

House Engrossed Senate Bill

health information; disclosures; prohibition

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 219
SENATE BILL 1505

AN ACT

AMENDING SECTIONS 36-135, 36-568.01 AND 36-664, ARIZONA REVISED STATUTES;
RELATING TO HEALTH INFORMATION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-135, Arizona Revised Statutes, is amended to
3 read:

4 36-135. Child immunization reporting system; requirements;
5 access; confidentiality; immunity; violation;
6 classification; definitions

7 A. The child immunization reporting system is established in the
8 department to collect, store, analyze, release and report immunization
9 data.

10 B. A health care professional who is licensed under title 32 to
11 provide immunizations, except as provided in subsection I of this section,
12 shall report the following information:

13 1. The health care professional's name, business address and
14 business telephone number.

15 2. The child's name, address, social security number if known and
16 not confidential, gender, date of birth and mother's maiden name.

17 3. The type of vaccine administered and the date it is
18 administered.

19 C. The health care professional may submit this information to the
20 department on a weekly or monthly basis by telephone, ~~facsimile~~ FAX, mail,
21 computer or any other method prescribed by the department.

22 D. Except as provided in subsection I of this section, the
23 department shall release identifying information only to the person, the
24 person's health care decision maker, parent or guardian, a health care
25 provider, an entity regulated under title 20, the Arizona health care cost
26 containment system and its ~~providers~~ CONTRACTORS as defined in chapter 29
27 of this title, ITS EXTERNAL QUALITY REVIEW ORGANIZATION OR ANY OTHER
28 ENTITY THAT HAS A BUSINESS ASSOCIATE AGREEMENT WITH THE ARIZONA HEALTH
29 CARE COST CONTAINMENT SYSTEM, a school official who is authorized by law
30 to receive and record immunization records, ~~or~~ a person or entity that
31 provides services to a health care provider and with whom the health care
32 provider has a business associate agreement that requires the person or
33 entity to protect the confidentiality of the information, as required by
34 the health insurance portability and accountability act privacy
35 standards, ~~or~~ (45 Code of Federal Regulations part 164, subpart E) OR A
36 NONPROFIT HEALTH INFORMATION ORGANIZATION AS DEFINED IN SECTION 36-3801
37 THAT IS DESIGNATED BY THE DEPARTMENT AS THIS STATE'S OFFICIAL HEALTH
38 INFORMATION EXCHANGE ORGANIZATION. The department may also release
39 identifying information to an entity designated by the person or the
40 person's health care decision maker, parent or guardian. The department,
41 by rule, may release immunization information to persons for a specified
42 purpose. The department may release nonidentifying summary statistics.

43 E. Identifying information in the system is confidential. A person
44 who is authorized to receive confidential information under subsection D
45 of this section or pursuant to rules adopted by the department shall

1 disclose this information only as permitted by this section or rules
2 adopted by the department.

3 F. A health care provider that provides information in good faith
4 pursuant to this section is not subject to civil or criminal liability.

5 G. A health care provider that does not comply with the
6 requirements of this section violates a law applicable to the practice of
7 medicine and commits an act of unprofessional conduct or a violation of
8 chapter 4 of this title.

9 H. Any agency or person receiving confidential information from the
10 system who subsequently discloses that information to any other person
11 other than as permitted by this section is guilty of a class 3
12 misdemeanor.

13 I. At the request of the person, or if the person is a child the
14 child's parent or guardian, the department of health services shall
15 provide a form to be signed that allows confidential immunization
16 information to be withheld from all persons including persons authorized
17 to receive confidential information pursuant to subsection D of this
18 section. If the request is delivered to the health care professional
19 before the immunization, the health care professional shall not forward
20 the information required under subsection B of this section to the
21 department.

22 J. For the purposes of this section, "health care decision maker"
23 and "health care provider" have the same meanings prescribed in section
24 12-2291.

25 Sec. 2. Section 36-568.01, Arizona Revised Statutes, is amended to
26 read:

27 36-568.01. Confidentiality of records

28 A. All information obtained and records prepared in the course of
29 providing any services under this chapter to clients shall be confidential
30 and privileged matter. Such information and records may be disclosed only
31 AS AUTHORIZED BY STATE OR FEDERAL LAW, INCLUDING THE HEALTH INSURANCE
32 PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS (45 CODE OF FEDERAL
33 REGULATIONS PART 160 AND PART 164, SUBPART E), OR PURSUANT TO THE
34 FOLLOWING:

35 1. When the responsible person designates in writing persons to
36 whom records or information may be disclosed.

37 2. To the extent necessary to make claims on behalf of a client for
38 aid, insurance or medical assistance to which ~~he~~ THE CLIENT may be
39 entitled.

40 3. Pursuant to A court order.

41 4. In communications between professional persons in ~~the~~ providing
42 of services or appropriate referrals.

43 5. When such A disclosure is necessary to protect against a clear
44 and substantial risk of imminent serious injury.

