

REFERENCE TITLE: **access to agency data; legislators.**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HB 2276

Introduced by
Representatives Stevens, Gowan, Seel: Antenori, Court, Hendrix,
Montenegro, Weiers JP

AN ACT

**AMENDING SECTIONS 36-2903, 36-2932, 36-2986 AND 42-2003, ARIZONA REVISED
STATUTES; RELATING TO LEGISLATOR ACCESS TO AGENCY INFORMATION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-2903, Arizona Revised Statutes, is amended to
3 read:

4 36-2903. Arizona health care cost containment system;
5 administrator; powers and duties of director and
6 administrator; exemption from attorney general
7 representation; definition

8 A. The Arizona health care cost containment system is established
9 consisting of contracts with contractors for the provision of hospitalization
10 and medical care coverage to members. Except as specifically required by
11 federal law and by section 36-2909, the system is only responsible for
12 providing care on or after the date that the person has been determined
13 eligible for the system, and is only responsible for reimbursing the cost of
14 care rendered on or after the date that the person was determined eligible
15 for the system.

16 B. An agreement may be entered into with an independent contractor,
17 subject to title 41, chapter 23, to serve as the statewide administrator of
18 the system. The administrator has full operational responsibility, subject
19 to supervision by the director, for the system, which may include any or all
20 of the following:

21 1. Development of county-by-county implementation and operation plans
22 for the system that include reasonable access to hospitalization and medical
23 care services for members.

24 2. Contract administration and oversight of contractors, including
25 certification instead of licensure for title XVIII and title XIX purposes.

26 3. Provision of technical assistance services to contractors and
27 potential contractors.

28 4. Development of a complete system of accounts and controls for the
29 system, including provisions designed to ensure that covered health and
30 medical services provided through the system are not used unnecessarily or
31 unreasonably, including but not limited to inpatient behavioral health
32 services provided in a hospital. Periodically the administrator shall
33 compare the scope, utilization rates, utilization control methods and unit
34 prices of major health and medical services provided in this state in
35 comparison with other states' health care services to identify any
36 unnecessary or unreasonable utilization within the system. The administrator
37 shall periodically assess the cost effectiveness and health implications of
38 alternate approaches to the provision of covered health and medical services
39 through the system in order to reduce unnecessary or unreasonable
40 utilization.

41 5. Establishment of peer review and utilization review functions for
42 all contractors.

43 6. Assistance in the formation of medical care consortiums to provide
44 covered health and medical services under the system for a county.

45 7. Development and management of a contractor payment system.

1 8. Establishment and management of a comprehensive system for assuring
2 the quality of care delivered by the system.

3 9. Establishment and management of a system to prevent fraud by
4 members, subcontracted providers of care, contractors and noncontracting
5 providers.

6 10. Coordination of benefits provided under this article to any member.
7 The administrator may require that contractors and noncontracting providers
8 are responsible for the coordination of benefits for services provided under
9 this article. Requirements for coordination of benefits by noncontracting
10 providers under this section are limited to coordination with standard health
11 insurance and disability insurance policies and similar programs for health
12 coverage.

13 11. Development of a health education and information program.

14 12. Development and management of an enrollment system.

15 13. Establishment and maintenance of a claims resolution procedure to
16 ensure that ninety per cent of the clean claims shall be paid within thirty
17 days of receipt and ninety-nine per cent of the remaining clean claims shall
18 be paid within ninety days of receipt. For the purposes of this paragraph,
19 "clean claims" has the same meaning ~~as~~ prescribed in section 36-2904,
20 subsection G.

21 14. Establishment of standards for the coordination of medical care and
22 patient transfers pursuant to section 36-2909, subsection B.

23 15. Establishment of a system to implement medical child support
24 requirements, as required by federal law. The administration may enter into
25 an intergovernmental agreement with the department of economic security to
26 implement this paragraph.

27 16. Establishment of an employee recognition fund.

28 17. Establishment of an eligibility process to determine whether a
29 medicare low income subsidy is available to persons who want to apply for a
30 subsidy as authorized by title XVIII.

31 C. If an agreement is not entered into with an independent contractor
32 to serve as statewide administrator of the system pursuant to subsection B of
33 this section, the director shall ensure that the operational responsibilities
34 set forth in subsection B of this section are fulfilled by the administration
35 and other contractors as necessary.

36 D. If the director determines that the administrator will fulfill some
37 but not all of the responsibilities set forth in subsection B of this
38 section, the director shall ensure that the remaining responsibilities are
39 fulfilled by the administration and other contractors as necessary.

40 E. The administrator or any direct or indirect subsidiary of the
41 administrator is not eligible to serve as a contractor.

