

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2556

AN ACT

AMENDING SECTIONS 36-2204, 36-2401, 36-2402 AND 36-2403, ARIZONA REVISED STATUTES; REPEALING SECTION 36-2404, ARIZONA REVISED STATUTES; RELATING TO HEALTH CARE ENTITY QUALITY ASSURANCE ACTIVITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-2204, Arizona Revised Statutes, is amended to
3 read:

4 36-2204. Medical control

5 The medical director of the emergency medical services and trauma
6 system, the emergency medical services council and the medical direction
7 commission shall recommend to the director the following standards and
8 criteria that pertain to the quality of emergency patient care:

9 1. Statewide standardized training, certification and recertification
10 standards for all classifications of emergency medical care technicians.

11 2. A standardized and validated testing procedure for all
12 classifications of emergency medical care technicians.

13 3. Medical standards for certification and recertification of training
14 programs for all classifications of emergency medical care technicians.

15 4. Standardized continuing education criteria for all classifications
16 of emergency medical care technicians.

17 5. Medical standards for certification and recertification of
18 certified emergency receiving facilities and advanced life support base
19 hospitals and approval of physicians providing medical control or medical
20 direction for any classification of emergency medical care technicians who
21 are required to be under medical control or medical direction.

22 6. Standards and mechanisms for monitoring and ongoing evaluation of
23 performance levels of all classifications of emergency medical care
24 technicians, emergency receiving facilities and advanced life support base
25 hospitals and approval of physicians providing medical control or medical
26 direction for any classification of emergency medical care technicians who
27 are required to be under medical control or medical direction.

28 7. Objective criteria and mechanisms for decertification of all
29 classifications of emergency medical care technicians, emergency receiving
30 facilities and advanced life support base hospitals and for disapproval of
31 physicians providing medical control or medical direction for any
32 classification of emergency care technicians who are required to be under
33 medical control or medical direction.

34 8. Medical standards for nonphysician prehospital treatment and
35 prehospital triage of patients requiring emergency medical services.

36 9. Standards for emergency medical dispatcher training, including
37 prearrival instructions. For the purposes of this paragraph, "emergency
38 medical dispatch" means the receipt of calls requesting emergency medical
39 services and the response of appropriate resources to the appropriate
40 location.

41 10. Standards for a quality assurance process for components of the
42 emergency medical services system, including standards for maintaining the
43 confidentiality of the information considered in the course of quality
44 assurance and the records of the ~~activities of~~ quality assurance ~~process~~
45 **ACTIVITIES** pursuant to section ~~36-2401~~ **36-2403**.

1 11. Standards for ambulance service and medical transportation that
2 give consideration to the differences between urban, rural and wilderness
3 areas.

4 12. Standards to allow an ambulance to transport a patient to a health
5 care institution that is licensed as a special hospital and that is
6 physically connected to an emergency receiving facility.

7 Sec. 2. Heading change

8 The article heading of title 36, chapter 25, article 1, Arizona Revised
9 Statutes, is changed from "HEALTH CARE ENTITY QUALITY ASSURANCE PROCESS" to
10 "HEALTH CARE ENTITY QUALITY ASSURANCE ACTIVITIES".

11 Sec. 3. Section 36-2401, Arizona Revised Statutes, is amended to read:

12 36-2401. Definitions

13 In this article, unless the context otherwise requires:

14 1. "Health care entity" means any of the following:

15 (a) A licensed health care provider.

16 (b) An entity that provides ~~or contracts to provide~~ health care
17 services ~~other than a hospital or outpatient surgical center~~ THROUGH ONE OR
18 MORE LICENSED HEALTH CARE PROVIDERS.

19 (c) AN ENTITY THAT CONTRACTS TO PROVIDE OR PAYS FOR HEALTH CARE
20 SERVICES.

21 ~~(e)~~ (d) A professional organization of licensed health care
22 providers.

23 ~~(d)~~ (e) A utilization or quality control peer review organization.

24 ~~(e)~~ (f) A state health care provider.

