. A health care services
 33 organization may charge an administrative fee for handling claims under
 34 this subsection.

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

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

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

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

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

5 ~~i.~~ an entity ~~for~~ TO which all of the following apply:

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

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

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

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

16 Sec. 5. Section 20-1402, Arizona Revised Statutes, is amended to
17 read:

18 20-1402. Provisions of group disability policies; definitions

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

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

28 2. A provision that the insurer will furnish to the policyholder,
29 for delivery to each employee or member of the insured group, an
30 individual certificate setting forth in summary form a statement of the
31 essential features of the insurance coverage of the employee or member and
32 to whom benefits are payable. If dependents or family members are
33 included in the coverage additional certificates need not be issued for
34 delivery to the dependents or family members. Any policy, except
35 accidental death and dismemberment, applied for that provides family
36 coverage, as to such coverage of family members, shall also provide that
37 the benefits applicable for children shall be payable with respect to a
38 newly born child of the insured from the instant of such child's birth, to
39 a child adopted by the insured, regardless of the age at which the child
40 was adopted, and to a child who has been placed for adoption with the
41 insured and for whom the application and approval procedures for adoption
42 pursuant to section 8-105 or 8-108 have been completed to the same extent
43 that such coverage applies to other members of the family. The coverage
44 for newly born or adopted children or children placed for adoption shall
45 include coverage of injury or sickness including the necessary care and

1 treatment of medically diagnosed congenital defects and birth
2 abnormalities. If payment of a specific premium is required to provide
3 coverage for a child, the policy may require that notification of birth,
4 adoption or adoption placement of the child and payment of the required
5 premium must be furnished to the insurer within thirty-one days after the
6 date of birth, adoption or adoption placement in order to have the
7 coverage continue beyond such thirty-one day period.

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

11 4. Each contract shall be so written that the corporation shall pay
12 benefits:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 8. The coverage prescribed by paragraph 7 of this subsection is
14 excess to any other coverage the natural mother may have for maternity
15 benefits except coverage made available to persons pursuant to title 36,
16 chapter 29, ~~but not including coverage made available to persons defined~~
17 ~~as eligible under section 36-2901, paragraph 6, subdivisions (b), (c), (d)~~
18 ~~and (e)~~. If such other coverage exists the agency, attorney or individual
19 arranging the adoption shall make arrangements for the insurance to pay
20 those costs that may be covered under that policy and shall advise the
21 adopting parent in writing of the existence and extent of the coverage
22 without disclosing any confidential information such as the identity of
23 the natural parent. The insured adopting parents shall notify their
24 insurer of the existence and extent of the other coverage.

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

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

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

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

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

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

8 C. Nothing in subsection B of this section:

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

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

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

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

24 1. Blood glucose monitors.

25 2. Blood glucose monitors for the legally blind.

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

28 4. Insulin preparations and glucagon.

29 5. Insulin cartridges.

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

31 7. Injection aids.

32 8. Insulin cartridges for the legally blind.

33 9. Syringes and lancets including automatic lancing devices.

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

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

38 12. Any other device, medication, equipment or supply for which
39 coverage is required under medicare from and after January 1, 1999. The
40 coverage required in this paragraph is effective six months after the
41 coverage is required under medicare.

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

1 F. Any contract that provides coverage for prescription drugs shall
2 not limit or exclude coverage for any prescription drug prescribed for the
3 treatment of cancer on the basis that the prescription drug has not been
4 approved by the United States food and drug administration for the
5 treatment of the specific type of cancer for which the prescription drug
6 has been prescribed, if the prescription drug has been recognized as safe
7 and effective for treatment of that specific type of cancer in one or more
8 of the standard medical reference compendia prescribed in subsection G of
9 this section or medical literature that meets the criteria prescribed in
10 subsection G of this section. The coverage required under this subsection
11 includes covered medically necessary services associated with the
12 administration of the prescription drug. This subsection does not:

13 1. Require coverage of any prescription drug used in the treatment
14 of a type of cancer if the United States food and drug administration has
15 determined that the prescription drug is contraindicated for that type of
16 cancer.

17 2. Require coverage for any experimental prescription drug that is
18 not approved for any indication by the United States food and drug
19 administration.

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

23 4. Require reimbursement or coverage for any prescription drug that
24 is not included in the drug formulary or list of covered prescription
25 drugs specified in the contract.

26 5. Prohibit a contract from limiting or excluding coverage of a
27 prescription drug, if the decision to limit or exclude coverage of the
28 prescription drug is not based primarily on the coverage of prescription
29 drugs required by this section.

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

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

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

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

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

40 (c) Thomson Micromedex compendium DrugDex.

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

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

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

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

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

12 (c) The literature meets the uniform requirements for manuscripts
13 submitted to biomedical journals established by the international
14 committee of medical journal editors or is published in a journal
15 specified by the United States department of health and human services as
16 acceptable peer reviewed medical literature pursuant to section
17 186(t)(2)(B) of the social security act (42 United States Code section
18 1395x(t)(2)(B)).

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

23 I. The metabolic disorders triggering medical foods coverage under
24 this section shall:

25 1. Be part of the newborn screening program prescribed in section
26 36-694.

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

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

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

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

42 K. An insurer shall cover at least fifty ~~per cent~~ PERCENT of the
43 cost of medical foods prescribed to treat inherited metabolic disorders
44 and covered pursuant to this section. An insurer may limit the maximum
45 annual benefit for medical foods under this section to ~~five thousand~~

1 ~~dollars~~ \$5,000, which applies to the cost of all prescribed modified low
2 protein foods and metabolic formula.

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

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

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

21 M. Notwithstanding subsection L of this section, a ~~religiously~~
22 ~~affiliated~~ RELIGIOUS employer WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF
23 PRESCRIBED CONTRACEPTIVE METHODS may require that the insurer provide a
24 group disability policy without coverage for ~~specific items or services~~
25 ~~required under subsection L of this section because providing or paying~~
26 ~~for coverage of the specific items or services is contrary to the~~
27 ~~religious beliefs of the religiously affiliated employer offering the~~
28 ~~plan. If a religiously affiliated~~ ALL APPROVED UNITED STATES FOOD AND
29 DRUG ADMINISTRATION PRESCRIPTION CONTRACEPTIVE METHODS. THE RELIGIOUS
30 employer ~~objects to providing coverage for specific items or services~~
31 ~~required under subsection L of this section,~~ SHALL SUBMIT a written
32 affidavit ~~shall be filed with~~ TO the insurer stating ~~the objection~~ THAT IT
33 IS A RELIGIOUS EMPLOYER. On receipt of the affidavit, the insurer shall
34 issue to the ~~religiously affiliated~~ RELIGIOUS employer a group disability
35 policy that excludes coverage ~~for specific items or services required~~
36 ~~under subsection L of this section~~ OF PRESCRIPTION CONTRACEPTIVE METHODS.
37 The insurer shall retain the affidavit for the duration of the group
38 disability policy and any renewals of the policy. BEFORE A POLICY IS
39 ISSUED, EACH RELIGIOUS EMPLOYER THAT INVOKES THIS EXEMPTION SHALL PROVIDE
40 PROSPECTIVE INSUREDS WITH WRITTEN NOTICE THAT THE RELIGIOUS EMPLOYER
41 REFUSES TO COVER ALL APPROVED UNITED STATES FOOD AND DRUG ADMINISTRATION
42 PRESCRIPTION CONTRACEPTIVE METHODS FOR RELIGIOUS REASONS. This subsection
43 ~~shall~~ DOES not exclude coverage for prescription contraceptive methods
44 ordered by a health care provider with prescriptive authority for medical
45 indications other than ~~for contraceptive, abortifacient, abortion or~~

1 ~~sterilization purposes. A religiously affiliated employer offering the~~
2 ~~policy may state religious beliefs in its affidavit and~~ TO PREVENT AN
3 UNINTENDED PREGNANCY. AN INSURER may require the insured to first pay for
4 the prescription and then submit a claim to the insurer along with
5 evidence that the prescription is ~~not~~ for a NONCONTRACEPTIVE purpose
6 ~~covered by the objection.~~ An insurer may charge an administrative fee for
7 handling these claims. A RELIGIOUS EMPLOYER MAY NOT DISCRIMINATE AGAINST
8 AN EMPLOYEE WHO INDEPENDENTLY CHOOSES TO OBTAIN INSURANCE COVERAGE OR
9 PRESCRIPTIONS FOR CONTRACEPTIVES FROM ANOTHER SOURCE.

10 ~~N. Subsection M of this section does not authorize a religiously~~
11 ~~affiliated employer to obtain an employee's protected health information~~
12 ~~or to violate the health insurance portability and accountability act of~~
13 ~~1996 (P.L. 104-191; 110 Stat. 1936) or any federal regulations adopted~~
14 ~~pursuant to that act.~~

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

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

19 1. This section:

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

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

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

26 (i) Formulated to be consumed or administered enterally under the
27 supervision of a physician who is licensed pursuant to title 32, chapter
28 13 or 17 or a registered nurse practitioner who is licensed pursuant to
29 title 32, chapter 15.

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

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

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

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

40 (i) Formulated to be consumed or administered enterally under the
41 supervision of a physician who is licensed pursuant to title 32, chapter
42 13 or 17 or a registered nurse practitioner who is licensed pursuant to
43 title 32, chapter 15.

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

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

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

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

14 3. ~~Subsections~~ SUBSECTION M ~~and N~~ of this section, "~~religiously~~
15 ~~affiliated~~ RELIGIOUS employer" means ~~either:~~

16 ~~(a)~~ an entity ~~for TO~~ which all of the following apply:

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

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

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

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

27 Sec. 6. Section 20-1404, Arizona Revised Statutes, is amended to
28 read:

29 20-1404. Blanket disability insurance: definitions

30 A. Blanket disability insurance is that form of disability
31 insurance covering special groups of persons as enumerated in one of the
32 following paragraphs:

33 1. Under a policy or contract issued to any common carrier or to
34 any operator, owner or lessee of a means of transportation, which shall be
35 deemed the policyholder, covering a group defined as all persons who may
36 become passengers on such common carrier or means of transportation.

37 2. Under a policy or contract issued to an employer, who shall be
38 deemed the policyholder, covering all employees or any group of employees
39 defined by reference to hazards incident to an activity or activities or
40 operations of the policyholder. Dependents of the employees and guests of
41 the employer or employees may also be included where exposed to the same
42 hazards.

43 3. Under a policy or contract issued to a college, school or other
44 institution of learning or to the head or principal thereof, who or which

1 shall be deemed the policyholder, covering students, teachers, employees
2 or volunteers.

3 4. Under a policy or contract issued in the name of any volunteer
4 fire department or any first aid, civil defense or other such volunteer
5 group, or agency having jurisdiction thereof, which shall be deemed the
6 policyholder, covering all or any group of the members, participants or
7 volunteers of such fire department or first aid, civil defense or other
8 group.

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

11 6. Under a policy or contract issued to a sports team or to a camp
12 or sponsor thereof, which team or camp or sponsor thereof shall be deemed
13 the policyholder, covering members, campers, employees, officials,
14 supervisors or volunteers.

15 7. Under a policy or contract issued to an incorporated or
16 unincorporated religious, charitable, recreational, educational or civic
17 organization, or branch thereof, which organization shall be deemed the
18 policyholder, covering any group of members, participants or volunteers
19 defined by reference to hazards incident to an activity or activities or
20 operations sponsored or supervised by or on the premises of the
21 policyholder.

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

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

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

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

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

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

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

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

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

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

24 E. Any policy or contract, except accidental death and
25 dismemberment, applied for that provides family coverage, as to such
26 coverage of family members, shall also provide that the benefits
27 applicable for children shall be payable with respect to a newly born
28 child of the insured from the instant of such child's birth, to a child
29 adopted by the insured, regardless of the age at which the child was
30 adopted, and to a child who has been placed for adoption with the insured
31 and for whom the application and approval procedures for adoption pursuant
32 to section 8-105 or 8-108 have been completed to the same extent that such
33 coverage applies to other members of the family. The coverage for newly
34 born or adopted children or children placed for adoption shall include
35 coverage of injury or sickness including necessary care and treatment of
36 medically diagnosed congenital defects and birth abnormalities. If
37 payment of a specific premium is required to provide coverage for a child,
38 the policy or contract may require that notification of birth, adoption or
39 adoption placement of the child and payment of the required premium must
40 be furnished to the insurer within thirty-one days after the date of
41 birth, adoption or adoption placement in order to have the coverage
42 continue beyond the thirty-one day period.

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

- 1 1. For performance of any surgical service that is covered by the
2 terms of such contract, regardless of the place of service.
- 3 2. For any home health services that are performed by a licensed
4 home health agency and that a physician has prescribed in lieu of hospital
5 services, as defined by the director, providing the hospital services
6 would have been covered.
- 7 3. For any diagnostic service that a physician has performed
8 outside a hospital in lieu of inpatient service, providing the inpatient
9 service would have been covered.
- 10 4. For any service performed in a hospital's outpatient department
11 or in a freestanding surgical facility, providing such service would have
12 been covered if performed as an inpatient service.
- 13 G. A blanket disability insurance policy that provides coverage for
14 the surgical expense of a mastectomy shall also provide coverage
15 incidental to the patient's covered mastectomy for the expense of
16 reconstructive surgery of the breast on which the mastectomy was
17 performed, surgery and reconstruction of the other breast to produce a
18 symmetrical appearance, prostheses, treatment of physical complications
19 for all stages of the mastectomy, including lymphedemas, and at least two
20 external postoperative prostheses subject to all of the terms and
21 conditions of the policy.
- 22 H. A contract that provides coverage for surgical services for a
23 mastectomy shall also provide coverage for mammography screening performed
24 on dedicated equipment for diagnostic purposes on referral by a patient's
25 physician, subject to all of the terms and conditions of the policy and
26 according to the following guidelines:
 - 27 1. A baseline mammogram for a woman from age thirty-five to
28 thirty-nine.
 - 29 2. A mammogram for a woman from age forty to forty-nine every two
30 years or more frequently based on the recommendation of the woman's
31 physician.
 - 32 3. A mammogram every year for a woman fifty years of age and over.
- 33 I. Any contract that is issued to the insured and that provides
34 coverage for maternity benefits shall also provide that the maternity
35 benefits apply to the costs of the birth of any child legally adopted by
36 the insured if all the following are true:
 - 37 1. The child is adopted within one year of birth.
 - 38 2. The insured is legally obligated to pay the costs of birth.
 - 39 3. All preexisting conditions and other limitations have been met
40 by the insured.
 - 41 4. The insured has notified the insurer of his acceptability to
42 adopt children pursuant to section 8-105, within sixty days after such
43 approval or within sixty days after a change in insurance policies, plans
44 or companies.