42 F. Except for reinsurance obtained by contractors, the administrator
43 shall coordinate benefits provided under this article to any eligible person
44 who is covered by workers' compensation, disability insurance, a hospital and
45 medical service corporation, a health care services organization, an

1 accountable health plan or any other health or medical or disability
2 insurance plan including coverage made available to persons defined as
3 eligible by section 36-2901, paragraph 6, subdivisions (b), (c), (d) and (e),
4 or who receives payments for accident-related injuries, so that any costs for
5 hospitalization and medical care paid by the system are recovered from any
6 other available third party payors. The administrator may require that
7 contractors and noncontracting providers are responsible for the coordination
8 of benefits for services provided under this article. Requirements for
9 coordination of benefits by noncontracting providers under this section are
10 limited to coordination with standard health insurance and disability
11 insurance policies and similar programs for health coverage. The system
12 shall act as payor of last resort for persons eligible pursuant to section
13 36-2901, paragraph 6, subdivision (a), section 36-2974 or section 36-2981,
14 paragraph 6 unless specifically prohibited by federal law. By operation of
15 law, eligible persons assign to the system and a county rights to all types
16 of medical benefits to which the person is entitled, including first party
17 medical benefits under automobile insurance policies based on the order of
18 priorities established pursuant to section 36-2915. The state has a right to
19 subrogation against any other person or firm to enforce the assignment of
20 medical benefits. ~~The provisions of~~ This subsection ~~are~~ IS controlling over
21 the provisions of any insurance policy that provides benefits to an eligible
22 person if the policy is inconsistent with ~~the provisions of~~ this subsection.

23 G. Notwithstanding subsection E of this section, the administrator may
24 subcontract distinct administrative functions to one or more persons who may
25 be contractors within the system.

26 H. The director shall require as a condition of a contract with any
27 contractor that all records relating to contract compliance are available for
28 inspection by the administrator and the director subject to subsection I of
29 this section and that such records be maintained by the contractor for five
30 years. The director shall also require that these records be made available
31 by a contractor on request of the secretary of the United States department
32 of health and human services, or its successor agency.

33 I. Subject to existing law relating to privilege and protection, the
34 director shall prescribe by rule the types of information that are
35 confidential and circumstances under which such information may be used or
36 released, including requirements for physician-patient confidentiality.
37 Notwithstanding any other provision of law: ~~---~~

38 1. Such rules shall be designed to provide for the exchange of
39 necessary information among the counties, the administration and the
40 department of economic security for the purposes of eligibility determination
41 under this article. ~~Notwithstanding any law to the contrary,~~

42 2. A member's medical record shall be released without the member's
43 consent in situations or suspected cases of fraud or abuse relating to the
44 system to an officer of the state's certified Arizona health care cost

1 containment system fraud control unit who has submitted a written request for
2 the medical record.

3 3. THE NAMES OF MEMBERS WHO ARE ENROLLED IN THE SYSTEM ARE PUBLIC
4 RECORDS AND AVAILABLE TO THE PUBLIC AS PROVIDED BY TITLE 39, CHAPTER 1,
5 ARTICLE 2, EXCEPT THAT AN ELECTRONIC DATABASE OF MEMBERS SHALL BE MADE
6 AVAILABLE TO ANY MEMBER OF THE LEGISLATURE WITHOUT CHARGE FOR STATISTICAL
7 ANALYSIS PURPOSES.

8 J. The director shall prescribe rules that specify methods for:

9 1. The transition of members between system contractors and
10 noncontracting providers.

11 2. The transfer of members and persons who have been determined
12 eligible from hospitals that do not have contracts to care for such persons.

13 K. The director shall adopt rules that set forth procedures and
14 standards for use by the system in requesting county long-term care for
15 members or persons determined eligible.

16 L. To the extent that services are furnished pursuant to this article,
17 and unless otherwise required pursuant to this chapter, a contractor is not
18 subject to ~~the provisions of~~ title 20.

19 M. As a condition of the contract with any contractor, the director
20 shall require contract terms as necessary in the judgment of the director to
21 ensure adequate performance and compliance with all applicable federal laws
22 by the contractor of the provisions of each contract executed pursuant to
23 this chapter. Contract provisions required by the director shall include at
24 a minimum the maintenance of deposits, performance bonds, financial reserves
25 or other financial security. The director may waive requirements for the
26 posting of bonds or security for contractors that have posted other security,
27 equal to or greater than that required by the system, with a state agency for
28 the performance of health service contracts if funds would be available from
29 such security for the system on default by the contractor. The director may
30 also adopt rules for the withholding or forfeiture of payments to be made to
31 a contractor by the system for the failure of the contractor to comply with a
32 provision of the contractor's contract with the system or with the adopted
33 rules. The director may also require contract terms allowing the
34 administration to operate a contractor directly under circumstances specified
35 in the contract. The administration shall operate the contractor only as
36 long as it is necessary to assure delivery of uninterrupted care to members
37 enrolled with the contractor and accomplish the orderly transition of those
38 members to other system contractors, or until the contractor reorganizes or
39 otherwise corrects the contract performance failure. The administration
40 shall not operate a contractor unless, before that action, the administration
41 delivers notice to the contractor and provides an opportunity for a hearing
42 in accordance with procedures established by the director. Notwithstanding
43 the provisions of a contract, if the administration finds that the public
44 health, safety or welfare requires emergency action, it may operate as the

1 contractor on notice to the contractor and pending an administrative hearing,
2 which it shall promptly institute.

3 N. The administration for the sole purpose of matters concerning and
4 directly related to the Arizona health care cost containment system and the
5 Arizona long-term care system is exempt from section 41-192.

