

REFERENCE TITLE: health information organizations

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1221

Introduced by
Senator Shope

AN ACT

AMENDING SECTIONS 36-135, 36-664, 36-3801 AND 36-3805, 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

1 disclose this information only as ~~permitted~~ ALLOWED by this section or
2 rules adopted by the department. A NONPROFIT HEALTH INFORMATION
3 ORGANIZATION AS DEFINED IN SECTION 36-3801 THAT IS DESIGNATED BY THE
4 DEPARTMENT AS THIS STATE'S OFFICIAL HEALTH INFORMATION EXCHANGE
5 ORGANIZATION MAY RECEIVE, USE AND REDISCLOSE THE CONFIDENTIAL INFORMATION
6 RECEIVED PURSUANT TO THIS SECTION ONLY FOR THE PURPOSES ALLOWED BY THE
7 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS (45
8 CODE OF FEDERAL REGULATIONS PART 160 AND PART 164, SUBPART E), REGARDLESS
9 OF WHETHER THE INFORMATION IS BEING MAINTAINED BY OR FOR A COVERED ENTITY
10 OR BUSINESS ASSOCIATE AS DEFINED IN 45 CODE OF FEDERAL REGULATIONS SECTION
11 160.103.

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

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

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

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

31 J. For the purposes of this section, "health care decision maker"
32 and "health care provider" have the same meanings prescribed in section
33 12-2291.

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

36 36-664. Confidentiality: exceptions

37 A. A person who obtains communicable disease related information in
38 the course of providing a health service or obtains that information from
39 a health care provider pursuant to an authorization shall not disclose or
40 be compelled to disclose that information except as authorized by state or
41 federal law, including the health insurance portability and accountability
42 act privacy standards (45 Code of Federal Regulations part 160 and part
43 164, subpart E), or pursuant to the following:

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

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

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

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

18 5. A health facility or health care provider, in relation to
19 procuring, processing, distributing or using a human body or a human body
20 part, including organs, tissues, eyes, bones, arteries, blood, semen, milk
21 or other body fluids, for use in medical education, research or therapy or
22 for transplantation to another person.

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

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

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

36 9. A federal, state or local government agency authorized by law to
37 receive the information. The agency is authorized to redisclose the
38 information only pursuant to this article or as otherwise allowed by law.

39 10. An authorized employee or agent of a federal, state or local
40 government agency that supervises or monitors the health care provider or
41 health facility or administers the program under which the health service
42 is provided. An authorized employee or agent includes only an employee or
43 agent who, in the ordinary course of business of the government agency,
44 has access to records relating to the care or treatment of the protected
45 person.

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

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

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

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

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

12 16. The legal representative of the entity holding the information
13 in order to secure legal advice.

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

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

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

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

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

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

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

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

40 4. Made for the purposes of research as authorized by state and
41 federal law.

42 5. Made to a nonprofit health information organization as defined
43 in section 36-3801 that is designated by the department as this state's
44 official health information exchange organization. **THE HEALTH INFORMATION**
45 **ORGANIZATION MAY RECEIVE, USE AND REDISCLOSE THE COMMUNICABLE DISEASE**

1 RELATED INFORMATION ONLY FOR THE PURPOSES ALLOWED BY THE HEALTH INSURANCE
2 PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS (45 CODE OF FEDERAL
3 REGULATIONS PART 160 AND PART 164, SUBPART E), REGARDLESS OF WHETHER THE
4 INFORMATION IS BEING MAINTAINED BY OR FOR A COVERED ENTITY OR BUSINESS
5 ASSOCIATE AS DEFINED IN 45 CODE OF FEDERAL REGULATIONS SECTION 160.103.

6 D. The director may authorize the release of information that
7 identifies the protected person to the national center for health
8 statistics of the United States public health service for the purposes of
9 conducting a search of the national death index.

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

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

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

40 H. This section does not prohibit the listing of communicable
41 disease related information, including acquired immune deficiency
42 syndrome, HIV-related illness or HIV infection, in a certificate of death,
43 autopsy report or other related document that is prepared pursuant to law
44 to document the cause of death or that is prepared to release a body to a

1 funeral director. This section does not modify a law or rule relating to
2 access to death certificates, autopsy reports or other related documents.

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

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

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

21 Sec. 3. Section 36-3801, Arizona Revised Statutes, is amended to
22 read:

23 36-3801. Definitions

24 In this chapter, unless the context otherwise requires:

25 1. "Breach" has the same meaning prescribed in 45 Code of Federal
26 Regulations, part 164, subpart D.