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

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

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

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

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

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

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

39 L. Nothing in subsection K of this section:

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

42 2. Prevents an insurer from imposing deductibles, coinsurance or
 43 other cost sharing in relation to benefits for hospital lengths of stay in
 44 connection with childbirth for a mother or a newborn child under the
 45 contract, except that any coinsurance or other cost sharing for any

1 portion of a period within a hospital length of stay required pursuant to
2 subsection K of this section shall not be greater than the coinsurance or
3 cost sharing for any preceding portion of that stay.

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

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

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

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

32 O. Any contract that provides coverage for prescription drugs shall
33 not limit or exclude coverage for any prescription drug prescribed for the
34 treatment of cancer on the basis that the prescription drug has not been
35 approved by the United States food and drug administration for the
36 treatment of the specific type of cancer for which the prescription drug
37 has been prescribed, if the prescription drug has been recognized as safe
38 and effective for treatment of that specific type of cancer in one or more
39 of the standard medical reference compendia prescribed in subsection P of
40 this section or medical literature that meets the criteria prescribed in
41 subsection P of this section. The coverage required under this subsection
42 includes covered medically necessary services associated with the
43 administration of the prescription drug. This subsection does not:

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

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

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

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

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

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

21 P. For the purposes of subsection 0 of this section:

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

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

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

28 (c) Thomson Micromedex compendium DrugDex.

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

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

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

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

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

43 (c) The literature meets the uniform requirements for manuscripts
44 submitted to biomedical journals established by the international
45 committee of medical journal editors or is published in a journal

1 specified by the United States department of health and human services as
2 acceptable peer reviewed medical literature pursuant to section
3 186(t)(2)(B) of the social security act (42 United States Code section
4 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
7 medical foods to treat inherited metabolic disorders as provided by this
8 section.

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

11 1. Be part of the newborn screening program prescribed in section
12 36-694.

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

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

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

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

28 T. An insurer shall cover at least fifty ~~per cent~~ PERCENT of the
29 cost of medical foods prescribed to treat inherited metabolic disorders
30 and covered pursuant to this section. An insurer may limit the maximum
31 annual benefit for medical foods under this section to ~~five thousand~~
32 ~~dollars~~ \$5,000 which applies to the cost of all prescribed modified low
33 protein foods and metabolic formula.

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

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

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

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

1 ~~1996 (P.L. 104-191, 110 Stat. 1936) or any federal regulations adopted~~
2 ~~pursuant to that act.~~

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

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

7 1. This section:

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

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

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

14 (i) Formulated to be consumed or administered enterally under the
15 supervision of a physician who is licensed pursuant to title 32, chapter
16 13 or 17 or a registered nurse practitioner who is licensed pursuant to
17 title 32, chapter 15.

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

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

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

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

28 (i) Formulated to be consumed or administered enterally under the
29 supervision of a physician who is licensed pursuant to title 32, chapter
30 13 or 17 or a registered nurse practitioner who is licensed pursuant to
31 title 32, chapter 15.

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

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

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

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

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

3 ~~(a)~~ an entity ~~for TO~~ which all of the following apply:

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

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

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

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

14 Sec. 7. Section 20-2329, Arizona Revised Statutes, is amended to
15 read:

16 20-2329. Prescription contraceptive drugs and devices;
17 definition

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

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

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

37 B. Notwithstanding subsection A of this section, a ~~religiously~~
38 ~~affiliated~~ RELIGIOUS employer WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF
39 PRESCRIBED CONTRACEPTIVE METHODS may require that the accountable health
40 plan provide a health benefits plan without coverage for ~~specific items or~~
41 ~~services required under subsection A of this section because providing or~~
42 ~~paying for coverage of the specific items or services is contrary to the~~
43 ~~religious beliefs of the religiously affiliated employer offering the~~
44 ~~plan. If a religiously affiliated ALL APPROVED UNITED STATES FOOD AND~~
45 ~~DRUG ADMINISTRATION PRESCRIPTION CONTRACEPTIVE METHODS. THE RELIGIOUS~~

1 employer ~~objects to providing coverage for specific items or services~~
 2 ~~required under subsection A of this section;~~ SHALL SUBMIT a written
 3 affidavit ~~shall be filed with~~ TO the accountable health plan stating ~~the~~
 4 ~~objection~~ THAT IT IS A RELIGIOUS EMPLOYER. On receipt of the affidavit,
 5 the accountable health plan shall issue to the ~~religiously affiliated~~
 6 RELIGIOUS employer a health benefits plan that excludes coverage ~~for~~
 7 ~~specific items or services required under subsection A of this section OF~~
 8 PRESCRIPTION CONTRACEPTIVE METHODS. The accountable health plan shall
 9 retain the affidavit for the duration of the health benefits plan and any
 10 renewals of the plan.

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

16 ~~C.~~ D. Subsection B of this section ~~shall~~ DOES not exclude coverage
 17 for prescription contraceptive methods ordered by a health care provider
 18 with prescriptive authority for medical indications other than ~~for~~
 19 ~~contraceptive, abortifacient, abortion or sterilization purposes. A~~
 20 ~~religiously affiliated employer offering the plan may state religious~~
 21 ~~beliefs in its affidavit and~~ TO PREVENT AN UNINTENDED PREGNANCY. AN
 22 ACCOUNTABLE HEALTH PLAN may require the enrollee to first pay for the
 23 prescription and then submit a claim to the accountable health plan along
 24 with evidence that the prescription is ~~not~~ for a NONCONTRACEPTIVE purpose
 25 ~~covered by the objection~~. An accountable health plan may charge an
 26 administrative fee for handling claims under this subsection. A RELIGIOUS
 27 EMPLOYER MAY NOT DISCRIMINATE AGAINST AN EMPLOYEE WHO INDEPENDENTLY
 28 CHOOSES TO OBTAIN INSURANCE COVERAGE OR PRESCRIPTIONS FOR CONTRACEPTIVES
 29 FROM ANOTHER SOURCE.

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

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

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

40 ~~i.~~ an entity ~~for~~ TO which all of the following apply:

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

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

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

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

7 Sec. 8. Section 32-1901, Arizona Revised Statutes, is amended to
8 read:

9 32-1901. Definitions

10 In this chapter, unless the context otherwise requires:

11 1. "Administer" means ~~the direct application of~~ DIRECTLY APPLYING a
12 controlled substance, prescription-only drug, dangerous drug or narcotic
13 drug, whether by injection, inhalation, ingestion or any other means, to
14 the body of a patient or research subject by a practitioner or by the
15 practitioner's authorized agent or the patient or research subject at the
16 direction of the practitioner.

17 2. "Advertisement" means all representations THAT ARE disseminated
18 in any manner or by any means, ~~other than by labeling,~~ for the purpose
19 of inducing, or that are likely to induce, directly or indirectly, the
20 purchase of drugs, devices, poisons or hazardous substances.

21 3. "Advisory letter" means a nondisciplinary letter to notify a
22 licensee or permittee that either:

23 (a) While there is insufficient evidence to support disciplinary
24 action, the board believes that continuation of the activities that led to
25 the investigation may result in further board action against the licensee
26 or permittee.

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

29 (c) While the licensee or permittee has demonstrated substantial
30 compliance through rehabilitation, remediation or reeducation that has
31 mitigated the need for disciplinary action, the board believes that
32 repetition of the activities that led to the investigation may result in
33 further board action against the licensee or permittee.

34 4. "Antiseptic", if a drug is represented as such on its label,
35 means a representation that it is a germicide, except in the case of a
36 drug purporting to be, or represented as, an antiseptic for inhibitory use
37 as a wet dressing, ointment or dusting powder or other use that involves
38 prolonged contact with the body.

39 5. "Authorized officers of the law" means legally empowered peace
40 officers, compliance officers of the board of pharmacy and agents of the
41 division of narcotics enforcement and criminal intelligence of the
42 department of public safety.

43 6. "Automated prescription-dispensing kiosk" means a mechanical
44 system that is operated as an extension of a pharmacy, that maintains all
45 transaction information within the pharmacy operating system, that is

1 separately permitted from the pharmacy and that performs operations that
2 either:

3 (a) Accept a prescription or refill order, store prepackaged or
4 repackaged medications, label and dispense patient-specific prescriptions
5 and provide counseling on new or refilled prescriptions.

6 (b) Dispense or deliver a prescription or refill that has been
7 prepared by or on behalf of the pharmacy that oversees the automated
8 prescription-dispensing kiosk.

9 7. "Board" or "board of pharmacy" means the Arizona state board of
10 pharmacy.

11 8. "Certificate of composition" means a list of a product's
12 ingredients.

13 9. "Certificate of free sale" means a document that authenticates a
14 product that is generally and freely sold in domestic or international
15 channels of trade.

16 10. "Color additive" means a material that either:

17 (a) Is any dye, pigment or other substance **THAT IS** made by a
18 process of synthesis or similar artifice, ~~or~~ **THAT IS** extracted, isolated
19 or otherwise derived, with or without intermediate or final change of
20 identity, from any vegetable, animal, mineral or other source.

21 (b) If added or applied to a drug, or to the human body or any part
22 of the human body, is capable of imparting color, except that color
23 additive does not include any material that has been or may be exempted
24 under the federal act. Color includes black, white and intermediate
25 grays.

26 11. "Compounding" means ~~the preparation~~ **PREPARING**, mixing,
27 assembling, packaging or labeling ~~of~~ a drug by a pharmacist or an intern
28 or pharmacy technician under the pharmacist's supervision, for the purpose
29 of dispensing to a patient based on a valid prescription order.
30 Compounding includes ~~the preparation of~~ **PREPARING** drugs in anticipation of
31 prescription orders prepared on routine, regularly observed prescribing
32 patterns and ~~the preparation of~~ **PREPARING** drugs as an incident to
33 research, teaching or chemical analysis or for administration by a medical
34 practitioner to the medical practitioner's patient and not for sale or
35 dispensing. Compounding does not include ~~the preparation of~~ **PREPARING**
36 commercially available products from bulk compounds or ~~the preparation of~~
37 **PREPARING** drugs for sale to pharmacies, practitioners or entities for the
38 purpose of dispensing or distribution.

39 12. "Compressed medical gas distributor" means a person ~~who~~ **THAT**
40 holds a current permit issued by the board to distribute compressed
41 medical gases pursuant to a compressed medical gas order to compressed
42 medical gas suppliers and other entities that are registered, licensed or
43 permitted to use, administer or distribute compressed medical gases.

- 1 13. "Compressed medical gases" means gases and liquid oxygen that a
2 compressed medical gas distributor or manufacturer has labeled in
3 compliance with federal law.
- 4 14. "Compressed medical gas order" means an order for compressed
5 medical gases that is issued by a medical practitioner.
- 6 15. "Compressed medical gas supplier" means a person ~~who~~ THAT holds
7 a current permit issued by the board to supply compressed medical gases
8 pursuant to a compressed medical gas order and only to the consumer or the
9 patient.
- 10 16. "Controlled substance" means a drug, substance or immediate
11 precursor that is identified, defined or listed in title 36, chapter 27,
12 article 2.
- 13 17. "Corrosive" means any substance that when it comes in contact
14 with living tissue will cause destruction of THE tissue by chemical
15 action.
- 16 18. "Counterfeit drug" means a drug that, or the container or
17 labeling of which, without authorization, bears the trademark, trade name
18 or other identifying mark, imprint, number or device, or any likeness of
19 these, of a manufacturer, distributor or dispenser other than the person
20 ~~who~~ THAT in fact manufactured, distributed or dispensed that drug.
- 21 19. "Dangerous drug" has the same meaning prescribed in section
22 13-3401.
- 23 20. "Day" means a business day.
- 24 21. "Decree of censure" means an official action that is taken by
25 the board and that may include a requirement for restitution of fees to a
26 patient or consumer.
- 27 22. "Deliver" or "delivery" means the actual, constructive or
28 attempted transfer from one person to another whether or not there is an
29 agency relationship.
- 30 23. "Deputy director" means a pharmacist who is employed by the
31 board and selected by the executive director to perform duties as
32 prescribed by the executive director.
- 33 24. "Device", except as used in paragraph 18 of this section,
34 section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph
35 15 and subsection C, means ~~instruments~~ AN INSTRUMENT, ~~apparatuses and~~
36 ~~contrivances~~ APPARATUS OR CONTRIVANCE, including ~~their~~ ITS components,
37 parts and accessories, including all such items under the federal act,
38 THAT IS intended either:
- 39 (a) For use in ~~the diagnosis, cure, mitigation, treatment or~~
40 ~~prevention of~~ DIAGNOSING, CURING, MITIGATING. TREATING OR PREVENTING
41 disease in the human body or other animals.
- 42 (b) To affect the structure or any function of the human body or
43 other animals.
- 44 25. "Director" means the director of the division of narcotics
45 enforcement and criminal investigation of the department of public safety.

1 26. "Direct supervision of a pharmacist" means THAT the pharmacist
2 is present. If relating to the sale of certain items, direct supervision
3 of a pharmacist means that a pharmacist determines the legitimacy or
4 advisability of a proposed purchase of those items.