6 O. Notwithstanding subsection F of this section, if the administration
7 determines that according to federal guidelines it is more cost-effective for
8 a person defined as eligible under section 36-2901, paragraph 6, subdivision
9 (a) to be enrolled in a group health insurance plan in which the person is
10 entitled to be enrolled, the administration may pay all of that person's
11 premiums, deductibles, coinsurance and other cost sharing obligations for
12 services covered under section 36-2907. The person shall apply for
13 enrollment in the group health insurance plan as a condition of eligibility
14 under section 36-2901, paragraph 6, subdivision (a).

15 P. The total amount of state monies that may be spent in any fiscal
16 year by the administration for health care shall not exceed the amount
17 appropriated or authorized by section 35-173 for all health care
18 purposes. This article does not impose a duty on an officer, agent or
19 employee of this state to discharge a responsibility or to create any right
20 in a person or group if the discharge or right would require an expenditure
21 of state monies in excess of the expenditure authorized by legislative
22 appropriation for that specific purpose.

23 Q. Notwithstanding section 36-470, a contractor or program contractor
24 may receive laboratory tests from a laboratory or hospital-based laboratory
25 for a system member enrolled with the contractor or program contractor
26 subject to all of the following requirements:

27 1. The contractor or program contractor shall provide a written
28 request to the laboratory in a format mutually agreed to by the laboratory
29 and the requesting health plan or program contractor. The request shall
30 include the member's name, the member's plan identification number, the
31 specific test results that are being requested and the time periods and the
32 quality improvement activity that prompted the request.

33 2. The laboratory data may be provided in written or electronic format
34 based on the agreement between the laboratory and the contractor or program
35 contractor. If there is no contract between the laboratory and the
36 contractor or program contractor, the laboratory shall provide the requested
37 data in a format agreed to by the noncontracted laboratory.

38 3. The laboratory test results provided to the member's contractor or
39 program contractor shall only be used for quality improvement activities
40 authorized by the administration and health care outcome studies required by
41 the administration. The contractors and program contractors shall maintain
42 strict confidentiality about the test results and identity of the member as
43 specified in contractual arrangements with the administration and pursuant to
44 state and federal law.

- 1 4. Providing technical assistance to the program contractors.
- 2 5. Developing a uniform accounting system to be implemented by program
- 3 contractors and providers of institutional services and home and community
- 4 based services.
- 5 6. Conducting quality control on eligibility determinations and
- 6 preadmission screenings.
- 7 7. Establishing and managing a comprehensive system for assuring the
- 8 quality of care delivered by the system as required by federal law.
- 9 8. Establishing an enrollment system.
- 10 9. Establishing a member case management tracking system.
- 11 10. Establishing and managing a method to prevent fraud by applicants,
- 12 members, eligible persons, program contractors, providers and noncontracting
- 13 providers as required by federal law.
- 14 11. Coordinating benefits as provided in section 36-2946.
- 15 12. Establishing standards for the coordination of services.
- 16 13. Establishing financial and performance audit requirements for
- 17 program contractors, providers and noncontracting providers.
- 18 14. Prescribing remedies as required pursuant to 42 United States Code
- 19 section 1396r. These remedies may include the appointment of temporary
- 20 management by the director, acting in collaboration with the director of the
- 21 department of health services, in order to continue operation of a nursing
- 22 care institution providing services pursuant to this article.
- 23 15. Establishing a system to implement medical child support
- 24 requirements, as required by federal law. The administration may enter into
- 25 an intergovernmental agreement with the department of economic security to
- 26 implement this paragraph.
- 27 16. Establishing requirements and guidelines for the review of trusts
- 28 for the purposes of establishing eligibility for the system pursuant to
- 29 section 36-2934.01 and ~~posteligibility~~ **POSTELIGIBILITY** treatment of income
- 30 pursuant to subsection L of this section.
- 31 17. Accepting the delegation of authority from the department of health
- 32 services to enforce rules that prescribe minimum certification standards for
- 33 adult foster care providers pursuant to section 36-410, subsection B. The
- 34 administration may contract with another entity to perform the certification
- 35 functions.
- 36 18. Assessing civil penalties for improper billing as prescribed in
- 37 section 36-2903.01, subsection L.
- 38 C. For nursing care institutions and hospices that provide services
- 39 pursuant to this article, the director ~~shall~~ periodically as deemed necessary
- 40 and as required by federal law **SHALL** contract for a financial audit of the
- 41 institutions and hospices that is certified by a certified public accountant
- 42 in accordance with generally accepted auditing standards or conduct or
- 43 contract for a financial audit or review of the institutions and
- 44 hospices. The director shall notify the nursing care institution and hospice
- 45 at least sixty days before beginning a periodic audit. The administration

1 shall reimburse a nursing care institution or hospice for any additional
2 expenses incurred for professional accounting services obtained in response
3 to a specific request by the administration. On request, the director of the
4 administration shall provide a copy of an audit performed pursuant to this
5 subsection to the director of the department of health services or that
6 person's designee.

7 D. Notwithstanding any other provision of this article, the
8 administration may contract by an intergovernmental agreement with an Indian
9 tribe, a tribal council or a tribal organization for the provision of
10 long-term care services pursuant to section 36-2939, subsection A, paragraphs
11 1, 2, 3 and 4 and the home and community based services pursuant to section
12 36-2939, subsection B, paragraph 2 and subsection C, subject to the
13 restrictions in section 36-2939, subsections D and E for eligible members.