27 2. "De-identified health information" has the same meaning as
28 described in 45 Code of Federal Regulations section 164.514.

29 3. "Health care decision maker" has the same meaning prescribed in
30 section 12-2291.

31 4. "Health care provider" has the same meaning prescribed in
32 section 12-2291.

33 5. "Health information organization" means an organization that
34 oversees and governs the exchange of individually identifiable health
35 information among organizations according to nationally recognized
36 standards. Health information organization does not include:

37 (a) A health care provider or an electronic health record
38 maintained by or on behalf of a health care provider.

39 (b) Entities that are subject to title 20 or that are health plans
40 as defined in 45 Code of Federal Regulations section 160.103.

41 (c) The exchange of individually identifiable health information
42 directly between health care providers without a separate organization
43 governing that exchange.

1 6. "Individual":

2 (a) Means the person who is the subject of the individually
3 identifiable health information.

4 (b) Does not include an inmate as defined under the health
5 insurance portability and accountability act privacy standards prescribed
6 in 45 Code of Federal Regulations section 164.501.

7 7. "Individually identifiable health information" has the same
8 meaning prescribed in the health insurance portability and accountability
9 act privacy standards (45 Code of Federal Regulations part 160 and part
10 164, subpart E).

11 8. "Medical records" has the same meaning prescribed in section
12 12-2291.

13 9. "Opt out" means an individual's written decision that the
14 individual's individually identifiable health information cannot be shared
15 through a health information organization.

16 10. "Participation" or "participating", with respect to a health
17 information organization, means providing or accessing individually
18 identifiable health information in the manner provided in the health
19 information organization's policies.

20 11. "Person" has the same meaning prescribed in section 1-215.

21 12. "RESEARCH" HAS THE SAME MEANING PRESCRIBED IN 45 CODE OF
22 FEDERAL REGULATIONS SECTION 164.501.

23 ~~12.~~ 13. "Written" means in handwriting or through an electronic
24 transaction that meets the requirements of title 44, chapter 26.

25 Sec. 4. Section 36-3805, Arizona Revised Statutes, is amended to
26 read:

27 36-3805. Disclosure of individually identifiable health
28 information; disclosure; consent

29 A. Except as otherwise provided in state or federal law, disclosure
30 of an individual's individually identifiable health information through a
31 health information organization is allowed only if:

32 1. The individual has not opted out of having the individual's
33 individually identifiable health information accessible through the health
34 information organization.

35 2. The purpose of the disclosure is explained in the health
36 information organization's current notice of health information practices.

37 3. The disclosure complies with the health insurance portability
38 and accountability act privacy ~~standard~~ STANDARDS (45 Code of Federal
39 Regulations part 164, subpart E).

40 B. A health information organization may not sell or otherwise make
41 commercial use of an individual's individually identifiable health
42 information without the written consent of the individual.

43 C. A health information organization may not ~~transfer~~ DISCLOSE
44 individually identifiable health information or de-identified health
45 information that is accessible through the health information ~~exchange~~

1 ORGANIZATION to any person or entity for the purpose of research ~~or using~~
2 ~~the information as part of a set of data for an application for grant or~~
3 ~~other research funding, unless the health care provider obtains consent~~
4 ~~from the individual for the transfer. A health care provider must~~
5 ~~document that it has provided a notice of transfer to the individual and~~
6 ~~that the individual has received and read and understands the notice.~~
7 ~~Documentation must be in the form of a signature by the individual~~
8 ~~indicating the individual has received and read and understands the notice~~
9 ~~and that the individual gives consent to the transfer of information. For~~
10 ~~the purposes of this subsection, "consent" means that a health care~~
11 ~~provider participating in a health information organization has provided a~~
12 ~~notice to the individual that is in at least twelve-point type and that~~
13 ~~describes the purposes of the transfer~~ UNLESS THE DISCLOSURE COMPLIES WITH
14 APPLICABLE FEDERAL AND STATE LAWS THAT REGULATE THE DISCLOSURE OF
15 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION OR DE-IDENTIFIED HEALTH
16 INFORMATION FOR RESEARCH.

17 D. This chapter does not:

18 1. Interfere with any other federal or state laws or regulations
19 that provide more extensive protection of individually identifiable health
20 information than provided in this chapter.

21 2. Limit, change or otherwise affect a health information
22 organization's right or duty to exchange information, including
23 individually identifiable health information and de-identified health
24 information, in accordance with applicable law and by means other than
25 through the health information organization.