25 ~~(f)~~ (g) A component of the statewide trauma system.

26 ~~(g)~~ (h) A qualifying community health center as defined in section
27 36-2907.06.

28 (i) A COMMITTEE OR OTHER ORGANIZATIONAL STRUCTURE OF A HEALTH CARE
29 ENTITY.

30 2. "Licensed health care provider" means a person or institution THAT
31 IS licensed or certified, ~~or a corporation, all of whose members or~~
32 ~~shareholders are licensed or certified,~~ by this state to provide health
33 care, medical services, nursing services or other health-related services
34 ~~other than a licensed hospital and outpatient surgical center.~~

35 ~~3. "Malice" means evil intent and outrageous, oppressive or~~
36 ~~intolerable conduct that creates a substantial risk of tremendous harm to~~
37 ~~others.~~

38 ~~4. "Quality assurance process" means a process that is adopted by a~~
39 ~~health care entity and that follows written standards and criteria. The~~
40 ~~process includes the activities of a health care entity or any of its~~
41 ~~committees that investigate the quality of health care through the review of~~
42 ~~professional practices, training and experience, patient cases or conduct of~~
43 ~~licensed health care providers, or encourage proper utilization of health~~
44 ~~care services and facilities.~~

1 3. "QUALITY ASSURANCE ACTIVITIES" MEANS ACTIVITIES OR PROCEEDINGS OF A
2 HEALTH CARE ENTITY:

3 (a) THAT ARE ESTABLISHED FOR THE PURPOSES OF REDUCING MORBIDITY AND
4 MORTALITY AND FOR IMPROVING THE QUALITY OF HEALTH CARE OR ENCOURAGING PROPER
5 UTILIZATION OF HEALTH CARE SERVICES AND FACILITIES THROUGH THE REVIEW OF THE
6 QUALIFICATIONS, PROFESSIONAL PRACTICES, TRAINING, EXPERIENCE, PATIENT CARE,
7 CONDUCT, PROCESSES OR DATA OF LICENSED HEALTH CARE PROVIDERS.

8 (b) THAT FOLLOW A PROCESS ADOPTED BY THE HEALTH CARE ENTITY THAT
9 INCLUDES WRITTEN STANDARDS AND CRITERIA.

10 4. "QUALITY ASSURANCE INFORMATION" MEANS INFORMATION IN ORAL, WRITTEN
11 OR DIGITAL FORM THAT IS SUBMITTED TO, PREPARED FOR OR BY OR CONSIDERED BY A
12 HEALTH CARE ENTITY FOR OR IN THE COURSE OF QUALITY ASSURANCE ACTIVITIES,
13 INCLUDING THE RECORD OF THE HEALTH CARE ENTITY'S ACTIONS AND PROCEEDINGS.

14 5. "State health care provider" means a department, agency, board or
15 commission of the state and its officers, agents and employees that is a
16 health care provider to clients, wards, patients or other persons in the
17 control or custody of a department, agency, board or commission of the state
18 and a health care provider rendering health care services on behalf of the
19 state that is covered by insurance or self-insurance pursuant to section
20 41-621, 41-622 or 41-623.

21 Sec. 4. Section 36-2402, Arizona Revised Statutes, is amended to read:

22 36-2402. Quality assurance activities; sharing of quality
23 assurance information; immunity

24 ~~A. The written standards and criteria for a quality assurance process~~
25 ~~must be available to all licensed health care providers that conduct or are~~
26 ~~subject to a quality assurance process.~~

27 A. STATE HEALTH CARE PROVIDERS, HOSPITALS AND OUTPATIENT SURGICAL
28 CENTERS SHALL, AND OTHER HEALTH CARE ENTITIES MAY, CONDUCT QUALITY ASSURANCE
29 ACTIVITIES.

30 B. A HEALTH CARE ENTITY MAY SHARE QUALITY ASSURANCE INFORMATION WITH
31 APPROPRIATE STATE LICENSING OR CERTIFYING AGENCIES AND WITH LICENSED HEALTH
32 CARE PROVIDERS WHO ARE THE SUBJECT OF QUALITY ASSURANCE ACTIVITIES.