14 E. The director shall require as a condition of a contract that all
15 records relating to contract compliance are available for inspection by the
16 administration subject to subsection F of this section and that these records
17 are maintained for five years. The director shall also require that these
18 records are available on request of the secretary of the United States
19 department of health and human services or its successor agency.

20 F. Subject to applicable law relating to privilege and protection, the
21 director shall adopt rules prescribing the types of information that are
22 confidential and circumstances under which that information may be used or
23 released, including requirements for physician-patient confidentiality.
24 Notwithstanding any other law: ~~—~~

25 1. These rules shall provide for the exchange of necessary information
26 among the program contractors, the administration and the department for the
27 purposes of eligibility determination under this article.

28 2. THE NAMES OF MEMBERS WHO ARE ENROLLED IN THE SYSTEM ARE PUBLIC
29 RECORDS AND AVAILABLE TO THE PUBLIC AS PROVIDED BY TITLE 39, CHAPTER 1,
30 ARTICLE 2, EXCEPT THAT AN ELECTRONIC DATABASE OF MEMBERS SHALL BE MADE
31 AVAILABLE TO ANY MEMBER OF THE LEGISLATURE WITHOUT CHARGE FOR STATISTICAL
32 ANALYSIS PURPOSES.

33 G. The director shall adopt rules which specify methods for the
34 transition of members into, within and out of the system. The rules shall
35 include provisions for the transfer of members, the transfer of medical
36 records and the initiation and termination of services.

37 H. The director shall adopt rules which provide for withholding or
38 forfeiting payments made to a program contractor if it fails to comply with a
39 provision of its contract or with the director's rules.

40 I. The director shall:

41 1. Establish by rule the time frames and procedures for all grievances
42 and requests for hearings consistent with section 36-2903.01, subsection B,
43 paragraph 4.

44 2. Apply for and accept federal monies available under title XIX of
45 the social security act in support of the system. In addition, the director

1 may apply for and accept grants, contracts and private donations in support
2 of the system.

3 3. Not less than thirty days before the administration implements a
4 policy or a change to an existing policy relating to reimbursement, provide
5 notice to interested parties. Parties interested in receiving notification
6 of policy changes shall submit a written request for notification to the
7 administration.

8 J. The director may apply for federal monies available for the support
9 of programs to investigate and prosecute violations arising from the
10 administration and operation of the system. Available state monies
11 appropriated for the administration of the system may be used as matching
12 monies to secure federal monies pursuant to this subsection.

13 K. The director shall adopt rules which establish requirements of
14 state residency and qualified alien status as prescribed in section
15 36-2903.03. The administration shall enforce these requirements as part of
16 the eligibility determination process. The rules shall also provide for the
17 determination of the applicant's county of residence for the purpose of
18 assignment of the appropriate program contractor.

19 L. The director shall adopt rules in accordance with the state plan
20 regarding posteligibility treatment of income and resources which determine
21 the portion of a member's income which shall be available for payment for
22 services under this article. The rules shall provide that a portion of
23 income may be retained for:

24 1. A personal needs allowance for members receiving institutional
25 services of at least fifteen per cent of the maximum monthly supplemental
26 security income payment for an individual or a personal needs allowance for
27 members receiving home and community based services based on a reasonable
28 assessment of need.

29 2. The maintenance needs of a spouse or family at home shall be in
30 accordance with federal law. The minimum resource allowance for the spouse
31 or family at home is twelve thousand dollars adjusted annually by the same
32 percentage as the percentage change in the consumer price index for all urban
33 consumers (all items; United States city average) between September 1988 and
34 the September before the calendar year involved.

35 3. Expenses incurred for noncovered medical or remedial care that are
36 not subject to payment by a third party payor.

37 M. In addition to the rules otherwise specified in this article, the
38 director may adopt necessary rules pursuant to title 41, chapter 6 to carry
39 out this article. Rules adopted by the director pursuant to this subsection
40 may consider the differences between rural and urban conditions on the
41 delivery of services.

42 N. The director shall not adopt any rule or enter into or approve any
43 contract or subcontract which does not conform to federal requirements or
44 which may cause the system to lose any federal monies to which it is
45 otherwise entitled.

1 O. The administration, program contractors and providers may establish
2 and maintain review committees dealing with the delivery of care. Review
3 committees and their staff are subject to the same requirements, protections,
4 privileges and immunities prescribed pursuant to section 36-2917.

5 P. If the director determines that the financial viability of a
6 nursing care institution or hospice is in question, the director may require
7 a nursing care institution and a hospice providing services pursuant to this
8 article to submit quarterly financial statements within thirty days after the
9 end of its financial quarter unless the director grants an extension in
10 writing before that date. Quarterly financial statements submitted to the
11 department shall include the following:

12 1. A balance sheet detailing the institution's assets, liabilities and
13 net worth.

14 2. A statement of income and expenses, including current personnel
15 costs and full-time equivalent statistics.

16 Q. The director may require monthly financial statements if the
17 director determines that the financial viability of a nursing care
18 institution or hospice is in question. The director shall prescribe the
19 requirements of these statements.

20 R. The total amount of state monies that may be spent in any fiscal
21 year by the administration for long-term care shall not exceed the amount
22 appropriated or authorized by section 35-173 for that purpose. This article
23 shall not be construed to impose a duty on an officer, agent or employee of
24 this state to discharge a responsibility or to create any right in a person
25 or group if the discharge or right would require an expenditure of state
26 monies in excess of the expenditure authorized by legislative appropriation
27 for that specific purpose.

