

House Engrossed Senate Bill

health professionals; off-label use; medications

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 349

SENATE BILL 1416

AN ACT

AMENDING SECTION 32-3221, ARIZONA REVISED STATUTES; RELATING TO HEALTH PROFESSIONALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-3221, Arizona Revised Statutes, is amended to
3 read:

4 32-3221. Lawful health care services; patient education;
5 exceptions; definitions

6 A. This state, any political subdivision of this state or any
7 department or agency of this state, including a health profession
8 regulatory board, or a private entity contracted with a health profession
9 regulatory board to carry out functions of the board may not punish a
10 health professional, directly or indirectly through a subcontractor or
11 otherwise, for making a patient aware of or educating or advising a
12 patient about lawful health care services for which there is a reasonable
13 basis, including the off-label use of health care services or health
14 care-related research or data, or for offering, providing or making
15 available lawful health care services, including the off-label use of
16 health care services for which there is a reasonable basis that is allowed
17 under state law.

18 B. Unless an entity has a sincerely held religious or moral belief,
19 the entity may not restrict a health professional who is an employee of or
20 affiliated or contracted with the entity for making a patient aware of or
21 educating or advising a patient about lawful health care services,
22 including the off-label use of health care services, or health
23 care-related research or data.

24 C. Making a patient aware of or educating or advising a patient
25 about lawful health care services, including the off-label use of health
26 care services, does not require the health care service to be covered
27 under the health care plan or the health care system through which the
28 patient receives care.

29 D. Making a patient aware of or educating or advising a patient
30 about lawful health care services, including the off-label use of health
31 care services, does not require a health professional, an entity that
32 employs the health professional or a health care system to offer, provide
33 or make the lawful health care service, including the off-label use of
34 health care services, available to the patient.

35 E. This section does not:

36 1. Impair the rights established in article II, Constitution of
37 Arizona, or impair any right or limitation on medical liability.

38 2. Prevent any reporting to a health profession regulatory board
39 regarding medical liability cases, settlements or decisions.

40 3. Impair or contradict any other state law regarding lawful health
41 care services.

42 4. Prohibit a health profession regulatory board from taking action
43 if a health professional commits unprofessional conduct arising out of the
44 conduct specified in this section.

1 F. For the purposes of this section:

2 1. "Lawful health care service" means any health-related service or
3 treatment, to the extent that the service or treatment is allowed or not
4 prohibited by law or regulation, INCLUDING THE OFF-LABEL USE OF
5 MEDICATIONS DURING A PUBLIC HEALTH EMERGENCY, that may be provided by
6 persons or businesses that are otherwise allowed to offer such services.

7 2. "Off-label use" means any use if the intent is the practice of
8 medicine and the use is not specified in the labeling or indications for
9 use for prescription drugs, biologics, approved medical devices and
10 dietary supplements approved by the United States food and drug
11 administration. For the purposes of this paragraph, "labeling" includes
12 any written material that accompanies, supplements or explains a product.

13 3. "Punish" means to impose any penalty, sanction or disciplinary
14 action to discourage the exercise of a right under this section.

15 4. Sincerely held religious or moral belief does not include a
16 belief that restricts the access by a patient to a lawful health care
17 service based on the cost of the lawful health care service for that
18 patient.

19 5. Unprofessional conduct does not include conduct by a health
20 professional who is acting within the minimum standards of practice as
21 determined by the health professional's health profession regulatory
22 board.

APPROVED BY THE GOVERNOR MAY 7, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2021.