5 27. "Dispense" means to deliver to an ultimate user or research
6 subject by or pursuant to the lawful order of a practitioner, including
7 ~~the~~ prescribing, administering, packaging, labeling or compounding AS
8 necessary to prepare for that delivery.

9 28. "Dispenser" means a practitioner who dispenses.

10 29. "Distribute" means to deliver, other than by administering or
11 dispensing.

12 30. "Distributor" means a person who distributes.

13 31. "Drug" means:

14 (a) Articles THAT ARE recognized, or for which standards or
15 specifications are prescribed, in the official compendium.

16 (b) Articles THAT ARE intended for use in the diagnosis, cure,
17 mitigation, treatment or prevention of disease in the human body or other
18 animals.

19 (c) Articles other than food THAT ARE intended to affect the
20 structure or any function of the human body or other animals.

21 (d) Articles THAT ARE intended for use as a component of any
22 articles specified in subdivision (a), (b) or (c) of this paragraph but
23 does not include devices or their components, parts or accessories.

24 32. "Drug enforcement administration" means the drug enforcement
25 administration of the United States department of justice or its successor
26 agency.

27 33. "Drug or device manufacturing" means ~~the production~~ PRODUCING,
28 ~~preparation~~ PREPARING, ~~propagation~~ PROPAGATING or processing ~~of~~ a drug or
29 device, either directly or indirectly, by extraction from substances of
30 natural origin or independently by means of chemical synthesis and
31 includes any packaging or repackaging of substances or labeling or
32 relabeling of its container and ~~the promotion~~ PROMOTING and marketing ~~of~~
33 the same. Drug or device manufacturing does not include compounding.

34 34. "Economic poison" means any substance that alone, in chemical
35 combination with or in formulation with one or more other substances is a
36 pesticide within the meaning of the laws of this state or the federal
37 insecticide, fungicide and rodenticide act and that is used in ~~the~~
38 ~~production~~ PRODUCING, ~~storage~~ STORING or ~~transportation of~~ TRANSPORTING
39 raw agricultural commodities.

40 35. "Enteral feeding" means nourishment THAT IS provided by means
41 of a tube inserted into the stomach or intestine.

42 36. "Established name", with respect to a drug or ingredient of a
43 drug, means any of the following:

44 (a) The applicable official name.

1 (b) If there is no such name and the drug or ingredient is an
2 article recognized in an official compendium, the official title in an
3 official compendium.

4 (c) If neither subdivision (a) nor (b) of this paragraph applies,
5 the common or usual name of the drug.

6 37. "Executive director" means the executive director of the board
7 of pharmacy.

8 38. "Federal act" means the federal laws and regulations that
9 pertain to drugs, devices, poisons and hazardous substances and that are
10 official at the time any drug, device, poison or hazardous substance is
11 affected by this chapter.

12 39. "Full service wholesale permittee":

13 (a) Means a permittee who may distribute prescription-only drugs
14 and devices, controlled substances and over-the-counter drugs and devices
15 to pharmacies or other legal outlets from a place devoted in whole or in
16 part to wholesaling these items.

17 (b) Includes a virtual wholesaler as defined in rule by the board.

18 40. "Good manufacturing practice" means a system for ensuring that
19 products are consistently produced and controlled according to quality
20 standards and covering all aspects of design, monitoring and control of
21 manufacturing processes and facilities to ensure that products do not pose
22 any risk to the consumer or public.

23 41. "Highly toxic" means any substance that falls within any of the
24 following categories:

25 (a) Produces death within fourteen days in half or more than half
26 of a group of ten or more laboratory white rats each weighing between two
27 hundred and three hundred grams, at a single dose of fifty milligrams or
28 less per kilogram of body weight, when orally administered.

29 (b) Produces death within fourteen days in half or more than half
30 of a group of ten or more laboratory white rats each weighing between two
31 hundred and three hundred grams, if inhaled continuously for a period of
32 one hour or less at an atmospheric concentration of two hundred parts per
33 million by volume or less of gas or vapor or two milligrams per liter by
34 volume or less of mist or dust, provided the concentration is likely to be
35 encountered by humans if the substance is used in any reasonably
36 foreseeable manner.

37 (c) Produces death within fourteen days in half or more than half
38 of a group of ten or more rabbits tested in a dosage of two hundred
39 milligrams or less per kilogram of body weight, if administered by
40 continuous contact with the bare skin for twenty-four hours or less.

41 If the board finds that available data on human experience with any
42 substance indicate results different from those obtained on animals in the
43 dosages or concentrations prescribed in this paragraph, the human data
44 shall take precedence.

- 1 42. "Hospital" means any institution for the care and treatment of
2 the sick and injured that is approved and licensed as a hospital by the
3 department of health services.
- 4 43. "Intern" means a pharmacy intern.
- 5 44. "Internship" means the practical, experiential, hands-on
6 training of a pharmacy intern under the supervision of a preceptor.
- 7 45. "Irritant" means any substance, other than a corrosive, that on
8 immediate, prolonged or repeated contact with normal living tissue will
9 induce a local inflammatory reaction.
- 10 46. "Jurisprudence examination" means a board-approved pharmacy law
11 examination that is written and administered in cooperation with the
12 national association of boards of pharmacy or another board-approved
13 pharmacy law examination.
- 14 47. "Label" means a display of written, printed or graphic matter
15 on the immediate container of any article that, unless easily legible
16 through the outside wrapper or container, also appears on the outside
17 wrapper or container of the article's retail package. For the purposes of
18 this paragraph, the immediate container does not include package liners.
- 19 48. "Labeling" means all labels and other written, printed or
20 graphic matter ~~THAT~~ either:
- 21 (a) ~~IS~~ on any article or any of its containers or wrappers.
- 22 (b) ~~Accompanying~~ ACCOMPANIES that article.
- 23 49. "Letter of reprimand" means a disciplinary letter that is a
24 public document issued by the board and that informs a licensee or
25 permittee that the licensee's or permittee's conduct violates state or
26 federal law and may require the board to monitor the licensee or
27 permittee.
- 28 50. "Limited service pharmacy" means a pharmacy that is approved by
29 the board to practice a limited segment of pharmacy as indicated by the
30 permit issued by the board.
- 31 51. "Manufacture" or "manufacturer":
- 32 (a) Means every person who prepares, derives, produces, compounds,
33 processes, packages or repackages or labels any drug in a place, other
34 than a pharmacy, that is devoted to manufacturing the drug.
- 35 (b) Includes a virtual manufacturer as defined in rule by the
36 board.
- 37 52. "Marijuana" has the same meaning prescribed in section 13-3401.
- 38 53. "Medical practitioner" means any medical doctor, doctor of
39 osteopathic medicine, dentist, podiatrist, veterinarian or other person
40 who is licensed and authorized by law to use and prescribe drugs and
41 devices ~~for the treatment of~~ TO TREAT sick and injured human beings or
42 animals or ~~for the diagnosis~~ TO DIAGNOSE or ~~prevention of~~ PREVENT sickness
43 in human beings or animals in this state or any state, territory or
44 district of the United States.

1 54. "Medication order" means a written or verbal order from a
2 medical practitioner or that person's authorized agent to administer a
3 drug or device.

4 55. "Narcotic drug" has the same meaning prescribed in section
5 13-3401.

6 56. "New drug" means either:

7 (a) Any drug **OF WHICH** the composition ~~of which~~ is such that the
8 drug is not generally recognized among experts qualified by scientific
9 training and experience to evaluate the safety and effectiveness of drugs
10 as safe and effective for use under the conditions prescribed, recommended
11 or suggested in the labeling.

12 (b) Any drug **OF WHICH** the composition ~~of which~~ is such that the
13 drug, as a result of investigations to determine its safety and
14 effectiveness for use under such conditions, has become so recognized, but
15 that has not, other than in the investigations, been used to a material
16 extent or for a material time under those conditions.

17 57. "Nonprescription drug" or "over-the-counter drug" means any
18 nonnarcotic medicine or drug that may be sold without a prescription and
19 that is prepackaged and labeled for use by the consumer in accordance with
20 the requirements of the laws of this state and federal law.
21 Nonprescription drug does not include:

22 (a) A drug that is primarily advertised and promoted professionally
23 to medical practitioners and pharmacists by manufacturers or primary
24 distributors.

25 (b) A controlled substance.

26 (c) A drug that is required to bear a label that states "Rx only".

27 (d) A drug that is intended for human use by hypodermic injection.

28 58. "Nonprescription drug wholesale permittee":

29 (a) Means a permittee who may distribute only over-the-counter
30 drugs and devices to pharmacies or other lawful outlets from a place
31 devoted in whole or in part to wholesaling these items.

32 (b) Includes a virtual wholesaler as defined in rule by the board.

33 59. "Notice" means personal service or the mailing of a copy of the
34 notice by certified mail addressed either to the person at the person's
35 latest address of record in the board office or to the person's attorney.

36 60. "Nutritional supplementation" means vitamins, minerals and
37 caloric supplementation. Nutritional supplementation does not include
38 medication or drugs.

39 61. "Official compendium" means the latest revision of the United
40 States pharmacopeia and the national formulary or any current supplement.

41 62. "Other jurisdiction" means one of the other forty-nine states,
42 the District of Columbia, the Commonwealth of Puerto Rico or a territory
43 of the United States of America.

1 63. "Package" means a receptacle THAT IS defined or described in
2 the United States pharmacopeia and the national formulary as adopted by
3 the board.

4 64. "Packaging" means the act or process of placing a drug item or
5 device in a container for the purpose or intent of dispensing or
6 distributing the item or device to another.

7 65. "Parenteral nutrition" means intravenous feeding that provides
8 ~~a person~~ AN INDIVIDUAL with fluids and essential nutrients the ~~person~~
9 INDIVIDUAL needs while the ~~person~~ INDIVIDUAL is unable to receive adequate
10 fluids or feedings by mouth or by enteral feeding.

11 66. "Person" means an individual, partnership, corporation and
12 association, and their duly authorized agents.

13 67. "Pharmaceutical care" means the provision of drug therapy and
14 other pharmaceutical patient care services.

15 68. "Pharmacist" means an individual who is currently licensed by
16 the board to practice the profession of pharmacy in this state.

17 69. "Pharmacist in charge" means the pharmacist who is responsible
18 to the board for a licensed establishment's compliance with the laws and
19 administrative rules of this state and of the federal government
20 pertaining to the practice of pharmacy, the manufacturing of drugs and the
21 distribution of drugs and devices.

22 70. "Pharmacist licensure examination" means a board-approved
23 examination that is written and administered in cooperation with the
24 national association of boards of pharmacy or any other board-approved
25 pharmacist licensure examination.

26 71. "Pharmacy":

27 (a) Means:

28 (i) Any place where drugs, devices, poisons or related hazardous
29 substances are offered for sale at retail.

30 (ii) Any place in which the profession of pharmacy is practiced or
31 where prescription orders are compounded and dispensed.

32 (iii) Any place that has displayed on it or in it the words
33 "pharmacist", "pharmaceutical chemist", "apothecary", "druggist",
34 "pharmacy", "drugstore", "drugs" or "drug sundries" or any of these words
35 or combinations of these words, or words of similar import either in
36 English or any other language, or that is advertised by any sign
37 containing any of these words.

38 (iv) Any place where the characteristic symbols of pharmacy or the
39 characteristic prescription sign "Rx" is exhibited.

40 (v) Any place or a portion of any building or structure that is
41 leased, used or controlled by the permittee to conduct the business
42 authorized by the board at the address for which the permit was issued and
43 that is enclosed and secured when a pharmacist is not in attendance.

1 (vi) A remote dispensing site pharmacy ~~where a pharmacy technician~~
2 ~~or pharmacy intern prepares, compounds or dispenses prescription~~
3 ~~medications under remote supervision by a pharmacist.~~

4 (b) Includes a satellite pharmacy.

5 72. "Pharmacy intern" means a person who has all of the
6 qualifications and experience prescribed in section 32-1923.

7 73. "Pharmacy technician" means a person who is licensed pursuant
8 to this chapter.

9 74. "Pharmacy technician trainee" means a person who is licensed
10 pursuant to this chapter.

11 75. "Poison" or "hazardous substance" includes, ~~but is not limited~~
12 ~~to,~~ any of the following if intended and suitable for household use or use
13 by children:

14 (a) Any substance that, according to standard works on medicine,
15 pharmacology, pharmacognosy or toxicology, if applied to, introduced into
16 or developed within the body in relatively small quantities by its
17 inherent action uniformly produces serious bodily injury, disease or
18 death.

19 (b) A toxic substance.

20 (c) A highly toxic substance.

21 (d) A corrosive substance.

22 (e) An irritant.

23 (f) A strong sensitizer.

24 (g) A mixture of any of the substances described in this paragraph,
25 if the substance or mixture of substances may cause substantial personal
26 injury or substantial illness during or as a proximate result of any
27 customary or reasonably foreseeable handling or use, including reasonably
28 foreseeable ingestion by children.

29 (h) A substance that is designated by the board to be a poison or
30 hazardous substance. This subdivision does not apply to radioactive
31 substances, economic poisons subject to the federal insecticide, fungicide
32 and rodenticide act or the state pesticide act, foods, drugs and cosmetics
33 subject to state laws or the federal act or substances intended for use as
34 fuels when stored in containers and used in the heating, cooking or
35 refrigeration system of a house. This subdivision applies to any
36 substance or article that is not itself an economic poison within the
37 meaning of the federal insecticide, fungicide and rodenticide act or the
38 state pesticide act, but that is a poison or hazardous substance within
39 the meaning of this paragraph by reason of bearing or containing an
40 economic poison or hazardous substance.

41 76. "Practice of pharmacy" ~~is~~

42 ~~(a)~~ means furnishing the following health care services as a
43 medical professional:

44 ~~(i)~~ (a) Interpreting, evaluating and dispensing prescription
45 orders in the patient's best interests.