28 Sec. 3. Section 36-2986, Arizona Revised Statutes, is amended to read:
29 36-2986. Administration; powers and duties of director

30 A. The director has full operational authority to adopt rules or to
31 use the appropriate rules adopted for article 1 of this chapter to implement
32 this article, including any of the following:

33 1. Contract administration and oversight of contractors.

34 2. Development of a complete system of accounts and controls for the
35 program, including provisions designed to ensure that covered health and
36 medical services provided through the system are not used unnecessarily or
37 unreasonably, including inpatient behavioral health services provided in a
38 hospital.

39 3. Establishment of peer review and utilization review functions for
40 all contractors.

41 4. Development and management of a contractor payment system.

42 5. Establishment and management of a comprehensive system for assuring
43 quality of care.

44 6. Establishment and management of a system to prevent fraud by
45 members, contractors and health care providers.

1 7. Development of an outreach program. The administration shall
2 coordinate with public and private entities to provide outreach services for
3 children under this article. Priority shall be given to those families who
4 are moving off welfare. Outreach activities shall include strategies to
5 inform communities, including tribal communities, about the program, ensure a
6 wide distribution of applications and provide training for other entities to
7 assist with the application process.

8 8. Coordination of benefits provided under this article for any
9 member. The director may require that contractors and noncontracting
10 providers are responsible for the coordination of benefits for services
11 provided under this article. Requirements for coordination of benefits by
12 noncontracting providers under this section are limited to coordination with
13 standard health insurance and disability insurance policies and similar
14 programs for health coverage. The director may require members to assign to
15 the administration rights to all types of medical benefits to which the
16 person is entitled, including first party medical benefits under automobile
17 insurance policies. The state has a right of subrogation against any other
18 person or firm to enforce the assignment of medical benefits. The provisions
19 of this paragraph are controlling over the provisions of any insurance policy
20 that provides benefits to a member if the policy is inconsistent with this
21 paragraph.

22 9. Development and management of an eligibility, enrollment and
23 redetermination system, including a process for quality control.

24 10. Establishment and maintenance of an encounter claims system that
25 ensures that ninety per cent of the clean claims are paid within thirty days
26 after receipt and ninety-nine per cent of the remaining clean claims are paid
27 within ninety days after receipt by the administration or contractor unless
28 an alternative payment schedule is agreed to by the contractor and the
29 provider. For the purposes of this paragraph, "clean claims" has the same
30 meaning prescribed in section 36-2904, subsection G.

31 11. Establishment of standards for the coordination of medical care and
32 member transfers.

33 12. Requiring contractors to submit encounter data in a form specified
34 by the director.

35 13. Assessing civil penalties for improper billing as prescribed in
36 section 36-2903.01, subsection L.

37 B. Notwithstanding any other law, if Congress amends title XXI of the
38 social security act and the administration is required to make conforming
39 changes to rules adopted pursuant to this article, the administration shall
40 request a hearing with the joint health committee of reference for review of
41 the proposed rule changes.

42 C. The director may subcontract distinct administrative functions to
43 one or more persons who may be contractors within the system.

44 D. The director shall require as a condition of a contract with any
45 contractor that all records relating to contract compliance are available for

1 inspection by the administration and that these records be maintained by the
2 contractor for five years. The director shall also require that these
3 records are available by a contractor on request of the secretary of the
4 United States department of health and human services.

5 E. Subject to existing law relating to privilege and protection, the
6 director shall prescribe by rule the types of information that are
7 confidential and circumstances under which this information may be used or
8 released, including requirements for physician-patient confidentiality.
9 Notwithstanding any other law: ~~—~~

10 1. These rules shall be designed to provide for the exchange of
11 necessary information for the purposes of eligibility determination under
12 this article. ~~Notwithstanding any other law.~~

13 2. A member's medical record shall be released without the member's
14 consent in situations of suspected cases of fraud or abuse relating to the
15 system to an officer of this state's certified Arizona health care cost
16 containment system fraud control unit who has submitted a written request for
17 the medical record.

18 3. THE NAMES OF MEMBERS WHO ARE ENROLLED IN THE PROGRAM ARE PUBLIC
19 RECORDS AND AVAILABLE TO THE PUBLIC AS PROVIDED BY TITLE 39, CHAPTER 1,
20 ARTICLE 2, EXCEPT THAT AN ELECTRONIC DATABASE OF MEMBERS SHALL BE MADE
21 AVAILABLE TO ANY MEMBER OF THE LEGISLATURE WITHOUT CHARGE FOR STATISTICAL
22 ANALYSIS PURPOSES.

23 F. The director shall provide for the transition of members between
24 contractors and noncontracting providers and the transfer of members who have
25 been determined eligible from hospitals that do not have contracts to care
26 for these persons.

27 G. To the extent that services are furnished pursuant to this article,
28 a contractor is not subject to title 20 unless the contractor is a qualifying
29 plan and has elected to provide services pursuant to this article.