1 6. To the superior court when a petition to establish guardianship
2 for the person is filed pursuant to ~~the provisions of~~ title 14, chapter 5.

3 7. To other state agencies or bodies for official purposes. ~~and~~ In
4 such cases, information or records shall be released without the
5 designation of the name of the client, unless ~~such~~ THE name is required
6 for the official purposes of state agencies or bodies requesting such
7 information. Such case information received by a state agency or body
8 shall be maintained as confidential unless a consent to release has been
9 given as provided in this section.

10 8. To a law enforcement agency or a county medical examiner in the
11 performance of official duties, unless the records requested relate to a
12 person who is the subject of a criminal investigation, in which case the
13 records may only be released pursuant to a court order or grand jury
14 subpoena. A person shall maintain information provided to a law
15 enforcement agency or a county medical examiner under this paragraph as
16 confidential unless a consent to release has been given pursuant to this
17 section or pursuant to a court order or grand jury subpoena.

18 B. The person to whom ~~such~~ information has been released pursuant
19 to subsection A ~~shall be~~ OF THIS SECTION IS prohibited from using or
20 releasing such information except in the proper performance of ~~his or her~~
21 THE PERSON'S duties OR AS OTHERWISE AUTHORIZED BY STATE OR FEDERAL LAW,
22 INCLUDING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY
23 STANDARDS (45 CODE OF FEDERAL REGULATIONS PART 160 AND PART 164,
24 SUBPART E).

25 Sec. 3. Section 36-664, Arizona Revised Statutes, is amended to
26 read:

27 36-664. Confidentiality; exceptions

28 A. A person who obtains communicable disease related information in
29 the course of providing a health service or obtains that information from
30 a health care provider pursuant to an authorization shall not disclose or
31 be compelled to disclose that information except as authorized by state or
32 federal law, including the health insurance portability and accountability
33 act privacy standards (45 Code of Federal Regulations part 160 and part
34 164, subpart E), or pursuant to the following:

35 1. The protected person or, if the protected person lacks capacity
36 to consent, the protected person's health care decision maker.

37 2. A health care provider or first responder who has had an
38 occupational significant exposure risk to the protected person's blood or
39 bodily fluid if the health care provider or first responder provides a
40 written request that documents the occurrence and information regarding
41 the nature of the occupational significant exposure risk and the report is
42 reviewed and confirmed by a health care provider who is both licensed
43 pursuant to title 32, chapter 13, 15 or 17 and competent to determine a
44 significant exposure risk. A health care provider who releases
45 communicable disease information pursuant to this paragraph shall provide

1 education and counseling to the person who has had the occupational
2 significant exposure risk.

3 3. The department or a local health department for purposes of
4 notifying a Good Samaritan pursuant to subsection E of this section.

5 4. An agent or employee of a health facility or health care
6 provider to provide health services to the protected person or the
7 protected person's child or for billing or reimbursement for health
8 services.

9 5. A health facility or health care provider, in relation to the
10 procurement, processing, distributing or use of a human body or a human
11 body part, including organs, tissues, eyes, bones, arteries, blood, semen,
12 milk or other body fluids, for use in medical education, research or
13 therapy or for transplantation to another person.

14 6. A health facility or health care provider, or an organization,
15 committee or individual designated by the health facility or health care
16 provider, that is engaged in the review of professional practices,
17 including the review of the quality, utilization or necessity of medical
18 care, or an accreditation or oversight review organization responsible for
19 the review of professional practices at a health facility or by a health
20 care provider.

21 7. A private entity that accredits the health facility or health
22 care provider and with whom the health facility or health care provider
23 has an agreement requiring the agency to protect the confidentiality of
24 patient information.

25 8. A federal, state, county or local health officer if disclosure
26 is mandated by federal or state law.

27 9. A federal, state or local government agency authorized by law to
28 receive the information. The agency is authorized to redisclose the
29 information only pursuant to this article or as otherwise permitted by
30 law.

31 10. An authorized employee or agent of a federal, state or local
32 government agency that supervises or monitors the health care provider or
33 health facility or administers the program under which the health service
34 is provided. An authorized employee or agent includes only an employee or
35 agent who, in the ordinary course of business of the government agency,
36 has access to records relating to the care or treatment of the protected
37 person.

38 11. A person, health care provider or health facility to which
39 disclosure is ordered by a court or administrative body pursuant to
40 section 36-665.

41 12. The industrial commission **OF ARIZONA** or parties to an
42 industrial commission of Arizona claim pursuant to section 23-908,
43 subsection D and section 23-1043.02.

1 13. Insurance entities pursuant to section 20-448.01 and
2 third-party payors or the payors' contractors.

3 14. Any person or entity as authorized by the patient or the
4 patient's health care decision maker.

5 15. A person or entity as required by federal law.

6 16. The legal representative of the entity holding the information
7 in order to secure legal advice.