- 1 ~~(ii)~~ (b) Compounding drugs pursuant to or in anticipation of a
2 prescription order.
- 3 ~~(iii)~~ (c) Labeling drugs and devices in compliance with state and
4 federal requirements.
- 5 ~~(iv)~~ (d) Participating in drug selection and drug utilization
6 reviews, drug administration, drug or drug-related research and drug
7 therapy monitoring or management.
- 8 ~~(v)~~ (e) Providing patient counseling necessary to provide
9 pharmaceutical care.
- 10 ~~(vi)~~ (f) Properly and safely storing drugs and devices in
11 anticipation of dispensing.
- 12 ~~(vii)~~ (g) Maintaining required records of drugs and devices.
- 13 ~~(viii)~~ (h) Offering or performing acts, services, operations or
14 transactions THAT ARE necessary ~~in the TO~~ conduct, ~~operation~~ OPERATE,
15 ~~management~~ MANAGE and control of a pharmacy.
- 16 ~~(ix)~~ (i) Initiating, monitoring and modifying drug therapy
17 pursuant to a protocol-based drug therapy agreement with a provider as
18 outlined in section 32-1970.
- 19 ~~(x)~~ (j) Initiating and administering immunizations or vaccines
20 pursuant to section 32-1974.
- 21 ~~(b) Does not include initiating a prescription order for any~~
22 ~~medication, drug or other substance used to induce or cause a medication~~
23 ~~abortion as defined in section 36-2151.~~
- 24 77. "Practitioner" means any physician, dentist, veterinarian,
25 scientific investigator or other person who is licensed, registered or
26 otherwise permitted to distribute, dispense, conduct research with respect
27 to or administer a controlled substance in the course of professional
28 practice or research in this state, or any pharmacy, hospital or other
29 institution that is licensed, registered or otherwise permitted to
30 distribute, dispense, conduct research with respect to or administer a
31 controlled substance in the course of professional practice or research in
32 this state.
- 33 78. "Preceptor" means a pharmacist who is serving as the practical
34 instructor of an intern and WHO complies with section 32-1923.
- 35 79. "Precursor chemical" means a substance that is:
36 (a) The principal compound that is commonly used or that is
37 produced primarily for use and that is an immediate chemical intermediary
38 used or likely to be used in the manufacture of a controlled substance,
39 the control of which is necessary to prevent, curtail or limit
40 manufacture.
- 41 (b) Listed in section 13-3401, paragraph 26 or 27.
- 42 80. "Prescription" means either a prescription order or a
43 prescription medication.

1 81. "Prescription medication" means any drug, including label and
2 container according to context, that is dispensed pursuant to a
3 prescription order.

4 82. "Prescription-only device" includes:

5 (a) Any device that is limited by the federal act to use under the
6 supervision of a medical practitioner.

7 (b) Any device required by the federal act to bear on its label
8 essentially the legend "Rx only".

9 83. "Prescription-only drug" does not include a controlled
10 substance but does include:

11 (a) Any drug that because of its toxicity or other potentiality for
12 harmful effect, the method of its use, or the collateral measures
13 necessary to its use is not generally recognized among experts, qualified
14 by scientific training and experience to evaluate its safety and efficacy,
15 as safe for use except by or under the supervision of a medical
16 practitioner.

17 (b) Any drug that is limited by an approved new drug application
18 under the federal act or section 32-1962 to use under the supervision of a
19 medical practitioner.

20 (c) Every potentially harmful drug, the labeling of which does not
21 bear or contain full and adequate directions for use by the consumer.

22 (d) Any drug, other than a controlled substance, **THAT IS** required
23 by the federal act to bear on its label the legend "Rx only".

24 84. "Prescription order" means any of the following:

25 (a) An order to a pharmacist for drugs or devices **THAT IS** issued
26 and signed by a duly licensed medical practitioner in the authorized
27 course of the practitioner's professional practice.

28 (b) An order **THAT IS** transmitted to a pharmacist through word of
29 mouth, telephone or other means of communication directed by that medical
30 practitioner. Prescription orders received by word of mouth, telephone or
31 other means of communication shall be maintained by the pharmacist
32 pursuant to section 32-1964, and the record so made by the pharmacist
33 constitutes the original prescription order to be dispensed by the
34 pharmacist. This paragraph does not alter or affect laws of this state or
35 any federal act requiring a written prescription order.

36 (c) An order **THAT IS** initiated by a pharmacist pursuant to a
37 protocol-based drug therapy agreement with a provider as outlined in
38 section 32-1970, or immunizations or vaccines administered by a pharmacist
39 pursuant to section 32-1974.

40 (d) A diet order or an order for enteral feeding, nutritional
41 supplementation or parenteral nutrition that is initiated by a registered
42 dietitian or other qualified nutrition professional in a hospital pursuant
43 to section 36-416.

- 1 85. "Professionally incompetent" means:
2 (a) Incompetence based on a variety of factors, including a lack of
3 sufficient pharmaceutical knowledge or skills or experience to a degree
4 likely to endanger the health of patients.
5 (b) When considered with other indications of professional
6 incompetence, a pharmacist or pharmacy intern who fails to obtain a
7 passing score on a board-approved pharmacist licensure examination or a
8 pharmacy technician or pharmacy technician trainee who fails to obtain a
9 passing score on a board-approved pharmacy technician licensure
10 examination.
11 86. "Radioactive substance" means a substance that emits ionizing
12 radiation.
13 87. "Remote dispensing site pharmacy" means a pharmacy where a
14 pharmacy technician or pharmacy intern prepares, compounds or dispenses
15 prescription medications under remote supervision by a pharmacist.
16 88. "Remote supervision by a pharmacist" means that a pharmacist
17 directs and controls the actions of pharmacy technicians and pharmacy
18 interns through the use of audio and visual technology.
19 89. "Revocation" or "revoke" means the official cancellation of a
20 license, permit, registration or other approval authorized by the board
21 for a period of two years unless otherwise specified by the board. A
22 request or new application for reinstatement may be presented to the board
23 for review before the conclusion of the specified revocation period ~~upon~~
24 ~~ON~~ review of the executive director.
25 90. "Safely engage in employment duties" means that a permittee or
26 the permittee's employee is able to safely engage in employment duties
27 related to the manufacture, sale, distribution or dispensing of drugs,
28 devices, poisons, hazardous substances, controlled substances or precursor
29 chemicals.
30 91. "Satellite pharmacy" means a work area located within a
31 hospital or on a hospital campus that is not separated by other commercial
32 property or residential property, that is under the direction of a
33 pharmacist, that is a remote extension of a centrally licensed hospital
34 pharmacy, ~~and~~ that is owned by and dependent on the centrally licensed
35 hospital pharmacy for administrative control, staffing and drug
36 procurement and that is not required to be separately permitted.
37 92. "Symbol" means the characteristic symbols that have
38 historically identified pharmacy, including show globes and mortar and
39 pestle, and the sign "Rx".
40 93. "Third-party logistics provider" means an entity that provides
41 or coordinates warehousing or other logistics services for a prescription
42 or over-the-counter dangerous drug or dangerous device in intrastate or
43 interstate commerce on behalf of a manufacturer, wholesaler or dispenser
44 of the prescription or over-the-counter dangerous drug or dangerous device
45 but that does not take ownership of the prescription or over-the-counter

1 dangerous drug or dangerous device or have responsibility to direct its
2 sale or disposition.

3 94. "Toxic substance" means a substance, other than a radioactive
4 substance, that has the capacity to produce injury or illness in humans
5 through ingestion, inhalation or absorption through any body surface.

6 95. "Ultimate user" means a person who lawfully possesses a drug or
7 controlled substance for that person's own use, for the use of a member of
8 that person's household or for administering to an animal owned by that
9 person or by a member of that person's household.

10 Sec. 9. Title 32, chapter 18, article 3, Arizona Revised Statutes,
11 is amended by adding section 32-1973.01, to read:

12 32-1973.01. Pharmacies; duty to fill prescriptions;
13 notification; accommodation; exceptions;
14 definition

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

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

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

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

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

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

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

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

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

6 D. FOR THE PURPOSES OF THIS SECTION:

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

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

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

14 4. "NONCONSENSUAL" MEANS THAT A PATIENT EITHER:

15 (a) IS COERCED BY THE IMMEDIATE USE OR THREATENED USE OF FORCE
16 AGAINST THE PATIENT.

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

24 5. "RAPE" MEANS NONCONSENSUAL SEXUAL INTERCOURSE INVOLVING
25 PENETRATION OF THE VULVA.

26 Sec. 11. Section 35-196.02, Arizona Revised Statutes, is amended to
27 read:

28 35-196.02. Use of public monies or insurance for abortion
29 prohibited; exception

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

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

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

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

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

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

10 Sec. 12. Repeal

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

12 Sec. 13. Section 36-132, Arizona Revised Statutes, is amended to
13 read:

14 36-132. Department of health services; functions; contracts

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

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

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

28 3. Collect, preserve, tabulate and interpret all information
29 required by law in reference to births, deaths and all vital facts, and
30 obtain, collect and preserve information relating to the health of the
31 people of this state and the prevention of diseases as may be useful in
32 the discharge of functions of the department not in conflict with chapter
33 3 of this title and sections 36-693, 36-694 and 39-122.

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

36 5. Conduct a statewide program of health education **THAT IS** relevant
37 to the powers and duties of the department **OF HEALTH SERVICES**, prepare
38 educational materials and disseminate information as to conditions
39 affecting health, including basic information ~~for the promotion of TO~~
40 **PROMOTE** good health on the part of individuals and communities, and
41 prepare and disseminate technical information concerning public health to
42 the health professions, local health officials and hospitals. In
43 cooperation with the department of education, the department of health
44 services shall prepare and disseminate materials and give technical
45 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
5 in official public health work, and encourage and aid in coordinating
6 local public health nursing services.
- 7 7. Encourage and aid in coordinating local programs concerning
8 control of preventable diseases in accordance with statewide plans that
9 ~~shall be~~ ARE 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 schoolchildren,
13 including special fields such as the prevention of blindness and
14 conservation of sight and hearing.
- 15 9. Encourage and aid in the coordination of local programs
16 concerning nutrition of the people of this state.
- 17 10. Encourage, administer and provide dental health care services
18 and aid in coordinating local programs concerning dental public health, in
19 cooperation with the Arizona dental association. The department may bill
20 and receive payment for costs associated with providing dental health care
21 services and shall deposit the monies in the oral health fund established
22 by 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
26 and for investigations and research in matters affecting public health.
- 27 12. Supervise, inspect and enforce the rules concerning the
28 operation of public bathing places and public and semipublic swimming
29 pools adopted pursuant to section 36-136, subsection I, paragraph 10.
- 30 13. Take all actions necessary or appropriate to ensure that
31 bottled water sold to the public and water used to process, store, handle,
32 serve and transport food and drink are free from filth, disease-causing
33 substances and organisms and unwholesome, poisonous, deleterious or other
34 foreign substances. All state agencies and local health agencies involved
35 with water quality shall provide to the department any assistance
36 requested by the director to ensure that this paragraph is effectuated.
- 37 14. Enforce the state food, caustic alkali and acid laws in
38 accordance with chapter 2, article 2 of this title, chapter 8, article 1
39 of this title and chapter 9, article 4 of this title, and collaborate in
40 the enforcement of the federal food, drug, and cosmetic act (52 Stat.
41 1040; 21 United States Code sections 1 through 905).
- 42 15. Recruit and train personnel for state, local and district
43 health departments.

1 16. Conduct continuing evaluations of state, local and district
2 public health programs, study and appraise state health problems and
3 develop broad plans for use by the department and for recommendation to
4 other agencies, professions and local health departments for the best
5 solution of these problems.

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

8 18. Issue or direct the issuance of licenses and permits required
9 by law.

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

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

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

16 (b) Comprehensive prenatal health care.

17 (c) Maternity, delivery and postpartum care.

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

20 (e) Perinatal education oriented toward professionals and
21 consumers, focusing on early detection and adequate intervention to avert
22 premature labor and delivery.

23 21. License and regulate the health and safety of group homes for
24 persons with developmental disabilities. The department shall issue a
25 license to an accredited facility for a period of the accreditation,
26 except that ~~no~~ A licensing period shall NOT be longer than three
27 years. The department ~~is authorized to~~ MAY conduct an inspection of an
28 accredited facility to ensure that the facility meets health and safety
29 licensure standards. The results of the accreditation survey ~~shall be~~ ARE
30 public information. A copy of the final accreditation report shall be
31 filed with the department ~~of health services~~. For the purposes of this
32 paragraph, "accredited" means accredited by a nationally recognized
33 accreditation organization.

34 22. SUBJECT TO THE AVAILABILITY OF MONIES, INCLUDING FEDERAL MONIES
35 THAT ARE AVAILABLE FOR TEENAGER PREGNANCY PREVENTION PROGRAMS, ADMINISTER
36 OR SUPERVISE A PROGRAM TO REDUCE THE RISKS OF UNINTENDED PREGNANCY BY
37 IMPROVING AWARENESS OF EMERGENCY CONTRACEPTION. THE DEPARTMENT SHALL
38 PROVIDE INFORMATION ON ITS WEBSITE AND SOCIAL NETWORKING SITES ABOUT THE
39 PROGRAM, INCLUDING PURPOSE, RISKS AND AVAILABILITY OF EMERGENCY
40 CONTRACEPTION.

41 B. The department may accept from the state or federal government,
42 or any agency of the state or federal government, and from private donors,
43 trusts, foundations or eleemosynary corporations or organizations grants
44 or donations for or in aid of the construction or maintenance of any
45 program, project, research or facility authorized by this title, or in aid

1 of the extension or enforcement of any program, project or facility
2 authorized, regulated or prohibited by this title, and enter into
3 contracts with the federal government, or an agency of the federal
4 government, and with private donors, trusts, foundations or eleemosynary
5 corporations or organizations, to carry out such purposes. All monies
6 made available under this section are special project grants. The
7 department may also expend these monies to further applicable scientific
8 research within this state.