30 H. As a condition of a contract, the director shall require contract
31 terms that are necessary to ensure adequate performance by the contractor.
32 Contract provisions required by the director include the maintenance of
33 deposits, performance bonds, financial reserves or other financial
34 security. The director may waive requirements for the posting of bonds or
35 security for contractors who have posted other security, equal to or greater
36 than that required by the administration, with a state agency for the
37 performance of health service contracts if monies would be available from
38 that security for the system on default by the contractor.

39 I. The director shall establish solvency requirements in contract that
40 may include withholding or forfeiture of payments to be made to a contractor
41 by the administration for the failure of the contractor to comply with a
42 provision of the contract with the administration. The director may also
43 require contract terms allowing the administration to operate a contractor
44 directly under circumstances specified in the contract. The administration
45 shall operate the contractor only as long as it is necessary to assure

1 delivery of uninterrupted care to members enrolled with the contractor and to
2 accomplish the orderly transition of members to other contractors or until
3 the contractor reorganizes or otherwise corrects the contract performance
4 failure. The administration shall not operate a contractor unless, before
5 that action, the administration delivers notice to the contractor providing
6 an opportunity for a hearing in accordance with procedures established by the
7 director. Notwithstanding the provisions of a contract, if the
8 administration finds that the public health, safety or welfare requires
9 emergency action, it may operate as the contractor on notice to the
10 contractor and pending an administrative hearing, which it shall promptly
11 institute.

12 J. For the sole purpose of matters concerning and directly related to
13 this article, the administration is exempt from section 41-192.

14 K. The director may withhold payments to a noncontracting provider if
15 the noncontracting provider does not comply with this article or adopted
16 rules that relate to the specific services rendered and billed to the
17 administration.

18 L. The director shall:

19 1. Prescribe uniform forms to be used by all contractors and furnish
20 uniform forms and procedures, including methods of identification of members.
21 The rules shall include requirements that an applicant personally complete or
22 assist in the completion of eligibility application forms, except in
23 situations in which the person is disabled.

24 2. By rule, establish a grievance and appeal procedure that conforms
25 with the process and the time frames specified in article 1 of this
26 chapter. If the program is suspended or terminated pursuant to section
27 36-2985, an applicant or member is not entitled to contest the denial,
28 suspension or termination of eligibility for the program.

29 3. Apply for and accept federal monies available under title XXI of
30 the social security act. Available state monies appropriated to the
31 administration for the operation of the program shall be used as matching
32 monies to secure federal monies pursuant to this subsection.

33 M. The administration is entitled to all rights provided to the
34 administration for liens and release of claims as specified in sections
35 36-2915 and 36-2916 and shall coordinate benefits pursuant to section
36 36-2903, subsection F and be a payor of last resort for persons who are
37 eligible pursuant to this article.

38 N. The director shall follow the same procedures for review
39 committees, immunity and confidentiality that are prescribed in article 1 of
40 this chapter.

41 Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to read:

42 42-2003. Authorized disclosure of confidential information

43 A. Confidential information relating to:

44 1. A taxpayer may be disclosed to the taxpayer, its successor in
45 interest or a designee of the taxpayer who is authorized in writing by the

1 taxpayer. A principal corporate officer of a parent corporation may execute
2 a written authorization for a controlled subsidiary.

3 2. A corporate taxpayer may be disclosed to any principal officer, any
4 person designated by a principal officer or any person designated in a
5 resolution by the corporate board of directors or other similar governing
6 body.

7 3. A partnership may be disclosed to any partner of the partnership.
8 This exception does not include disclosure of confidential information of a
9 particular partner unless otherwise authorized.

10 4. An estate may be disclosed to the personal representative of the
11 estate and to any heir, next of kin or beneficiary under the will of the
12 decedent if the department finds that the heir, next of kin or beneficiary
13 has a material interest which will be affected by the confidential
14 information.

15 5. A trust may be disclosed to the trustee or trustees, jointly or
16 separately, and to the grantor or any beneficiary of the trust if the
17 department finds that the grantor or beneficiary has a material interest
18 which will be affected by the confidential information.

19 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
20 to confidentiality either in writing or on the record in any administrative
21 or judicial proceeding.

22 7. The name and taxpayer identification numbers of persons issued
23 direct payment permits may be publicly disclosed.

24 B. Confidential information may be disclosed to:

25 1. Any employee of the department whose official duties involve tax
26 administration.

27 2. The office of the attorney general solely for its use in
28 preparation for, or in an investigation which may result in, any proceeding
29 involving tax administration before the department or any other agency or
30 board of this state, or before any grand jury or any state or federal court.

31 3. The department of liquor licenses and control for its use in
32 determining whether a spirituous liquor licensee has paid all transaction
33 privilege taxes and affiliated excise taxes incurred as a result of the sale
34 of spirituous liquor, as defined in section 4-101, at the licensed
35 establishment and imposed on the licensed establishments by this state and
36 its political subdivisions.

37 4. Other state tax officials whose official duties require the
38 disclosure for proper tax administration purposes if the information is
39 sought in connection with an investigation or any other proceeding conducted
40 by the official. Any disclosure is limited to information of a taxpayer who
41 is being investigated or who is a party to a proceeding conducted by the
42 official.

