



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

AMENDED
FACT SHEET FOR S.B. 1393

refusing treatment; right; requirements.

Purpose

Prohibits a hospital from imposing any mode of treatment for COVID-19 or a COVID-19 variant, including vaccination, on a patient who declines the treatment.

Background

Health care institution administrators must ensure each patient, or their representative, is informed of the patient's right: 1) to consent to or refuse treatment, except in an emergency; 2) to refuse or withdraw consent for treatment before treatment is initiated; 3) to be informed of proposed treatment alternatives, associated risks and possible complications, except in an emergency; and 4) to be informed of the recovery care center's policy on health care ([A.A.C. R9-10-2110](#)).

An adult person may designate another adult individual to make health care decisions on that person's behalf by executing a written health care power of attorney that meets outlined requirements. If a person is physically unable to sign or mark a health care power of attorney, the notary or each witness must verify that the person directly indicated to the notary or witness that the power of attorney expressed the person's wishes and that the person intended to adopt the power of attorney at that time. The individual designated in a health care power of attorney to make health care decisions is an agent entitled to make and communicate these decisions while the principal is unable to do so. An agent's authority to make health care decisions on behalf of the principal is limited only by the express language of the health care power of attorney or by court order (A.R.S. § [36-3221](#) and [36-3223](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Refusal of Treatment

1. Prohibits a hospital from imposing any mode of treatment, including vaccination, on a patient who declines the treatment for COVID-19 or any COVID-19 variant.
2. Requires a hospital or health care provider to ensure that a patient that refuses COVID-19 treatment is counseled and given information on other treatment options.
3. Specifies a health care provider may ask a patient to specify under what circumstances the patient would accept a previously declined COVID-19 treatment but must honor the patient's wishes if the patient has not changed their mind.
4. Specifies that the right to refuse treatment does not apply to minor children.

Leaving a Hospital

5. Specifies that a patient has the right to leave a hospital at any time.
6. Allows an authorized person, if the patient becomes incapacitated, to exercise the patient's right to leave a hospital on the patient's behalf.
7. Specifies that the right to leave a hospital does not apply to:
 - a) the Arizona State Hospital (ASH);
 - b) minor children; or
 - c) court-ordered behavioral health evaluation or treatment.

Violation Petition

8. Requires a hospital to notify a patient of the right to:
 - a) leave the hospital; and
 - b) petition a court if the right to leave is not honored.
9. Allows the patient or the patient's immediate family member to petition the court for the patient's right to leave the hospital.
10. States that it is not the hospital's responsibility to assist with the petition process.
11. Requires the superior court in each county to hear claims of violations of a patient's right to leave a hospital and to enter judgment of whether preliminary injunctive relief should be granted within 48 hours, excluding holidays and weekends.
12. Requires preliminary injunctive relief to be granted if it appears that the patient wishes to leave the hospital.

Miscellaneous

13. Specifies that a tracking or monitoring device is considered to be a mode of treatment, whether or not it is directly related to a patient's treatment.
14. Declares the Legislature's intent that the public policy of the state that the right to refuse treatment, including vaccination, is a fundamental right.
15. Defines *health care provider* as a licensed:
 - a) physician;
 - b) nurse practitioner; or
 - c) physician assistant.
16. Defines *immediate family member* as a patient's:
 - a) spouse;
 - b) parent;
 - c) child;
 - d) sibling;
 - e) grandparent; or
 - f) legal guardian.
17. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

1. Limits the applicability of the right to refuse treatment and the right to leave a hospital at any time from health care institutions to hospitals and health care providers.
2. Limits the scope of the applicable treatment to treatment of COVID-19 or any COVID-19 variant.
3. Requires a hospital or health care provider to ensure that a patient that refuses COVID-19 treatment is counseled and given information on other treatment options.
4. Requires a hospital to notify a patient of the right to:
 - a) leave the hospital; and
 - b) petition a court if the right to leave is not honored.
5. Allows the patient or the patient's immediate family member to petition the court for the patient's right to leave the hospital.
6. States that it is not the hospital's responsibility to assist with the petition process.
7. Extends, from 24 hours to 48 hours, the time the superior court must enter judgment of whether preliminary injunctive relief should be granted and excludes, rather than including, holidays and weekends.
8. Specifies that the right to refuse treatment does not apply to minor children.
9. Specifies that the right to leave a hospital does not apply to:
 - a) ASH;
 - b) minor children; or
 - c) court-ordered behavioral health evaluation or treatment.
10. Removes the allowance that a minor child's parent:
 - a) or authorized representative, may accept any treatment on the minor's behalf, including a previously declined treatment; and
 - b) if the patient becomes incapacitated, may exercise the patient's right to leave a health care institution on the patient's behalf, unless the patient has written that they do not wish the parent to have this authority.
11. Removes the:
 - a) prohibition on a health care institution from threatening to withhold any service from a patient as a result of the treatment refusal;
 - b) the requirement that health care institutions that violate a patient's right to treatment refusal pay penalties and damages to the individual; and
 - c) requirement that preliminary injunctive relief be granted for violations of a patient's right to leave a hospital if it appears that the parent wishes the patient to be discharged and the patient is an incapacitated minor.
12. Defines *health care provider* and *immediate family member*.

Senate Action

HHS 2/9/22 DP 5-3-0

Prepared by Senate Research
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