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

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

21 Sec. 14. Repeal

22 Section 36-145, Arizona Revised Statutes, is repealed.

23 Sec. 15. Section 36-404, Arizona Revised Statutes, is amended to
24 read:

25 36-404. Disclosure of information; limit; confidentiality

26 A. Information received and records kept by the department for the
27 purpose of administering this chapter are available to the public except:

28 1. Information obtained for THE purposes of articles 4 and 5 of
29 this chapter.

30 2. Personally identifiable medical information or any information
31 from which a patient or the patient's family might be identified.

32 3. Sources of information that cause the department to believe that
33 an inspection of an institution is needed to determine the extent of
34 compliance with this chapter and rules adopted pursuant to this chapter.

35 4. Personally identifiable information of a physician that is
36 received and any records kept regarding the physician's admitting
37 privileges ~~pursuant to section 36-449.02.~~

38 B. The department may release information listed under subsection A
39 of this section to an officer of the court pursuant to a court order, a
40 department or agency of this state or the federal government, a law
41 enforcement agency or a county medical examiner if the release of this
42 information is necessary and pertinent to an investigation or proceeding,
43 unless the release of this information is prohibited by federal or state
44 law. The recipient shall maintain patient and source name
45 confidentiality.

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

3 36-449.01. Definitions

4 In this article, unless the context otherwise requires:

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

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

15 ~~3. "Director" means the director of the department of health~~
16 ~~services.~~

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

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

21 ~~6. "Surgical abortion" has the same meaning prescribed in section~~
22 ~~36-2151.~~

23 ~~7.~~ 3. "Viable fetus" has the same meaning prescribed in section
24 36-2301.01.

25 Sec. 17. Section 36-449.02, Arizona Revised Statutes, is amended to
26 read:

27 36-449.02. Abortion clinics; licensure requirements; rules

28 A. Beginning on April 1, 2000, an abortion clinic shall meet the
29 same licensure requirements as prescribed in article 2 of this chapter for
30 health care institutions. ~~At the time of licensure, an abortion clinic~~
31 ~~shall submit to the director all documentation required by this article,~~
32 ~~including verification that the clinic's physicians who are required to be~~
33 ~~available have admitting privileges at a health care institution as~~
34 ~~required by section 36-449.03, subsection C, paragraph 3.~~

35 B. On or before the anniversary of the issue date of an abortion
36 clinic's license, the abortion clinic shall submit to the director all
37 documentation required by this article.

38 C. Beginning on April 1, 2000, abortion clinics shall comply with
39 department requirements for abortion clinics and department rules that
40 govern abortion clinics.

41 ~~D. If the director determines that there is reasonable cause to~~
42 ~~believe an abortion clinic is not adhering to the licensing requirements~~
43 ~~of this article or any other law or rule concerning abortion, the director~~
44 ~~and any duly designated employee or agent of the director, including~~
45 ~~county health representatives and county or municipal fire inspectors,~~

1 ~~consistent with standard medical practices, may enter on and into the~~
2 ~~premises of the abortion clinic that is licensed or required to be~~
3 ~~licensed pursuant to this article during regular business hours of the~~
4 ~~abortion clinic to determine compliance with this article, rules adopted~~
5 ~~pursuant to this article, local fire ordinances or rules and any other law~~
6 ~~or rule relating to abortion.~~

7 ~~E. An application for licensure pursuant to this article~~
8 ~~constitutes permission for, and complete acquiescence in, an entry or~~
9 ~~inspection of the premises during the pendency of the application and, if~~
10 ~~licensed, while the abortion clinic is licensed.~~

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

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

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

29 Sec. 18. Section 36-449.03, Arizona Revised Statutes, is amended to
30 read:

31 36-449.03. Abortion clinics; rules; confidentiality

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

- 34 1. Adequate private space that is specifically designated for
35 interviewing, counseling and medical evaluations.
- 36 2. Dressing rooms for staff and patients.
- 37 3. Appropriate lavatory areas.
- 38 4. Areas for preprocedure hand washing.
- 39 5. Private procedure rooms.
- 40 6. Adequate lighting and ventilation for abortion procedures.
- 41 7. Surgical or gynecologic examination tables and other fixed
42 equipment.
- 43 8. Postprocedure recovery rooms that are supervised, staffed and
44 equipped to meet the patients' needs.
- 45 9. Emergency exits to accommodate a stretcher or gurney.

1 10. Areas for cleaning and sterilizing instruments.

2 11. Adequate areas ~~for the secure storage of~~ TO SECURELY STORE
3 medical records and necessary equipment and supplies.

4 12. The display in the abortion clinic, in a place that is
5 conspicuous to all patients, of the clinic's current license issued by the
6 department.

7 B. The director shall adopt rules to prescribe abortion clinic
8 supplies and equipment standards, including supplies and equipment that
9 are required to be immediately available for use or in an emergency. At a
10 minimum these rules shall:

11 1. Prescribe required equipment and supplies, including
12 medications, required ~~for the~~ TO conduct, in an appropriate fashion, ~~of~~
13 any abortion procedure that the medical staff of the clinic anticipates
14 performing and ~~for monitoring~~ TO MONITOR the progress of each patient
15 throughout the procedure and recovery period.

16 2. Require that the number or amount of equipment and supplies at
17 the clinic is adequate at all times to ~~assure~~ ENSURE sufficient quantities
18 of clean and sterilized durable equipment and supplies to meet the needs
19 of each patient.

20 3. Prescribe required equipment, supplies and medications that
21 shall be available and ready for immediate use in an emergency and
22 requirements for written protocols and procedures to be followed by staff
23 in an emergency, such as the loss of electrical power.

24 4. Prescribe required equipment and supplies for required
25 laboratory tests and requirements for protocols to calibrate and maintain
26 laboratory equipment at the abortion clinic or operated by clinic staff.

27 5. Require ultrasound equipment.

28 6. Require that all equipment is safe for the patient and the
29 staff, meets applicable federal standards and is checked annually to
30 ensure safety and appropriate calibration.

31 C. The director shall adopt rules relating to abortion clinic
32 personnel. At a minimum these rules shall require that:

33 1. The abortion clinic designate a medical director of the abortion
34 clinic who is licensed pursuant to title 32, chapter 13, 17 or 29.

35 2. Physicians performing ~~abortions~~ SURGERY are licensed pursuant to
36 title 32, chapter 13 or 17, demonstrate competence in the procedure
37 involved and are acceptable to the medical director of the abortion
38 clinic.

39 3. A physician WITH ADMITTING PRIVILEGES AT AN ACCREDITED HOSPITAL
40 IN THIS STATE is available. :-

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

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

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

10 5. Surgical assistants receive training in counseling, patient
11 advocacy and the specific responsibilities of the services the surgical
12 assistants provide.

13 6. Volunteers receive training in the specific responsibilities of
14 the services the volunteers provide, including counseling and patient
15 advocacy as provided in the rules adopted by the director for different
16 types of volunteers based on their responsibilities.

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

20 1. A medical history, including the following:

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

23 (b) Obstetric and gynecologic history.

24 (c) Past surgeries.

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

27 3. The appropriate laboratory tests, including:

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

31 (b) A test for anemia.

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

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

35 4. An ultrasound evaluation for all patients ~~WHO ELECT TO HAVE AN~~
36 ~~ABORTION AFTER TWELVE WEEKS' GESTATION.~~ The rules shall require that if a
37 person who is not a physician performs an ultrasound examination, that
38 person shall have documented evidence that the person completed a course
39 in ~~the operation of~~ OPERATING ultrasound equipment as prescribed in
40 rule. The physician or other health care professional shall review, at
41 the request of the patient, the ultrasound evaluation results with the
42 patient before the abortion procedure is performed, including the probable
43 gestational age of the fetus.

44 5. That the physician is responsible for estimating the gestational
45 age of the fetus based on the ultrasound examination and obstetric

1 standards in keeping with established standards of care regarding the
2 estimation of fetal age as defined in rule and shall write the estimate in
3 the patient's medical history. The physician shall keep original prints
4 of each ultrasound examination of a patient in the patient's medical
5 history file.

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

8 1. That medical personnel is available to all patients throughout
9 the abortion procedure.

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

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

15 4. The use of appropriate precautions, such as ~~the establishment of~~
16 **ESTABLISHING** intravenous access at least for patients undergoing second or
17 third trimester abortions.

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

22 ~~6. For abortion clinics performing or inducing an abortion for a~~
23 ~~woman whose unborn child is the gestational age of twenty weeks or more,~~
24 ~~minimum equipment standards to assist the physician in complying with~~
25 ~~section 36-2301. For the purposes of this paragraph, "abortion" and~~
26 ~~"gestational age" have the same meanings prescribed in section 36-2151.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 1. The abortion clinic records each incident resulting in a
42 patient's or viable ~~fetus~~ FETUS'S serious injury occurring at an abortion
43 clinic and shall report them in writing to the department within ten days
44 after the incident. For the purposes of this paragraph, "serious injury"
45 means an injury that occurs at an abortion clinic and that creates a

1 serious risk of substantial impairment of a major body organ ~~and includes~~
2 ~~any injury or condition that requires ambulance transportation of the~~
3 ~~patient.~~

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

7 3. Incident reports are filed with the department and appropriate
8 professional regulatory boards.

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

11 ~~1. For an abortion clinic that is not in substantial compliance~~
12 ~~with this article and the rules adopted pursuant to this article and~~
13 ~~section 36-2301 or that is in substantial compliance but refuses to carry~~
14 ~~out a plan of correction acceptable to the department of any deficiencies~~
15 ~~that are listed on the department's statement of deficiency, the~~
16 ~~department may do any of the following:~~

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

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

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

20 ~~(d) Deny a license.~~

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

22 ~~2. In determining the appropriate enforcement action, the~~
23 ~~department consider the threat to the health, safety and welfare of the~~
24 ~~abortion clinic's patients or the general public, including:~~

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

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

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

30 ~~J. I.~~ I. The department shall not release personally identifiable
31 patient or physician information.

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

35 Sec. 19. Section 36-2151, Arizona Revised Statutes, is amended to
36 read:

37 36-2151. Definitions

38 In this article, unless the context otherwise requires:

39 1. "Abortion" means the use of any means to terminate the
40 clinically diagnosable pregnancy of a woman with knowledge that the
41 termination by those means will cause, with reasonable likelihood, the
42 death of the unborn child. Abortion does not include birth control
43 devices, oral contraceptives used to inhibit or prevent ovulation,
44 conception or the implantation of a fertilized ovum in the uterus or the
45 use of any means to ~~save the life or preserve the health of the unborn~~

1 ~~child~~ INCREASE THE PROBABILITY OF A LIVE BIRTH, to preserve the life or
2 health of the child after a live birth, to terminate an ectopic pregnancy
3 or to remove a dead fetus.

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

7 ~~3.~~ 2. "Conception" means the fusion of a human spermatozoon with a
8 human ovum.

9 ~~4.~~ 3. "Gestational age" means the age of the unborn child as
10 calculated from the first day of the last menstrual period of the pregnant
11 woman.

12 ~~5.~~ 4. "Health professional" has the same meaning prescribed in
13 section 32-3201.

14 ~~6.~~ 5. "Medical emergency" means a condition that, on the basis of
15 the physician's good faith clinical judgment, so complicates the medical
16 condition of a pregnant woman as to necessitate the immediate abortion of
17 her pregnancy to avert her death or for which a delay will create serious
18 risk of substantial and irreversible impairment of a major bodily
19 function.

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

22 ~~8.~~ 6. "Physician" means a person who is licensed pursuant to title
23 32, chapter 13 or 17.

24 ~~9.~~ 7. "Pregnant" or "pregnancy" means a female reproductive
25 condition of having a developing unborn child in the body and that begins
26 with conception.

27 ~~10.~~ 8. "Probable gestational age" means the gestational age of the
28 unborn child at the time the abortion is planned to be performed and as
29 determined with reasonable probability by the attending physician.

30 ~~11.~~ 9. "Surgical abortion" means the use of a surgical instrument
31 or a machine to terminate the clinically diagnosable pregnancy of a woman
32 with knowledge that the termination by those means will cause, with
33 reasonable likelihood, the death of the unborn child. Surgical abortion
34 does not include the use of any means to increase the probability of a
35 live birth, to preserve the life or health of the child after a live
36 birth, to terminate an ectopic pregnancy or to remove a dead
37 fetus. Surgical abortion does not include patient care incidental to the
38 procedure.

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

41 ~~13.~~ 10. "Unborn child" means the offspring of human beings from
42 conception until birth.

1 Sec. 20. Section 36-2152, Arizona Revised Statutes, is amended to
2 read:

3 36-2152. Parental consent; exception; hearings; time limits;
4 confidentiality; violations; classification; civil
5 relief; statute of limitations

6 A. In addition to the ~~other~~ requirements of ~~this chapter~~ SECTION
7 36-2153, a person shall not knowingly perform an abortion on a pregnant
8 unemancipated minor unless the attending physician has secured the written
9 and notarized consent from one of the minor's parents or the minor's
10 guardian or conservator or unless a judge of the superior court authorizes
11 the physician to perform the abortion pursuant to subsection B of this
12 section. Notwithstanding section 41-319, the notarized statement of
13 parental consent and the description of the document or notarial act
14 recorded in the notary journal are confidential and are not public
15 records.

16 B. A judge of the superior court, on petition or motion, and after
17 an appropriate hearing, shall authorize a physician to perform the
18 abortion if the judge determines that the pregnant minor is mature and
19 capable of giving informed consent to the proposed abortion. If the judge
20 determines that the pregnant minor is not mature or if the pregnant minor
21 does not claim to be mature, the judge shall determine whether the
22 performance of an abortion on her without the consent from one of her
23 parents or her guardian or conservator would be in her best interests and
24 shall authorize a physician to perform the abortion without consent if the
25 judge concludes that the pregnant minor's best interests would be served.

