

REFERENCE TITLE: health information organizations; confidentiality; data

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1167

Introduced by
Senator Shope

AN ACT

AMENDING SECTIONS 36-135 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, fax, mail, computer
21 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 contractors as defined in chapter 29 of this
27 title, its external quality review organization or any other entity that
28 has a business associate agreement with the Arizona health care cost
29 containment system, a school official who is authorized by law to receive
30 and record immunization records, a person or entity that provides services
31 to a health care provider and with whom the health care provider has a
32 business associate agreement that requires the person or entity to protect
33 the confidentiality of the information, as required by the health
34 insurance portability and accountability act privacy standards (45 Code of
35 Federal Regulations part 164, subpart E) or a nonprofit health information
36 organization as defined in section 36-3801 that is designated by the
37 department as this state's official health information exchange
38 organization. The department may also release identifying information to
39 an entity designated by the person or the person's health care decision
40 maker, parent or guardian. The department, by rule, may release
41 immunization information to persons for a specified purpose. The
42 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

disclose this information only as ~~permitted~~ ALLOWED by this section or rules adopted by the department. A NONPROFIT HEALTH INFORMATION ORGANIZATION AS DEFINED IN SECTION 36-3801 THAT IS DESIGNATED BY THE DEPARTMENT AS THIS STATE'S OFFICIAL HEALTH INFORMATION EXCHANGE ORGANIZATION MAY RECEIVE, USE AND REDISCLOSE THE CONFIDENTIAL INFORMATION RECEIVED PURSUANT TO THIS SECTION FOR ANY PURPOSE ALLOWED BY THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS (45 CODE OF FEDERAL REGULATIONS PART 160 AND PART 164, SUBPART E), REGARDLESS OF WHETHER THE INFORMATION IS BEING MAINTAINED BY OR FOR A COVERED ENTITY OR BUSINESS ASSOCIATE AS DEFINED IN 45 CODE OF FEDERAL REGULATIONS SECTION 160.103.

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

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

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

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

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

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

36-664. Confidentiality: exceptions

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

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

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

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

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

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

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

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

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

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

10. An authorized employee or agent of a federal, state or local government agency that supervises or monitors the health care provider or health facility or administers the program under which the health service is provided. An authorized employee or agent includes only an employee or agent who, in the ordinary course of business of the government agency,

1 has access to records relating to the care or treatment of the protected
2 person.

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

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

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

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

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

14 16. The legal representative of the entity holding the information
15 in order to secure legal advice.

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

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

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

28 B. At the request of the department of child safety or the
29 department of economic security and in conjunction with the placement of
30 children in foster care or for adoption or court-ordered placement, a
31 health care provider shall disclose communicable disease information,
32 including HIV-related information, to the department of child safety or
33 the department of economic security.

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

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

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

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

42 4. For the purposes of research as authorized by state and federal
43 law.

1 5. **MADE** to a nonprofit health information organization as defined
2 in section 36-3801 that is designated by the department as this state's
3 official health information exchange organization. **THE HEALTH INFORMATION**
4 **ORGANIZATION MAY RECEIVE, USE AND REDISCLOSE THE COMMUNICABLE DISEASE**
5 **RELATED INFORMATION FOR ANY PURPOSE ALLOWED BY THE HEALTH INSURANCE**
6 **PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS (45 CODE OF FEDERAL**
7 **REGULATIONS PART 160 AND PART 164, SUBPART E), REGARDLESS OF WHETHER THE**
8 **INFORMATION IS BEING MAINTAINED BY OR FOR A COVERED ENTITY OR BUSINESS**
9 **ASSOCIATE AS DEFINED IN 45 CODE OF FEDERAL REGULATIONS SECTION 160.103.**

10 D. The director may authorize the release of information that
11 identifies the protected person to the national center for health
12 statistics of the United States public health service for the purposes of
13 conducting a search of the national death index.

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

27 F. An authorization to release communicable disease related
28 information shall be signed by the protected person or, if the protected
29 person lacks capacity to consent, the protected person's health care
30 decision maker. An authorization shall be dated and shall specify to whom
31 disclosure is authorized, the purpose for disclosure and the time period
32 during which the release is effective. A general authorization for the
33 release of medical or other information, including communicable disease
34 related information, is not an authorization for the release of
35 HIV-related information unless the authorization specifically indicates
36 its purpose as an authorization for the release of confidential
37 HIV-related information and complies with the requirements of this
38 section.

39 G. A person to whom communicable disease related information is
40 disclosed pursuant to this section shall not disclose the information to
41 another person except as authorized by this section. This subsection does
42 not apply to the protected person or a protected person's health care
43 decision maker.

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

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

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

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

Sec. 3. Emergency

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