43 5. The following agencies, officials and organizations, if they grant
44 substantially similar privileges to the department for the type of
45 information being sought, pursuant to statute and a written agreement between

1 the department and the foreign country, agency, state, Indian tribe or
2 organization:

3 (a) The United States internal revenue service, alcohol and tobacco
4 tax and trade bureau of the United States treasury, United States bureau of
5 alcohol, tobacco, firearms and explosives of the United States department of
6 justice, United States drug enforcement agency and federal bureau of
7 investigation.

8 (b) A state tax official of another state.

9 (c) An organization of states, federation of tax administrators or
10 multistate tax commission that operates an information exchange for tax
11 administration purposes.

12 (d) An agency, official or organization of a foreign country with
13 responsibilities that are comparable to those listed in subdivision (a), (b)
14 or (c) of this paragraph.

15 (e) An agency, official or organization of an Indian tribal government
16 with responsibilities comparable to the responsibilities of the agencies,
17 officials or organizations identified in subdivision (a), (b) or (c) of this
18 paragraph.

19 6. The auditor general, in connection with any audit of the department
20 subject to the restrictions in section 42-2002, subsection D.

21 7. Any person to the extent necessary for effective tax administration
22 in connection with:

23 (a) The processing, storage, transmission, destruction and
24 reproduction of the information.

25 (b) The programming, maintenance, repair, testing and procurement of
26 equipment for purposes of tax administration.

27 8. The office of administrative hearings relating to taxes
28 administered by the department pursuant to section 42-1101, but the
29 department shall not disclose any confidential information:

30 (a) Regarding income tax, withholding tax or estate tax.

31 (b) On any tax issue relating to information associated with the
32 reporting of income tax, withholding tax or estate tax.

33 9. The United States treasury inspector general for tax administration
34 for the purpose of reporting a violation of internal revenue code section
35 7213A (26 United States Code section 7213A), unauthorized inspection of
36 returns or return information.

37 10. The financial management service of the United States treasury
38 department for use in the treasury offset program.

39 11. The United States treasury department or its authorized agent for
40 use in the state income tax levy program and in the electronic federal tax
41 payment system.

42 12. The department of commerce for its use in:

43 (a) Qualifying motion picture production companies for the tax
44 incentives provided for motion picture production under chapter 5 of this
45 title and sections 43-1075 and 43-1163.

1 (b) Qualifying applicants for the motion picture infrastructure
2 project tax credits under sections 43-1075.01 and 43-1163.01.

3 (c) Qualifying renewable energy operations for the tax incentives
4 under sections 42-12006, 43-1083.01 and 43-1164.01.

5 (d) Fulfilling its annual reporting responsibility pursuant to section
6 41-1511, subsections T and U and section 41-1517, subsections S and T.

7 13. A prosecutor for purposes of section 32-1164, subsection C.

8 14. The state fire marshal for use in determining compliance with and
9 enforcing title 41, chapter 16, article 3.1.

10 C. Confidential information may be disclosed in any state or federal
11 judicial or administrative proceeding pertaining to tax administration
12 pursuant to the following conditions:

13 1. One or more of the following circumstances must apply:

14 (a) The taxpayer is a party to the proceeding.

15 (b) The proceeding arose out of, or in connection with, determining
16 the taxpayer's civil or criminal liability, or the collection of the
17 taxpayer's civil liability, with respect to any tax imposed under this title
18 or title 43.

19 (c) The treatment of an item reflected on the taxpayer's return is
20 directly related to the resolution of an issue in the proceeding.

21 (d) Return information directly relates to a transactional
22 relationship between a person who is a party to the proceeding and the
23 taxpayer and directly affects the resolution of an issue in the proceeding.

24 2. Confidential information may not be disclosed under this subsection
25 if the disclosure is prohibited by section 42-2002, subsection C or D.

26 D. Identity information may be disclosed for purposes of notifying
27 persons entitled to tax refunds if the department is unable to locate the
28 persons after reasonable effort.

29 E. The department, upon the request of any person, shall provide the
30 names and addresses of bingo licensees as defined in section 5-401, verify
31 whether or not a person has a privilege license and number, a distributor's
32 license and number or a withholding license and number or disclose the
33 information to be posted on the department's web site or otherwise publicly
34 accessible pursuant to section 42-1124, subsection F and section 42-3201,
35 subsection A.

36 F. A department employee, in connection with the official duties
37 relating to any audit, collection activity or civil or criminal
38 investigation, may disclose return information to the extent that disclosure
39 is necessary to obtain information which is not otherwise reasonably
40 available. These official duties include the correct determination of and
41 liability for tax, the amount to be collected or the enforcement of other
42 state tax revenue laws.

43 G. If an organization is exempt from this state's income tax as
44 provided in section 43-1201 for any taxable year, the name and address of the
45 organization and the application filed by the organization upon which the

1 department made its determination for exemption together with any papers
2 submitted in support of the application and any letter or document issued by
3 the department concerning the application are open to public inspection.

4 H. Confidential information relating to transaction privilege tax, use
5 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
6 be disclosed to any county, city or town tax official if the information
7 relates to a taxpayer who is or may be taxable by the county, city or town.
8 Any taxpayer information released by the department to the county, city or
9 town:

10 1. May only be used for internal purposes.

11 2. May not be disclosed to the public in any manner that does not
12 comply with confidentiality standards established by the department. The
13 county, city or town shall agree in writing with the department that any
14 release of confidential information that violates the confidentiality
15 standards adopted by the department will result in the immediate suspension
16 of any rights of the county, city or town to receive taxpayer information
17 under this subsection.

