

House Engrossed

HIV testing; consent; repeal

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2433

AN ACT

REPEALING SECTION 36-663, ARIZONA REVISED STATUTES; AMENDING SECTION 36-664, ARIZONA REVISED STATUTES; RELATING TO COMMUNICABLE DISEASE INFORMATION.

(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3 Section 36-663, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 36-664, Arizona Revised Statutes, is amended to
5 read:

6 36-664. Confidentiality; exceptions

7 A. A person who obtains communicable disease related information in
8 the course of providing a health service or obtains that information from
9 a health care provider pursuant to an authorization shall not disclose or
10 be compelled to disclose that information except as authorized by state or
11 federal law, including the health insurance portability and accountability
12 act privacy standards (45 Code of Federal Regulations part 160 and part
13 164, subpart E), or pursuant to the following:

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

16 2. A health care provider or first responder who has had an
17 occupational significant exposure risk to the protected person's blood or
18 bodily fluid if the health care provider or first responder provides a
19 written request that documents the occurrence and information regarding
20 the nature of the occupational significant exposure risk and the report is
21 reviewed and confirmed by a health care provider who is both licensed
22 pursuant to title 32, chapter 13, 14, 15 or 17 and competent to determine
23 a significant exposure risk. A health care provider who releases
24 communicable disease information pursuant to this paragraph shall provide
25 education and counseling to the person who has had the occupational
26 significant exposure risk.

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

29 4. An agent or employee of a health facility or health care
30 provider to provide health services to the protected person or the
31 protected person's child or for billing or reimbursement for health
32 services.

33 5. A health facility or health care provider, in relation to ~~the~~
34 ~~procurement~~ **PROCURING**, processing, distributing or ~~use of~~ **USING** a human
35 body or a human body part, including organs, tissues, eyes, bones,
36 arteries, blood, semen, milk or other body fluids, for use in medical
37 education, research or therapy or for transplantation to another person.

38 6. A health facility or health care provider, or an organization,
39 committee or individual designated by the health facility or health care
40 provider, that is engaged in the review of professional practices,
41 including the review of the quality, utilization or necessity of medical
42 care, or an accreditation or oversight review organization responsible for
43 the review of professional practices at a health facility or by a health
44 care provider.

1 7. A private entity that accredits the health facility or health
2 care provider and with whom the health facility or health care provider
3 has an agreement requiring the agency to protect the confidentiality of
4 patient information.

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

7 9. A federal, state or local government agency authorized by law to
8 receive the information. The agency is authorized to redisclose the
9 information only pursuant to this article or as otherwise ~~permitted~~
10 ~~ALLOWED~~ by law.

11 10. An authorized employee or agent of a federal, state or local
12 government agency that supervises or monitors the health care provider or
13 health facility or administers the program under which the health service
14 is provided. An authorized employee or agent includes only an employee or
15 agent who, in the ordinary course of business of the government agency,
16 has access to records relating to the care or treatment of the protected
17 person.

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

21 12. The industrial commission of Arizona or parties to an
22 industrial commission of Arizona claim pursuant to section 23-908,
23 subsection D and section 23-1043.02.

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

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

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

29 16. The legal representative of the entity holding the information
30 in order to secure legal advice.

31 17. A person or entity for research only if the research is
32 conducted pursuant to applicable federal or state laws and regulations
33 governing research.

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

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

1 B. At the request of the department of child safety or the
2 department of economic security and in conjunction with the placement of
3 children in foster care or for adoption or court-ordered placement, a
4 health care provider shall disclose communicable disease information,
5 including HIV-related information, to the department of child safety or
6 the department of economic security.

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

- 10 1. Specifically authorized or required by federal or state law.
- 11 2. Made pursuant to an authorization signed by the protected person
12 or the protected person's health care decision maker.
- 13 3. Made to a contact of the protected person. The disclosure shall
14 be made without identifying the protected person.
- 15 4. ~~MADE~~ for the purposes of research as authorized by state and
16 federal law.
- 17 5. ~~MADE~~ to a nonprofit health information organization as defined
18 in section 36-3801 that is designated by the department as this state's
19 official health information exchange organization.

20 D. The director may authorize the release of information that
21 identifies the protected person to the national center for health
22 statistics of the United States public health service for the purposes of
23 conducting a search of the national death index.

24 E. The department or a local health department shall disclose
25 communicable disease related information to a Good Samaritan who submits a
26 request to the department or the local health department. The request
27 shall document the occurrence of the accident, fire or other
28 life-threatening emergency and shall include information regarding the
29 nature of the significant exposure risk. The department shall adopt rules
30 that prescribe standards of significant exposure risk based on the best
31 available medical evidence. The department shall adopt rules that
32 establish procedures for processing requests from Good Samaritans pursuant
33 to this subsection. The rules shall provide that the disclosure to the
34 Good Samaritan ~~shall~~ not reveal the protected person's name and ~~shall~~ be
35 accompanied by a written statement that warns the Good Samaritan that the
36 confidentiality of the information is protected by state law.

37 F. An authorization to release communicable disease related
38 information shall be signed by the protected person or, if the protected
39 person lacks capacity to consent, the protected person's health care
40 decision maker. An authorization shall be dated and shall specify to whom
41 disclosure is authorized, the purpose for disclosure and the time period
42 during which the release is effective. A general authorization for the
43 release of medical or other information, including communicable disease
44 related information, is not an authorization for the release of
45 HIV-related information unless the authorization specifically indicates

1 its purpose as an authorization for the release of confidential
2 HIV-related information and complies with the requirements of this
3 section.

4 G. A person to whom communicable disease related information is
5 disclosed pursuant to this section shall not disclose the information to
6 another person except as authorized by this section. This subsection does
7 not apply to the protected person or a protected person's health care
8 decision maker.

9 H. This section does not prohibit the listing of communicable
10 disease related information, including acquired immune deficiency
11 syndrome, HIV-related illness or HIV infection, in a certificate of death,
12 autopsy report or other related document that is prepared pursuant to law
13 to document the cause of death or that is prepared to release a body to a
14 funeral director. This section does not modify a law or rule relating to
15 access to death certificates, autopsy reports or other related documents.

16 I. If a person in possession of HIV-related information reasonably
17 believes that an identifiable third party is at risk of HIV infection,
18 that person may report that risk to the department. The report shall be
19 in writing and include the name and address of the identifiable third
20 party and the name and address of the person making the report. The
21 department shall contact the person at risk pursuant to rules adopted by
22 the department. The department employee making the initial contact shall
23 have expertise in counseling persons who have been exposed to or tested
24 positive for HIV or acquired immune deficiency syndrome.

25 J. Except as otherwise provided pursuant to this article or subject
26 to an order or search warrant issued pursuant to section 36-665, a person
27 who receives HIV-related information in the course of providing a health
28 service or pursuant to a release of HIV-related information shall not
29 disclose that information to another person or legal entity or be
30 compelled by subpoena, order, search warrant or other judicial process to
31 disclose that information to another person or legal entity.

32 K. This section and sections ~~36-663~~, 36-666, 36-667 and 36-668 do
33 not apply to persons or entities **THAT ARE** subject to regulation under
34 title 20.