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

42 D. The pregnant minor may participate in the court proceedings on
43 her own behalf. The court ~~shall~~ MAY appoint a guardian ad litem for her.
44 The court shall advise her that she has the right to ~~court appointed~~
45 COURT-APPOINTED counsel and, on her request, shall provide her with

1 counsel unless she appears through private counsel or she knowingly and
2 intelligently waives her right to counsel.

3 E. Proceedings in the court under this section are confidential and
4 have precedence over other pending matters. Members of the public shall
5 not inspect, obtain copies of or otherwise have access to records of court
6 proceedings under this section unless authorized by law. A judge who
7 conducts proceedings under this section shall make in writing specific
8 factual findings and legal conclusions supporting the decision and shall
9 order a confidential record of the evidence to be maintained, including
10 the judge's own findings and conclusions. The minor may file the petition
11 using a fictitious name. For THE purposes of this subsection, public does
12 not include judges, clerks, administrators, professionals or other persons
13 employed by or working under the supervision of the court or employees of
14 other public agencies who are authorized by state or federal rule or law
15 to inspect and copy closed court records.

16 F. The court shall hold the hearing and shall issue a ruling within
17 forty-eight hours, excluding weekends and holidays, after the petition is
18 filed. If the court fails to issue a ruling within this time period, the
19 petition is deemed to have been granted and the consent requirement is
20 waived.

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

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

29 1. The pregnant minor certifies to the attending physician that the
30 pregnancy resulted from sexual conduct with a minor by the minor's parent,
31 stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian
32 or foster parent or by a person who lives in the same household with the
33 minor and the minor's mother. The physician performing the abortion shall
34 report the sexual conduct with a minor to the proper law enforcement
35 officials pursuant to section 13-3620 and shall preserve and forward a
36 sample of the fetal tissue to these officials for use in a criminal
37 investigation.

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

44 I. A person who performs an abortion in violation of this section
45 is guilty of a class 1 misdemeanor. A person who intentionally causes,

1 aids or assists a minor in obtaining an abortion in violation of this
2 section is guilty of a class 1 misdemeanor. A person is not subject to
3 any liability under this section if the person establishes by written
4 evidence that the person relied on evidence sufficient to convince a
5 careful and prudent person that the representations of the pregnant minor
6 regarding information necessary to comply with this section are true.

7 J. In addition to other remedies available under the common or
8 statutory law of this state, one or both of the minor's parents or the
9 minor's guardian may bring a civil action in the superior court in the
10 county in which the parents or the guardian resides to obtain appropriate
11 relief for a violation of this section, unless the pregnancy resulted from
12 the criminal conduct of the parent or guardian. The civil action may be
13 based on a claim that failure to obtain consent was a result of simple
14 negligence, gross negligence, wantonness, wilfulness, intention or any
15 other legal standard of care. ~~The civil action may be brought against the~~
16 ~~person who performs the abortion in violation of this section and any~~
17 ~~person who causes, aids or assists a minor to obtain an abortion without~~
18 ~~meeting the requirements of this section.~~ Relief pursuant to this
19 subsection includes the following:

- 20 1. Money damages for all psychological, emotional and physical
21 injuries that result from the violation of this section.
 - 22 2. Statutory damages in an amount equal to ~~five thousand dollars~~
23 **\$5,000** or three times the cost of the abortion, whichever is greater.
 - 24 3. Reasonable attorney fees and costs.
- 25 K. A civil action brought pursuant to this section must be
26 initiated within six years after the violation occurred.

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

- 30 ~~1. List the possible medical risks that may occur with any~~
31 ~~surgical, medical or diagnostic procedure, including the potential for~~
32 ~~infection, blood clots, hemorrhage, allergic reactions and death.~~
- 33 ~~2. List the possible medical risks that may occur with a surgical~~
34 ~~abortion, including hemorrhage, uterine perforation, sterility, injury to~~
35 ~~the bowel or bladder, a possible hysterectomy as a result of a~~
36 ~~complication or injury during the procedure and failure to remove all~~
37 ~~products of conception that may result in an additional procedure.~~
- 38 ~~3. List the possible medical risks that may occur with a medication~~
39 ~~abortion, including hemorrhage, infection, failure to remove all products~~
40 ~~of conception that may result in an additional procedure, sterility and~~
41 ~~the possible continuation of the pregnancy.~~
- 42 ~~4. Require the pregnant minor's and the pregnant minor's parent's~~
43 ~~initials on each page of the form and a full signature on the final page~~
44 ~~of the form.~~

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

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

6 Sec. 21. Section 36-2153, Arizona Revised Statutes, is amended to
7 read:

8 36-2153. Informed consent; requirements; information;
9 violation; civil relief; statute of limitations

10 A. An abortion shall not be performed or induced without the
11 voluntary and informed consent of the woman on whom the abortion is to be
12 performed or induced. Except in the case of a medical emergency ~~and in~~
13 ~~addition to the other requirements of this chapter~~, consent to an abortion
14 is voluntary and informed only if all of the following are true:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 ~~B. If a woman has taken mifepristone as part of a two-drug regimen~~
21 ~~to terminate her pregnancy, has not yet taken the second drug and consults~~
22 ~~an abortion clinic questioning her decision to terminate her pregnancy or~~
23 ~~seeking information regarding the health of her fetus or the efficacy of~~
24 ~~mifepristone alone to terminate a pregnancy, the abortion clinic staff~~
25 ~~shall inform the woman that the use of mifepristone alone to end a~~
26 ~~pregnancy is not always effective and that she should immediately consult~~
27 ~~a physician if she would like more information.~~

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

33 ~~D. The department of health services shall establish and shall~~
34 ~~annually update a website that includes a link to a printable version of~~
35 ~~all materials listed on the website. The materials must be written in an~~
36 ~~easily understood manner and printed in a typeface that is large enough to~~
37 ~~be clearly legible. The website must include all of the following~~
38 ~~materials:~~

39 ~~1. Information that is organized geographically by location and~~
40 ~~that is designed to inform the woman about public and private agencies and~~
41 ~~services that are available to assist a woman through pregnancy, at~~
42 ~~childbirth and while her child is dependent, including adoption agencies.~~
43 ~~The materials shall include a comprehensive list of the agencies, a~~
44 ~~description of the services they offer and the manner in which these~~

1 ~~agencies may be contacted, including the agencies' telephone numbers and~~
2 ~~website addresses.~~

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

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

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

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

15 ~~6. Information that is designed to inform the woman of the probable~~
16 ~~anatomical and physiological characteristics of the unborn child at~~
17 ~~two-week gestational increments from fertilization to full term, including~~
18 ~~pictures or drawings representing the development of unborn children at~~
19 ~~two-week gestational increments and any relevant information on the~~
20 ~~possibility of the unborn child's survival. The pictures or drawings must~~
21 ~~contain the dimensions of the unborn child and must be realistic and~~
22 ~~appropriate for each stage of pregnancy. The information provided~~
23 ~~pursuant to this paragraph must be objective, nonjudgmental and designed~~
24 ~~to convey only accurate scientific information about the unborn child at~~
25 ~~the various gestational ages.~~

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

30 ~~8. Information explaining the efficacy of mifepristone taken alone,~~
31 ~~without a follow-up drug as part of a two-drug regimen, to terminate a~~
32 ~~pregnancy and advising a woman to immediately contact a physician if the~~
33 ~~woman has taken only mifepristone and questions her decision to terminate~~
34 ~~her pregnancy or seeks information regarding the health of her fetus.~~

35 ~~E. C.~~ C. An individual who is not a physician shall not perform a
36 surgical abortion.

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

42 ~~G. E.~~ E. A person shall not intimidate or coerce in any way any
43 person to obtain an abortion. A parent, a guardian or any other person
44 shall not coerce a minor to obtain an abortion. If a minor is denied
45 financial support by the minor's parents, guardians or custodian due to

1 the minor's refusal to have an abortion performed, the minor is deemed
2 emancipated for the purposes of eligibility for public assistance
3 benefits, except that the emancipated minor may not use these benefits to
4 obtain an abortion.

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

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

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

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

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

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

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

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

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

38 2. Statutory damages in an amount equal to ~~five thousand dollars~~
39 ~~\$5,000~~ or three times the cost of the abortion, whichever is greater.

40 3. Reasonable attorney fees and costs.

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

43 Sec. 22. Repeal

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

1 Sec. 23. Section 36-2161, Arizona Revised Statutes, is amended to
2 read:

3 36-2161. Abortions; reporting requirements

4 A. A hospital or facility in this state where abortions are
5 performed must submit to the department of health services on a form
6 prescribed by the department a report of each abortion performed in the
7 hospital or facility. The report shall not identify the individual
8 patient by name ~~or include any other information or identifier that would~~
9 ~~make it possible to identify, in any manner or under any circumstances, a~~
10 ~~woman who has obtained or sought to obtain an abortion. The report BUT~~
11 must include the following information:

- 12 1. The name and address of the facility where the abortion was
13 performed.
- 14 2. The type of facility where the abortion was performed.
- 15 3. The county where the abortion was performed.
- 16 4. The woman's age.
- 17 5. The woman's educational background by highest grade completed
18 and, if applicable, level of college completed.
- 19 6. The county and state in which the woman resides.
- 20 7. The woman's race and ethnicity.
- 21 8. The woman's marital status.
- 22 9. The number of prior pregnancies and prior abortions of the
23 woman.

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

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

28 12. The reason for the abortion, including ~~at least one of the~~
29 ~~following:~~

30 ~~(a) WHETHER the abortion is elective.~~

31 ~~(b) The abortion is OR due to maternal health considerations.~~
32 ~~, including one of the following:~~

33 ~~(i) A premature rupture of membranes.~~

34 ~~(ii) An anatomical abnormality.~~

35 ~~(iii) Chorioamnionitis.~~

36 ~~(iv) Preeclampsia.~~

37 ~~(v) Other.~~

38 ~~(c) The abortion is due to fetal health considerations, including~~
39 ~~the fetus being diagnosed with at least one of the following:~~

40 ~~(i) A lethal anomaly.~~

41 ~~(ii) A central nervous system anomaly.~~

42 ~~(iii) Trisomy 18.~~

43 ~~(iv) Trisomy 21.~~

44 ~~(v) Triploidy.~~

45 ~~(vi) Other.~~

1 ~~(d) The pregnancy is the result of a sexual assault.~~
2 ~~(e) The pregnancy is the result of incest.~~
3 ~~(f) The woman is being coerced into obtaining an abortion.~~
4 ~~(g) The woman is a victim of sex trafficking.~~
5 ~~(h) The woman is a victim of domestic violence.~~
6 ~~(i) Other.~~
7 ~~(j) The woman declined to answer.~~
8 13. The type of procedure performed or prescribed and the date of
9 the abortion.
10 14. Any preexisting medical conditions of the woman that would
11 complicate pregnancy.
12 ~~15.~~ AND any known medical complication that resulted from the
13 abortion. ~~, including at least one of the following:~~
14 ~~(a) Shock.~~
15 ~~(b) Uterine perforation.~~
16 ~~(c) Cervical laceration requiring suture or repair.~~
17 ~~(d) Heavy bleeding or hemorrhage with estimated blood loss of at~~
18 ~~least five hundred cubic centimeters.~~
19 ~~(e) Aspiration or allergic response.~~
20 ~~(f) Postprocedure infection.~~
21 ~~(g) Sepsis.~~
22 ~~(h) Incomplete abortion retaining part of the fetus requiring~~
23 ~~reevacuation.~~
24 ~~(i) Damage to the uterus.~~
25 ~~(j) Failed termination of pregnancy.~~
26 ~~(k) Death of the patient.~~
27 ~~(l) Other.~~
28 ~~(m) None.~~
29 ~~16.~~ 15. The basis for any medical judgment that a medical
30 emergency existed that excused the physician from compliance with the
31 requirements of this chapter.
32 ~~17.~~ 16. The physician's statement if required pursuant to section
33 36-2301.01.
34 ~~18.~~ 17. If applicable, the weight of the aborted fetus for any
35 abortion performed pursuant to section 36-2301.01.
36 ~~19. Whether a fetus or embryo was delivered alive as defined in~~
37 ~~section 36-2301 during or immediately after an attempted abortion and the~~
38 ~~efforts made to promote, preserve and maintain the life of the fetus or~~
39 ~~embryo pursuant to section 36-2301.~~
40 ~~20. Statements by the physician and all clinical staff who observed~~
41 ~~the fetus or embryo during or immediately after the abortion certifying~~
42 ~~under penalty of perjury that, to the best of their knowledge, the aborted~~
43 ~~fetus or embryo was not delivered alive as defined in section 36-2301.~~

1 ~~21. The medical specialty of the physician performing the abortion,~~
2 ~~including one of the following:~~

- 3 ~~(a) Obstetrics-gynecology.~~
- 4 ~~(b) General or family practice.~~
- 5 ~~(c) Emergency medicine.~~
- 6 ~~(d) Other.~~

7 ~~22. The type of admission for the patient, including whether the~~
8 ~~abortion was performed:~~

- 9 ~~(a) As an outpatient procedure in an abortion clinic.~~
- 10 ~~(b) As an outpatient procedure at a hospital.~~
- 11 ~~(c) As an inpatient procedure at a hospital.~~
- 12 ~~(d) As an outpatient procedure at a health care institution other~~
13 ~~than an abortion clinic or hospital.~~

14 ~~23. Whether anesthesia was administered to the mother.~~

15 ~~24. Whether anesthesia was administered to the unborn child.~~

16 ~~B. The hospital or facility shall request the information specified~~
17 ~~in subsection A, paragraph 12 of this section at the same time the~~
18 ~~information pursuant to section 36-2153 is provided to the woman~~
19 ~~individually and in a private room to protect the woman's privacy. The~~
20 ~~information requested pursuant to subsection A, paragraph 12 of this~~
21 ~~section may be obtained on a medical form provided to the woman to~~
22 ~~complete if the woman completes the form individually and in a private~~
23 ~~room.~~

24 ~~C. If the woman who is seeking the abortion discloses that the~~
25 ~~abortion is being sought because of a reason described in subsection A,~~
26 ~~paragraph 12, subdivision (d), (e), (f), (g) or (h) of this section, the~~
27 ~~hospital or facility shall provide the woman with information regarding~~
28 ~~the woman's right to report a crime to law enforcement and resources~~
29 ~~available for assistance and services, including a national human~~
30 ~~trafficking resource hotline.~~

31 ~~D.~~ B. The report must be signed by the physician who performed the
32 abortion or, if a health professional other than a physician is authorized
33 by law to prescribe or administer abortion medication, the signature and
34 title of the person who prescribed or administered the abortion
35 medication. The form may be signed electronically and shall indicate that
36 the person who signs the report is attesting that the information in the
37 report is correct to the best of the person's knowledge. The hospital or
38 facility must transmit the report to the department within fifteen days
39 after the last day of each reporting month.