8 17. A person or entity for research only if the research is
9 conducted pursuant to applicable federal or state laws and regulations
10 governing research.

11 18. A person or entity that provides services to the patient's
12 health care provider, as defined in section 12-2291, and with whom the
13 health care provider has a business associate agreement that requires the
14 person or entity to protect the confidentiality of patient information as
15 required by the health insurance portability and accountability act
16 privacy standards (45 Code of Federal Regulations part 164, subpart E).

17 19. A county medical examiner or an alternate medical examiner
18 directing an investigation into the circumstances surrounding a death
19 pursuant to section 11-593.

20 B. At the request of the department of child safety or the
21 department of economic security and in conjunction with the placement of
22 children in foster care or for adoption or court-ordered placement, a
23 health care provider shall disclose communicable disease information,
24 including HIV-related information, to the department of child safety or
25 the department of economic security.

26 C. A state, county or local health department or officer may
27 disclose communicable disease related information if the disclosure is any
28 of the following:

29 1. Specifically authorized or required by federal or state law.

30 2. Made pursuant to an authorization signed by the protected person
31 or the protected person's health care decision maker.

32 3. Made to a contact of the protected person. The disclosure shall
33 be made without identifying the protected person.

34 4. For the purposes of research as authorized by state and federal
35 law.

36 5. TO A NONPROFIT HEALTH INFORMATION ORGANIZATION AS DEFINED IN
37 SECTION 36-3801 THAT IS DESIGNATED BY THE DEPARTMENT AS THIS STATE'S
38 OFFICIAL HEALTH INFORMATION EXCHANGE ORGANIZATION.

39 D. The director may authorize the release of information that
40 identifies the protected person to the national center for health
41 statistics of the United States public health service for the purposes of
42 conducting a search of the national death index.

43 E. The department or a local health department shall disclose
44 communicable disease related information to a Good Samaritan who submits a
45 request to the department or the local health department. The request

1 shall document the occurrence of the accident, fire or other
2 life-threatening emergency and shall include information regarding the
3 nature of the significant exposure risk. The department shall adopt rules
4 that prescribe standards of significant exposure risk based on the best
5 available medical evidence. The department shall adopt rules that
6 establish procedures for processing requests from Good Samaritans pursuant
7 to this subsection. The rules shall provide that the disclosure to the
8 Good Samaritan shall not reveal the protected person's name and shall be
9 accompanied by a written statement that warns the Good Samaritan that the
10 confidentiality of the information is protected by state law.

11 F. An authorization to release communicable disease related
12 information shall be signed by the protected person or, if the protected
13 person lacks capacity to consent, the protected person's health care
14 decision maker. An authorization shall be dated and shall specify to whom
15 disclosure is authorized, the purpose for disclosure and the time period
16 during which the release is effective. A general authorization for the
17 release of medical or other information, including communicable disease
18 related information, is not an authorization for the release of
19 HIV-related information unless the authorization specifically indicates
20 its purpose as an authorization for the release of confidential
21 HIV-related information and complies with the requirements of this
22 section.

23 G. A person to whom communicable disease related information is
24 disclosed pursuant to this section shall not disclose the information to
25 another person except as authorized by this section. This subsection does
26 not apply to the protected person or a protected person's health care
27 decision maker.

28 H. This section does not prohibit the listing of communicable
29 disease related information, including acquired immune deficiency
30 syndrome, HIV-related illness or HIV infection, in a certificate of death,
31 autopsy report or other related document that is prepared pursuant to law
32 to document the cause of death or that is prepared to release a body to a
33 funeral director. This section does not modify a law or rule relating to
34 access to death certificates, autopsy reports or other related documents.

35 I. If a person in possession of HIV-related information reasonably
36 believes that an identifiable third party is at risk of HIV infection,
37 that person may report that risk to the department. The report shall be
38 in writing and include the name and address of the identifiable third
39 party and the name and address of the person making the report. The
40 department shall contact the person at risk pursuant to rules adopted by
41 the department. The department employee making the initial contact shall
42 have expertise in counseling persons who have been exposed to or tested
43 positive for HIV or acquired immune deficiency syndrome.

1 J. Except as otherwise provided pursuant to this article or subject
2 to an order or search warrant issued pursuant to section 36-665, a person
3 who receives HIV-related information in the course of providing a health
4 service or pursuant to a release of HIV-related information shall not
5 disclose that information to another person or legal entity or be
6 compelled by subpoena, order, search warrant or other judicial process to
7 disclose that information to another person or legal entity.

8 K. This section and sections 36-663, 36-666, 36-667 and 36-668 do
9 not apply to persons or entities subject to regulation under title 20.

10 Sec. 4. Emergency

11 This act is an emergency measure that is necessary to preserve the
12 public peace, health or safety and is operative immediately as provided by
13 law.

APPROVED BY THE GOVERNOR APRIL 9, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2021.