33 C. A HEALTH CARE ENTITY MAY SHARE QUALITY ASSURANCE INFORMATION WITH
34 OTHER HEALTH CARE ENTITIES ONLY FOR THE PURPOSE OF CONDUCTING QUALITY
35 ASSURANCE ACTIVITIES.

36 ~~B-~~ D. A health care entity or person that, ~~without malice,~~ provides
37 OR RECEIVES information, THAT PARTICIPATES, takes any action or makes any
38 decision or recommendation in the course of ~~a~~ quality assurance ~~process~~
39 ~~ACTIVITIES~~ or that furnishes any records, information or assistance to a
40 health care entity FOR OR in the course of ~~a~~ quality assurance ~~process shall~~
41 ~~not be~~ ACTIVITIES IS NOT subject to liability for civil damages or any legal
42 action in consequence of such action EXCEPT AS PROVIDED IN SECTION 36-445.02.
43 ~~Malice shall be determined by the court and must be based on a finding from~~
44 ~~clear and convincing evidence. This section shall not be construed to~~
45 ~~relieve any person of liability arising from treatment of a patient.~~

1 ~~C.~~ E. ~~Health care~~ Quality assurance ~~review~~ activities conducted by
2 state, county or local medical, pharmacy and dental associations and
3 societies on behalf of a health care entity, ~~licensed hospital, outpatient~~
4 ~~surgical center, state or federal health program or other health maintenance~~
5 ~~organization~~ are immune from civil liability to the same degree as the
6 facility for which the review activities are conducted.

7 ~~D. This section applies to a committee consisting of two or more~~
8 ~~qualifying community health centers as defined in section 36-2907.06 to~~
9 ~~review quality assurance information.~~

10 F. HEALTH CARE ENTITIES MAY JOINTLY CONDUCT QUALITY ASSURANCE
11 ACTIVITIES.

12 G. THIS SECTION DOES NOT RELIEVE ANY HEALTH CARE ENTITY FROM LIABILITY
13 ARISING FROM THE TREATMENT OF A PATIENT OR FROM NEGLIGENT CREDENTIALING
14 DECISIONS.

15 Sec. 5. Section 36-2403, Arizona Revised Statutes, is amended to read:

16 36-2403. Confidentiality; protection from discovery proceedings
17 and subpoena; exceptions

18 A. ~~The information considered by any entity or organization acting~~
19 ~~pursuant to section 36-2402, subsection C in the course of a quality~~
20 ~~assurance process and the records of its actions and proceedings~~ QUALITY
21 ASSURANCE INFORMATION shall be confidential and ~~are~~ IS not subject to
22 subpoena or order to produce except ~~as provided in subsection B of this~~
23 ~~section and~~ in proceedings before the appropriate state licensing or
24 certifying agency, or in actions by ~~an aggrieved~~ A licensed health care
25 provider against a health care entity ARISING FROM THE DISCIPLINE OF THE
26 LICENSED HEALTH CARE PROVIDER OR THE REFUSAL, TERMINATION, SUSPENSION OR
27 LIMITATION OF PRIVILEGES. ~~No member of~~ A health care entity, ~~its staff~~ or
28 ~~any~~ A person ~~assisting or furnishing~~ WHO PROVIDES OR RECEIVES information ~~to~~
29 ~~it or participating~~ OR WHO PARTICIPATES IN, TAKES ANY ACTION IN OR MAKES ANY
30 DECISION OR RECOMMENDATION FOR OR in the course of ~~the~~ quality assurance
31 ~~process~~ ACTIVITIES may NOT be subpoenaed to testify in any judicial or
32 quasi-judicial proceeding ~~if such subpoena is based solely on activities~~
33 ~~relating to~~ RELATING TO THE SUBJECT MATTER OF the quality assurance ~~process~~
34 ACTIVITIES.