40 ~~E.~~ C. Any report filed pursuant to this section shall be filed
41 electronically at an internet website that is designated by the department
42 unless the person required to file the report applies for a waiver from
43 electronic reporting by submitting a written request to the department.

1 Sec. 24. Section 36-2162, Arizona Revised Statutes, is amended to
2 read:

3 36-2162. Complications; reporting requirements

4 A. A health professional who provides medical care or treatment to
5 a woman who, in the good faith judgment of the health professional, is in
6 need of medical care because of a complication or complications resulting
7 from having undergone an abortion or attempted abortion must file a report
8 with the department of health services on a form prescribed by the
9 department. The report shall not identify the individual patient by name
10 but must contain the following information and other information as the
11 department may require:

12 1. The date of the abortion.

13 2. The woman's age.

14 3. The number of pregnancies the woman may have had before the
15 abortion.

16 4. The number and type of abortions the woman may have had before
17 this abortion.

18 5. The name and address of the facility where the abortion was
19 performed.

20 6. The gestational age of the unborn child at the time of the
21 abortion, if known.

22 7. The type of abortion performed, if known.

23 8. The nature of the complication or complications. ~~, including at
24 least one of the following:~~

25 ~~(a) Shock.~~

26 ~~(b) Uterine perforation.~~

27 ~~(c) Cervical laceration requiring suture or repair.~~

28 ~~(d) Heavy bleeding or hemorrhage with estimated blood loss of at
29 least five hundred cubic centimeters.~~

30 ~~(e) Aspiration or allergic response.~~

31 ~~(f) Postprocedure infection.~~

32 ~~(g) Sepsis.~~

33 ~~(h) Incomplete abortion retaining part of the fetus requiring
34 reevacuation.~~

35 ~~(i) Damage to the uterus.~~

36 ~~(j) Failed termination of pregnancy.~~

37 ~~(k) Death of the patient.~~

38 ~~(l) Other.~~

39 9. The medical treatment given.

40 10. The nature and extent, if known, of any permanent condition
41 caused by the complication.

42 B. The hospital or facility shall complete the complication report,
43 which may be signed electronically, and shall indicate that the person who
44 signs the report is attesting that the information in the report is
45 correct to the best of that person's knowledge. The hospital or facility

1 must transmit the report to the department within fifteen days after the
2 last day of each reporting month.

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

7 Sec. 25. Repeal

8 Section ~~36-2162.01~~, Arizona Revised Statutes, is repealed.

9 Sec. 26. Section 36-2163, Arizona Revised Statutes, is amended to
10 read:

11 ~~36-2163.~~ Reports; confidentiality; comprehensive annual
12 statistical report; violations; classification;
13 unprofessional conduct; penalties

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

20 B. The department of health services shall collect all abortion
21 reports, ~~AND~~ AND complication reports ~~and informed consent reports~~ and
22 prepare a comprehensive annual statistical report based on the data
23 gathered in the reports. ~~The statistical report shall include a breakdown~~
24 ~~of the number of abortions by gestational age of the unborn child at the~~
25 ~~time of the abortion and the type of procedure performed or prescribed.~~
26 ~~The statistical report shall include a breakdown by month of the reasons~~
27 ~~for abortions pursuant to section 36-2161 and a breakdown by month of the~~
28 ~~number of abortions performed or prescribed by each hospital and facility~~
29 ~~pursuant to section 36-2161. All data included on the forms pursuant to~~
30 ~~sections 36-2161, 36-2162 and 36-2162.01 shall be included in the~~
31 ~~statistical report, except that the department shall confidentially~~
32 ~~maintain the data that alone or in combination may constitute information~~
33 ~~from which an individual performing or having an abortion may be~~
34 ~~identified using epidemiologic principles.~~ The statistical report shall
35 not lead to the disclosure of the identity of any person filing a report
36 or about whom a report is filed. The department shall make the
37 statistical report available on its website and for public inspection and
38 copying.

39 C. The statistical report prepared by the department pursuant to
40 subsection B of this section shall include statistics from the
41 administrative office of the courts containing the following information:

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

44 2. Of the petitions filed pursuant to section 36-2152, subsection
45 B, the number in which the judge appointed a guardian ad litem or

1 court-appointed counsel for the minor pursuant to section 36-2152,
2 subsection D.

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

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

8 5. Of the petitions denied, the number appealed to the court of
9 appeals.

10 6. The number of those appeals that resulted in the denials being
11 affirmed.

12 7. The number of those appeals that resulted in the denial being
13 reversed.

14 ~~D. The statistical report prepared by the department pursuant to~~
15 ~~subsection B of this section shall include statistics from the Arizona~~
16 ~~health care cost containment system containing the following information:~~

17 ~~1. The total number of abortions partially or fully paid for with~~
18 ~~state monies through the Arizona health care cost containment system.~~

19 ~~2. The total amount of state monies used to pay for the abortions~~
20 ~~and expenses incidental to the abortions.~~

21 ~~3. The total number of abortions, if any, paid for with state~~
22 ~~monies and performed out of state.~~

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

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

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

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

1 ~~F.~~ H. A person who wilfully delivers or discloses to the
2 department any report, record or information known by that person to be
3 false commits a class 1 misdemeanor.

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

15 Sec. 27. Section 36-2301, Arizona Revised Statutes, is amended to
16 read:

17 36-2301. Duty to promote life of fetus or embryo delivered
18 alive

19 ~~A.~~ If an abortion is performed and a human fetus or embryo is
20 delivered alive, ~~it is the duty of~~ any physician performing such an
21 abortion and any additional physician in attendance as required by section
22 36-2301.01 ~~to see that~~ SHALL USE all available means and medical skills
23 ~~are used~~ to promote, preserve and maintain the life of such a fetus or
24 embryo.

25 ~~B.~~ ~~If an abortion is performed and a human fetus or embryo is~~
26 ~~delivered alive, the physician performing the abortion shall document and~~
27 ~~report to the department of health services the measures the physician~~
28 ~~performed to maintain the life of the fetus or embryo. If an abortion is~~
29 ~~performed and a human fetus or embryo with a lethal fetal condition is~~
30 ~~delivered alive, the physician performing the abortion shall also document~~
31 ~~and report to the department of health services the specific lethal fetal~~
32 ~~condition that was diagnosed before the performance of the abortion and~~
33 ~~that was confirmed by an examination performed after the human embryo or~~
34 ~~fetus was delivered alive.~~

35 ~~C.~~ ~~Before an abortion of a human fetus or embryo diagnosed with a~~
36 ~~lethal fetal condition, the physician performing the abortion must comply~~
37 ~~with the requirements of section 36-2158, subsection A and shall also~~
38 ~~inform the woman, orally and in person, that if the fetus or embryo is~~
39 ~~delivered alive, the diagnosis must be confirmed after the delivery and~~
40 ~~the standard of care required in subsection D of this section must be~~
41 ~~given.~~

42 ~~D.~~ ~~The director of the department of health services shall~~
43 ~~prescribe rules requiring an abortion clinic or a hospital that performs~~
44 ~~or induces an abortion at or after twenty weeks' gestational age as~~
45 ~~defined in section 36-2151 to establish, document and implement policies~~

1 ~~and procedures to ensure compliance with this section. At a minimum,~~
2 ~~these policies and procedures shall require that:~~

3 ~~1. In the case of an abortion clinic, a person is designated to~~
4 ~~contact emergency services immediately at the birth of a fetus or embryo~~
5 ~~delivered alive to arrange transfer to a hospital.~~

6 ~~2. At least one person who is trained in neonatal resuscitation is~~
7 ~~present in the room where the abortion takes place for any abortion~~
8 ~~performed or induced at or after twenty weeks' gestational age.~~

9 ~~3. Establish a protocol for rapid neonatal resuscitation of a fetus~~
10 ~~or embryo delivered alive, including assessing respiration and heart rate,~~
11 ~~clearing secretions, positioning the airway, providing warmth, drying and~~
12 ~~administering oxygen as needed.~~

13 ~~E. If an abortion is performed and a human fetus or embryo with a~~
14 ~~tetral fetal condition is delivered alive, and the protocol for rapid~~
15 ~~neonatal resuscitation of a fetus or embryo pursuant to subsection D of~~
16 ~~this section is complied with and any further treatment beyond what is~~
17 ~~prescribed pursuant to subsection D of this section will do no more than~~
18 ~~temporarily prolong the act of dying when death is imminent, no further~~
19 ~~treatment is required by this section.~~

20 ~~F. A hospital that is not in substantial compliance with the rules~~
21 ~~or policies and procedures adopted pursuant to this section may be subject~~
22 ~~to the penalties and sanctions specified in sections 36-427 and 36-431.01.~~

23 ~~G. An action to enforce this section shall be brought in the name~~
24 ~~of the state by the attorney general or the county attorney in the~~
25 ~~superior court in the county in which the violation occurred.~~

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

29 ~~1. The mother of the human fetus or embryo delivered alive.~~

30 ~~2. The father of the human fetus or embryo delivered alive, unless~~
31 ~~the pregnancy resulted from the plaintiff's criminal conduct.~~

32 ~~3. A maternal grandparent of the human fetus or embryo delivered~~
33 ~~alive if the mother was not at least eighteen years of age at the time of~~
34 ~~the abortion, unless the pregnancy resulted from the plaintiff's criminal~~
35 ~~conduct.~~

36 ~~I. A civil action filed pursuant to subsection H of this section~~
37 ~~shall be brought in the superior court in the county in which the woman on~~
38 ~~whom the abortion was performed resides and may be based on a claim that~~
39 ~~the failure to see that all available means and medical skills were used~~
40 ~~to promote, preserve and maintain the life of the human fetus or embryo~~
41 ~~was a result of simple negligence, gross negligence or wanton, wilful or~~
42 ~~intentional misconduct or any other legal standard of care. Relief for a~~
43 ~~civil action filed pursuant to subsection H of this section may include~~
44 ~~any of the following:~~

1 ~~1. Monetary damages for psychological, emotional and physical~~
2 ~~injuries resulting from the violation of this section.~~

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

5 ~~3. Reasonable attorney fees and costs.~~

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

8 ~~K. For the purposes of this section:~~

9 ~~1. "Abortion" has the same meaning prescribed in section 36-2151.~~

10 ~~2. "Delivered alive" means the complete expulsion or extraction~~
11 ~~from the mother of a fetus or embryo, regardless of the state of~~
12 ~~gestational development, who, after expulsion or extraction, whether or~~
13 ~~not the umbilical cord has been cut or the placenta is attached, shows any~~
14 ~~evidence of life, including one or more of the following:~~

15 ~~(a) Breathing.~~

16 ~~(b) A heartbeat.~~

17 ~~(c) Umbilical cord pulsation.~~

18 ~~(d) Definite movement of voluntary muscles.~~

19 ~~3. "Lethal fetal condition" has the same meaning prescribed in~~
20 ~~section 36-2158.~~

21 Sec. 28. Section 36-2301.01, Arizona Revised Statutes, is amended
22 to read:

23 36-2301.01. Abortion of viable fetus; requirements;
24 definitions

25 A. A physician shall not knowingly perform an abortion of a viable
26 fetus unless:

27 1. The physician states in writing before the abortion is performed
28 that the abortion is necessary to preserve the life or health of the
29 woman, specifying the medical indications for and the probable health
30 consequences of the abortion. The physician shall attach a copy of this
31 statement to any fetal death report filed pursuant to section 11-593 or
32 fetal death registration filed pursuant to section 36-329.

33 2. The physician uses the available method or technique of abortion
34 most likely to preserve the life and health of the fetus, unless the use
35 of such method or technique would present a greater risk to the life or
36 health of the woman than the use of another available method or technique.

37 3. The physician states in writing the available methods or
38 techniques considered, the method or technique used and the reasons for
39 choosing that method or technique. The physician shall attach a copy of
40 this statement to any fetal death report filed pursuant to section 11-593
41 or fetal death registration filed pursuant to section 36-329.

42 4. In addition to the physician performing the abortion, there is
43 another physician in attendance who shall take control of and provide
44 immediate medical care for a living child born as a result of the
45 abortion.

1 5. The physician takes all reasonable steps during the performance
2 of the abortion, consistent with the procedure used and in keeping with
3 good medical practice, to preserve the life and health of the fetus, if
4 these steps do not pose an increased risk to the life or health of the
5 woman on whom the abortion is performed.

6 B. This section does not apply if there is a medical emergency.

7 C. For the purposes of this section and section 36-2301.02:

8 1. "Abortion" ~~has the same meaning prescribed in section 36-2151~~
9 MEANS THE USE OF AN INSTRUMENT, MEDICINE OR DRUG OR ANOTHER SUBSTANCE OR
10 DEVICE WITH THE INTENT TO TERMINATE A PREGNANCY FOR REASONS OTHER THAN TO
11 INCREASE THE PROBABILITY OF A LIVE BIRTH, TO PRESERVE THE LIFE OR HEALTH
12 OF THE CHILD AFTER LIVE BIRTH, TO TERMINATE AN ECTOPIC PREGNANCY OR TO
13 REMOVE A DEAD FETUS. ABORTION DOES NOT INCLUDE BIRTH CONTROL DEVICES OR
14 ORAL CONTRACEPTIVES.