18 I. The department may disclose statistical information gathered from
19 confidential information if it does not disclose confidential information
20 attributable to any one taxpayer. In order to comply with the requirements
21 of section 42-5029, subsection A, paragraph 3, the department may disclose to
22 the state treasurer statistical information gathered from confidential
23 information, even if it discloses confidential information attributable to a
24 taxpayer.

25 J. The department may disclose the aggregate amounts of any tax
26 credit, tax deduction or tax exemption enacted after January 1, 1994.
27 Information subject to disclosure under this subsection shall not be
28 disclosed if a taxpayer demonstrates to the department that such information
29 would give an unfair advantage to competitors.

30 K. Except as provided in section 42-2002, subsection C, confidential
31 information, described in section 42-2001, paragraph 2, subdivision (a), item
32 (iii), may be disclosed to law enforcement agencies for law enforcement
33 purposes.

34 L. The department may provide transaction privilege tax license
35 information to property tax officials in a county for the purpose of
36 identification and verification of the tax status of commercial property.

37 M. The department may provide transaction privilege tax, luxury tax,
38 use tax, property tax and severance tax information to the ombudsman-citizens
39 aide pursuant to title 41, chapter 8, article 5.

40 N. Except as provided in section 42-2002, subsection D, a court may
41 order the department to disclose confidential information pertaining to a
42 party to an action. An order shall be made only upon a showing of good cause
43 and that the party seeking the information has made demand upon the taxpayer
44 for the information.

1 O. This section does not prohibit the disclosure by the department of
2 any information or documents submitted to the department by a bingo licensee.
3 Before disclosing the information the department shall obtain the name and
4 address of the person requesting the information.

5 P. EXCEPT AS PROVIDED IN SUBSECTION X OF THIS SECTION, if the
6 department is required or permitted to disclose confidential information, it
7 may charge the person or agency requesting the information for the reasonable
8 cost of its services.

9 Q. Except as provided in section 42-2002, subsection D, the department
10 of revenue shall release confidential information as requested by the
11 department of economic security pursuant to section 42-1122 or 46-291.
12 Information disclosed under this subsection is limited to the same type of
13 information that the United States internal revenue service is authorized to
14 disclose under section 6103(1)(6) of the internal revenue code.

15 R. Except as provided in section 42-2002, subsection D, the department
16 of revenue shall release confidential information as requested by the courts
17 and clerks of the court pursuant to section 42-1122.

18 S. To comply with the requirements of section 42-5031, the department
19 may disclose to the state treasurer, to the county stadium district board of
20 directors and to any city or town tax official that is part of the county
21 stadium district confidential information attributable to a taxpayer's
22 business activity conducted in the county stadium district.

23 T. The department shall release confidential information as requested
24 by the attorney general for purposes of determining compliance with and
25 enforcing section 44-7101, the master settlement agreement referred to
26 therein and subsequent agreements to which the state is a party that amend or
27 implement the master settlement agreement. Information disclosed under this
28 subsection is limited to luxury tax information relating to tobacco
29 manufacturers, distributors, wholesalers and retailers and information
30 collected by the department pursuant to section 44-7101(2)(j).

31 U. For proceedings before the department, the office of administrative
32 hearings, the board of tax appeals or any state or federal court involving
33 penalties that were assessed against a return preparer or electronic return
34 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
35 information may be disclosed only before the judge or administrative law
36 judge adjudicating the proceeding, the parties to the proceeding and the
37 parties' representatives in the proceeding prior to its introduction into
38 evidence in the proceeding. The confidential information may be introduced
39 as evidence in the proceeding only if the taxpayer's name, the names of any
40 dependents listed on the return, all social security numbers, the taxpayer's
41 address, the taxpayer's signature and any attachments containing any of the
42 foregoing information are redacted and if either:

43 1. The treatment of an item reflected on such return is or may be
44 related to the resolution of an issue in the proceeding.

1 2. Such return or return information relates or may relate to a
2 transactional relationship between a person who is a party to the proceeding
3 and the taxpayer which directly affects the resolution of an issue in the
4 proceeding.

5 V. The department may disclose to the attorney general confidential
6 information received under section 44-7111 and requested by the attorney
7 general for purposes of determining compliance with and enforcing section
8 44-7111. The department and attorney general shall share with each other the
9 information received under section 44-7111, and may share the information
10 with other federal, state or local agencies only for the purposes of
11 enforcement of section 44-7101, section 44-7111 or corresponding laws of
12 other states.

13 W. The department may provide the name and address of qualifying
14 hospitals and qualifying health care organizations, as defined in section
15 42-5001, to a business classified and reporting transaction privilege tax
16 under the utilities classification.

17 X. AT THE REQUEST OF ANY LEGISLATOR, THE DEPARTMENT SHALL DISCLOSE
18 STATISTICAL INFORMATION GATHERED FROM CONFIDENTIAL INFORMATION IF IT DOES NOT
19 DISCLOSE CONFIDENTIAL INFORMATION ATTRIBUTABLE TO ANY SPECIFIC TAXPAYER. THE
20 INFORMATION SHALL BE PROVIDED TO THE LEGISLATOR WITHOUT CHARGE.