35 B. This article shall not be construed to affect any patient's claim
36 to privilege or privacy or to prevent the subpoena of a patient's health care
37 records if they are otherwise subject to discovery. IN ANY LEGAL ACTION
38 BROUGHT PURSUANT TO SECTION 36-2402 IN WHICH IT IS ALLEGED THAT QUALITY
39 ASSURANCE ACTIVITIES WERE INADEQUATE OR WERE NEGLIGENTLY CONDUCTED,
40 REPRESENTATIVES OF A HEALTH CARE ENTITY ARE PERMITTED TO TESTIFY ONLY AS TO
41 WHETHER THERE WERE QUALITY ASSURANCE ACTIVITIES RELATING TO THE SUBJECT
42 MATTER BEING LITIGATED AND THE DATE OR DATES OF THE QUALITY ASSURANCE
43 ACTIVITIES.

44 ~~C. Information considered by a health care entity and the records of~~
45 ~~its actions and proceedings which are used pursuant to subsection A of this~~

1 ~~section by a state licensing or certifying agency or in an appeal shall be~~
2 ~~kept confidential and shall be subject to the same provisions concerning~~
3 ~~discovery and use in legal actions as are the original information and~~
4 ~~records in the possession and control of a health care entity.~~

5 ~~D. This section applies to a committee consisting of two or more~~
6 ~~qualifying community health centers as defined in section 36-2907.06 to~~
7 ~~review quality assurance information.~~

8 C. SHARING OF INFORMATION ABOUT QUALITY ASSURANCE ACTIVITIES IN
9 ACCORDANCE WITH SECTION 36-2402 DOES NOT WAIVE OR OTHERWISE IMPAIR THE
10 CONFIDENTIALITY OF THE INFORMATION SHARED. GOVERNING BODIES AND
11 ADMINISTRATIVE AND OTHER PERSONNEL OF A HEALTH CARE ENTITY MAY PARTICIPATE IN
12 QUALITY ASSURANCE ACTIVITIES WITHOUT WAIVING CONFIDENTIALITY. ALL
13 INDIVIDUALS OR ENTITIES SHARING OR RECEIVING QUALITY ASSURANCE INFORMATION
14 SHALL MAINTAIN THE INFORMATION CONFIDENTIALLY IN ACCORDANCE WITH THIS
15 SECTION.

16 D. A STATE AGENCY OR THE AFFECTED LICENSED HEALTH CARE PROVIDER
17 RECEIVING OR REVIEWING QUALITY ASSURANCE INFORMATION PURSUANT TO SECTION
18 36-2402 SHALL MAINTAIN THE INFORMATION CONFIDENTIALLY, AND SUCH ENTITIES AND
19 INDIVIDUALS ARE SUBJECT TO THE SAME PROVISIONS CONCERNING DISCOVERY AND USE
20 IN LEGAL ACTIONS AS ARE HEALTH CARE ENTITIES.

21 E. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, INFORMATION THAT
22 IS OTHERWISE DISCOVERABLE DOES NOT BECOME CONFIDENTIAL BASED SOLELY ON ITS
23 SUBMISSION TO OR CONSIDERATION BY A HEALTH CARE ENTITY CONDUCTING
24 CONFIDENTIAL QUALITY ASSURANCE ACTIVITIES. A HEALTH CARE ENTITY CONDUCTING
25 QUALITY ASSURANCE ACTIVITIES MAY NOT PRODUCE SUCH INFORMATION IF DISCOVERY OF
26 SUCH INFORMATION MIGHT REVEAL THE DELIBERATIVE PROCESS ENGAGED IN DURING SUCH
27 QUALITY ASSURANCE ACTIVITIES.

28 Sec. 6. Repeal

29 Section 36-2404, Arizona Revised Statutes, is repealed.

30 Sec. 7. Intent

31 The intent of this act is to allow more health care entities to conduct
32 quality assurance activities and to specifically allow the sharing of quality
33 assurance information between entities without a waiver of privilege. It is
34 not the intent of this act to broaden the definitions of quality assurance
35 activities or quality assurance information.