15 2. "Medical emergency" means a condition that, on the basis of the
16 physician's good faith clinical judgment, so complicates a pregnancy as to
17 necessitate the immediate abortion of the pregnancy to avoid the woman's
18 death or for which a delay will create serious risk of substantial and
19 irreversible impairment of a major bodily function.

20 3. "Physician" means any person licensed under title 32, chapter 13
21 or 17.

22 4. "Viable fetus" means the unborn offspring of human beings that
23 has reached a stage of fetal development so that, in the judgment of the
24 attending physician on the particular facts of the case, there is a
25 reasonable probability of the fetus' sustained survival outside the
26 uterus, with or without artificial support.

27 Sec. 29. Repeal

28 Sections 36-2930.03 and 36-3604, Arizona Revised Statutes, are
29 repealed.

30 Sec. 30. Section 38-612, Arizona Revised Statutes, is amended to
31 read:

32 38-612. Administration of payroll salary deductions

33 A. ~~There shall be no~~ Payroll salary deductions MAY NOT BE MADE from
34 the compensation of state officers or employees except as specifically
35 authorized by federal law or regulation or by a statute of this state. An
36 administrative agency of this state may not authorize any other deduction.

37 B. Notwithstanding subsection A of this section, reductions to
38 retroactive payroll compensation are authorized pursuant to section
39 38-1106, subsection J, paragraph 5.

40 C. In addition to those payroll salary deductions required by
41 federal law or regulation or by statute, state officers or employees may
42 authorize deductions to be made from their salaries or wages for the
43 payment of:

1 1. Premiums on any health benefits, disability plans or group life
2 plans provided for by statute and any existing insurance programs already
3 provided by payroll deduction.

4 2. Shares or obligations to any state or federally chartered credit
5 union established primarily ~~for the purpose of serving~~ TO SERVE state
6 officers and employees and their families.

7 3. Dues in a recognized association THAT IS composed principally of
8 employees and former employees of agencies of this state, subject to the
9 following criteria:

10 (a) ~~When~~ THE ASSOCIATION IS composed of at least one thousand state
11 employees other than employees of the state universities, the department
12 of public safety and academic personnel of the Arizona state schools for
13 the deaf and the blind.

14 (b) ~~When~~ THE ASSOCIATION IS composed of at least twenty-five
15 percent of the academic personnel or of the nonacademic employees of any
16 state university.

17 (c) ~~When~~ THE ASSOCIATION IS composed of at least twenty-five
18 percent of the academic personnel of the Arizona state schools for the
19 deaf and the blind.

20 (d) ~~When~~ THE ASSOCIATION IS composed of at least four hundred state
21 employees who are certified as peace officers by the Arizona peace officer
22 standards and training board established by section 41-1821.

23 (e) ~~When~~ THE ASSOCIATION IS composed of a combined total of at
24 least eight hundred state employees described in subdivision (d) of this
25 paragraph, state employees of the state department of corrections and
26 state employees who are law enforcement officers.

27 4. Deferred compensation or tax sheltered annuity salary reductions
28 when made under approved plans.

29 5. Federal savings bond plans.

30 6. Recurrent fees, charges or other payments payable to a state
31 agency under a collection plan approved by the director of the department
32 of administration.

33 7. ~~Except as provided in subsection G of this section,~~
34 Contributions made to a charitable organization THAT IS:

35 (a) Organized and operated exclusively for charitable purposes and
36 selected by the presidents of the state universities. Employees of the
37 state universities shall be advised by form of the charitable
38 organizations to which the employees may contribute through payroll salary
39 deductions. The advisory provided under this subdivision shall be
40 substantially similar to the following and prominently printed:

41 "You may contribute to any charitable organization registered under
42 internal revenue code section 501(c)(3), tax exempt status.

43 _____
44 Charitable organization name"

1 This subdivision applies only to academic personnel and nonacademic
2 employees of the state universities.

3 (b) Organized and operated exclusively for charitable purposes,
4 ~~provided IF~~ a fund drive by such an organization ~~shall be applicable~~
5 APPLIES to all state agencies except the state universities covered under
6 subdivision (a) of this paragraph and no state officer or employee of
7 state agencies subject to this subdivision may authorize more than one
8 deduction for charitable purposes to be in effect at the same time. This
9 subdivision applies to all state agencies except the universities covered
10 under subdivision (a) of this paragraph.

11 8. Contributions made for the purpose of contributing to a ~~fund~~
12 ~~raising~~ FUND-RAISING campaign for a university or a club for faculty or
13 staff, or both, ~~which THAT~~ is recognized by the university president and
14 authorized by the Arizona board of regents. This paragraph applies only
15 to academic personnel and nonacademic employees of the state universities.

16 9. Charges payable for transportation expenses pursuant to section
17 41-710.01.

18 10. Payments ordered by courts of competent jurisdiction within
19 this state.

20 11. Automobile or homeowner's insurance premiums.

21 12. Premiums for the following state-sponsored group benefits that
22 are established primarily for the purpose of serving state officers and
23 employees and their families:

24 (a) Long-term care insurance.

25 (b) Critical care insurance.

26 (c) Prepaid legal services.

27 (d) Identity theft protection services.

28 13. A computer system as defined in section 13-2301 for personal
29 use.

30 D. In order for the department of administration to establish and
31 maintain a dues deduction pursuant to subsection C, paragraph 3 of this
32 section, the department ~~of administration~~ may establish and maintain the
33 deduction without the appropriation of any additional monies or
34 technological improvements. The department ~~of administration~~ shall track
35 all personnel hours dedicated to dues deduction. The department ~~of~~
36 ~~administration~~ may charge a fee to a recognized association that qualifies
37 under subsection C, paragraph 3 of this section for establishing the
38 automatic dues deduction and anytime changes are needed in the automatic
39 dues deduction system as a result of an increase or decrease in
40 association dues. If the membership criteria of a recognized association
41 ~~falls~~ FALL below the criteria set forth in subsection C, paragraph 3 of
42 this section, the recognized association shall be on probation for one
43 year. If the membership of a recognized association falls below the
44 criteria set forth in subsection C, paragraph 3 of this section for more
45 than one year, or if the members of the association engage in a work

1 slowdown or work stoppage, the dues deduction authorized by this section
2 shall immediately be discontinued.

3 E. For those state officers and employees under payroll systems
4 that are under the direction of the director of the department of
5 administration, the director shall provide for the administration of
6 payroll deductions for the purposes set forth in this section. For all
7 other state officers and employees and for persons receiving allowances or
8 benefits under other state payroll and retirement systems, the appropriate
9 state officer shall provide for ~~such~~ THE administration of payroll
10 deductions. Such administration shall operate without cost or
11 contribution from ~~the~~ THIS state other than the incidental expense of
12 making the deductions and remittances to the payees. If any payee
13 requests additional services, the director of the department ~~of~~
14 ~~administration~~ or any other appropriate state officer may require payment
15 for the additional cost of providing such services.

16 F. As a means of readily identifying the employee from whom payroll
17 deductions are to be made, the state officer administering payroll
18 deductions may request an employee to enter ~~such~~ THE employee's social
19 security identification number on the payroll deduction authorization.
20 ~~Such~~ THIS number shall not be used for any other purpose.

21 ~~G. There shall be no payroll salary deductions from the~~
22 ~~compensation of state officers or employees for contributions made to a~~
23 ~~charitable organization that performs a nonfederally qualified abortion or~~
24 ~~maintains or operates a facility where a nonfederally qualified abortion~~
25 ~~is performed for the provision of family planning services. For the~~
26 ~~purposes of this subsection, "nonfederally qualified abortion" has the~~
27 ~~same meaning prescribed in section 35-196.05.~~

28 ~~H. G.~~ THE THIS state, the director of the department of
29 administration or any other appropriate state officer ~~shall be~~ IS relieved
30 of any liability to employees authorizing deductions or organizations
31 receiving deductions that may result from authorizations pursuant to this
32 section.

33 Sec. 31. Section 43-1088, Arizona Revised Statutes, is amended to
34 read:

35 43-1088. Credit for contribution to qualifying charitable
36 organizations; definitions

37 A. Except as provided in subsections B and C of this section, a
38 credit is allowed against the taxes imposed by this title for voluntary
39 cash contributions by the taxpayer or on the taxpayer's behalf pursuant to
40 section 43-401, subsection G during the taxable year to a qualifying
41 charitable organization, other than a qualifying foster care charitable
42 organization, not to exceed:

43 1. ~~Four hundred dollars~~ \$400 in any taxable year for a single
44 individual or a head of household.

1 2. ~~Eight hundred dollars~~ \$800 in any taxable year for a married
2 couple filing a joint return.

3 B. A separate credit is allowed for voluntary cash contributions
4 during the taxable year to a qualifying foster care charitable
5 organization. A contribution to a qualifying foster care charitable
6 organization does not qualify for, and shall not be included in, any
7 credit amount under subsection A of this section. If the voluntary cash
8 contribution by the taxpayer or on the taxpayer's behalf pursuant to
9 section 43-401, subsection G is to a qualifying foster care charitable
10 organization, the credit shall not exceed:

11 1. ~~Five hundred dollars~~ \$500 in any taxable year for a single
12 individual or a head of household.

13 2. ~~One thousand dollars~~ \$1,000 in any taxable year for a married
14 couple filing a joint return.

15 C. Subsections A and B of this section provide separate credits
16 against taxes imposed by this title depending on the recipients of the
17 contributions. A taxpayer, including a married couple filing a joint
18 return, in the same taxable year, may either or both:

19 1. Contribute to a qualifying charitable organization, other than a
20 qualifying foster care charitable organization, and claim a credit under
21 subsection A of this section.

22 2. Contribute to a qualifying foster care charitable organization
23 and claim a credit under subsection B of this section.

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

27 E. For the purposes of this section, a contribution for which a
28 credit is claimed and that is made on or before the fifteenth day of the
29 fourth month following the close of the taxable year may be applied to
30 either the current or preceding taxable year and is considered to have
31 been made on the last day of that taxable year.

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

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

40 H. Taxpayers taking a credit authorized by this section shall
41 provide the name of the qualifying charitable organization and the amount
42 of the contribution to the department of revenue on forms provided by the
43 department.

44 I. A qualifying charitable organization shall provide the
45 department of revenue with a written certification that it meets all

1 criteria to be considered a qualifying charitable organization. The
2 organization shall also notify the department of any changes that may
3 affect the qualifications under this section.

4 J. The charitable organization's written certification must be
5 signed by an officer of the organization under penalty of perjury. The
6 written certification must include the following:

7 1. Verification of the organization's status under section
8 501(c)(3) of the internal revenue code or verification that the
9 organization is a designated community action agency that receives
10 community services block grant program monies pursuant to 42 United States
11 Code section 9901.

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

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

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

17 (c) Are children who have a chronic illness or physical disability.

18 3. A statement that the organization plans to continue spending at
19 least fifty percent of its budget on services to residents of this state
20 who receive temporary assistance for needy families benefits, who are
21 low-income residents ~~of this state~~ or who are children who have a chronic
22 illness or physical disability.

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

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

33 L. For the purposes of this section:

34 1. "Children who have a chronic illness or physical disability" has
35 the same meaning prescribed in section 36-260.

36 2. "Low-income residents" means persons whose household income is
37 less than one hundred fifty percent of the federal poverty level.

38 3. "Qualifying charitable organization" means a charitable
39 organization that is exempt from federal income taxation under section
40 501(c)(3) of the internal revenue code or is a designated community action
41 agency that receives community services block grant program monies
42 pursuant to 42 United States Code section 9901. The organization must
43 spend at least fifty percent of its budget on services to residents of
44 this state who receive temporary assistance for needy families benefits,
45 ~~or~~ **T0** low-income residents of this state and their households or to

1 children who have a chronic illness or physical disability AND who are
2 residents of this state. Taxpayers choosing to make donations through an
3 umbrella charitable organization that collects donations on behalf of
4 member charities shall designate that the donation be directed to a member
5 charitable organization that would qualify under this section on a
6 stand-alone basis. ~~Qualifying charitable organization does not include~~
7 ~~any entity that provides, pays for or provides coverage of abortions or~~
8 ~~that financially supports any other entity that provides, pays for or~~
9 ~~provides coverage of abortions.~~

10 4. "Qualifying foster care charitable organization" means a
11 qualifying charitable organization that each operating year provides
12 services to at least two hundred qualified individuals in this state and
13 spends at least fifty percent of its budget on services to qualified
14 individuals in this state. For the purposes of this paragraph, "qualified
15 individual" means a foster child as defined in section 8-501 or a person
16 who is under twenty-one years of age and who is participating in a
17 transitional independent living program as prescribed by section 8-521.01.

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

22 Sec. 32. Repeal

23 The following are repealed:

- 24 1. Laws 2011, chapter 9, sections 3, 4, 5 and 6.
- 25 2. Laws 2011, chapter 10, sections 8 and 9.
- 26 3. Laws 2011, chapter 55, section 3.
- 27 4. Laws 2012, chapter 250, sections 9, 10, 11 and 12.
- 28 5. Laws 2012, chapter 288, sections 2 and 3.
- 29 6. Laws 2012, chapter 337, section 6.
- 30 7. Laws 2014, chapter 33, sections 4, 5 and 6.
- 31 8. Laws 2016, chapter 267, sections 6 and 7.
- 32 9. Laws 2017, chapter 133, sections 6, 7 and 8.
- 33 10. Laws 2018, chapter 219, section 5.

34 Sec. 33. Short title

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