

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 191

HOUSE BILL 2397

AN ACT

REPEALING TITLE 12, CHAPTER 13, ARTICLE 7, ARIZONA REVISED STATUTES; AMENDING SECTIONS 12-2291, 12-2292, 12-2293, 12-2294, 12-2295, 12-2297, 12-2801, 12-2802, 36-501, 36-509, 36-517.01, 36-661, 36-663, 36-664, 36-665, 36-666, 36-667, 36-2220, 36-3601 AND 36-3602, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 13, ARTICLE 7.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-2294.01; RELATING TO HEALTH CARE INSTITUTION RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Title 12, chapter 13, article 7, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 12-2291, Arizona Revised Statutes, is amended to read:

5 12-2291. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Contractor" means an agency or service that duplicates medical
8 records on behalf of health care providers.

9 2. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

10 ~~2.~~ 3. "Health care decision maker" means an individual who is
11 authorized to make health care treatment decisions for the patient, including
12 a parent of a minor or an individual who is authorized pursuant to SECTION
13 8-514.05, title 14, chapter 5, article 2 or 3 or section 36-3221, or 36-3231
14 OR 36-3281.

15 ~~3.~~ 4. "Health care provider" means:

16 (a) A person WHO IS licensed pursuant to title 32 AND who maintains
17 medical records.

18 (b) A health care institution as defined in section 36-401.

19 (c) An ambulance service as defined in section 36-2201.

20 (d) A health care services organization licensed pursuant to title 20,
21 chapter 4, article 9.

22 ~~4.~~ 5. "Medical records" means all communications RELATED TO A
23 PATIENT'S PHYSICAL OR MENTAL HEALTH OR CONDITION that are recorded in any
24 form or medium and that are maintained for purposes of patient DIAGNOSIS OR
25 treatment, ~~including reports, notes and orders, test results, diagnoses,~~
26 ~~treatments, photographs, videotapes, X rays, billing records and the results~~
27 ~~of independent medical examinations that describe patient care. Medical~~
28 ~~records include psychological records and all medical records held by a~~
29 ~~health care provider, including medical records that are prepared BY A HEALTH~~
30 ~~CARE PROVIDER OR by other providers. Medical records do not include~~
31 ~~materials that are prepared in connection with utilization review, peer~~
32 ~~review or quality assurance activities, including records that a health care~~
33 ~~provider prepares pursuant to section 36-441, 36-445, or 36-2402 OR~~
34 ~~36-2917. Medical records do not include recorded telephone and radio calls~~
35 ~~to and from a publicly operated emergency dispatch office relating to~~
36 ~~requests for emergency services or reports of suspected criminal activity,~~
37 ~~but shall include communications THAT ARE RECORDED IN ANY FORM OR MEDIUM~~
38 ~~between emergency medical personnel and medical personnel concerning the~~
39 ~~DIAGNOSIS OR treatment of a person.~~

40 6. "PAYMENT RECORDS" MEANS ALL COMMUNICATIONS RELATED TO PAYMENT FOR
41 A PATIENT'S HEALTH CARE THAT CONTAIN INDIVIDUALLY IDENTIFIABLE INFORMATION.

42 7. "SOURCE DATA" MEANS INFORMATION THAT IS SUMMARIZED, INTERPRETED OR
43 REPORTED IN THE MEDICAL RECORD, INCLUDING X-RAYS AND OTHER DIAGNOSTIC IMAGES.

1 ~~D. Notwithstanding subsection A of this section, if the patient~~
2 ~~receives treatment for a mental disorder as defined in section 36-501, on~~
3 ~~written request of a health care decision maker for access to or copies of~~
4 ~~the patient's medical records, the health care provider may refuse to provide~~
5 ~~records which indicate confidential information between the patient and the~~
6 ~~health care professional. If the attending physician determines that the~~
7 ~~health care decision maker should not have access to that part of the~~
8 ~~patient's medical record, the attending physician shall note this~~
9 ~~determination in the patient's medical record and shall provide to the health~~
10 ~~care decision maker a written explanation of the reason for such denial. The~~
11 ~~health care provider shall release medical record information to the health~~
12 ~~care decision maker which includes the patient's therapy treatment plan and~~
13 ~~medication information.~~

14 B. A HEALTH CARE PROVIDER MAY DENY A REQUEST FOR ACCESS TO OR COPIES
15 OF MEDICAL RECORDS IF THE PATIENT RECEIVES TREATMENT FOR A MENTAL DISORDER
16 AS DEFINED IN SECTION 36-501 AND THE ATTENDING PHYSICIAN OR PSYCHOLOGIST
17 DETERMINES AND NOTIFIES THE HEALTH CARE PROVIDER IN POSSESSION OF THE MEDICAL
18 RECORD THAT EITHER:

19 (a) ACCESS TO THE MEDICAL RECORD IS CONTRAINDICATED AND IS REASONABLY
20 LIKELY TO ENDANGER THE LIFE OR PHYSICAL SAFETY OF THE PATIENT OR ANOTHER
21 PERSON.

22 (b) THE INFORMATION IS RAW TEST DATA AND PSYCHOMETRIC TESTING
23 MATERIALS AND ACCESS IS REASONABLY LIKELY TO ENDANGER THE LIFE OR PHYSICAL
24 SAFETY OF THE PATIENT OR ANOTHER PERSON.

25 (c) ACCESS BY THE PATIENT'S HEALTH CARE DECISION MAKER WOULD REVEAL
26 INFORMATION OBTAINED UNDER A PROMISE OF CONFIDENTIALITY BETWEEN THE PATIENT
27 AND THE HEALTH CARE PROFESSIONAL.

28 C. IF THE HEALTH CARE PROVIDER DENIES A REQUEST FOR ACCESS TO OR
29 COPIES OF THE MEDICAL RECORDS, THE HEALTH CARE PROVIDER MUST NOTE THIS
30 DETERMINATION IN THE PATIENT'S MEDICAL RECORD AND PROVIDE TO THE PATIENT OR
31 THE PATIENT'S HEALTH CARE DECISION MAKER A WRITTEN EXPLANATION OF THE REASON
32 FOR THE DENIAL OF ACCESS. THE HEALTH CARE PROVIDER MUST RELEASE THE MEDICAL
33 RECORD INFORMATION FOR WHICH THERE IS NOT A BASIS TO DENY ACCESS UNDER
34 SUBSECTION B OF THIS SECTION.

35 Sec. 5. Section 12-2294, Arizona Revised Statutes, is amended to read:
36 12-2294. Release of medical records to third parties

37 A. A health care provider shall disclose medical records OR PAYMENT
38 RECORDS, or the information contained in medical records OR PAYMENT RECORDS,
39 without the patient's written authorization as otherwise required by law OR
40 WHEN ORDERED BY A COURT OR TRIBUNAL OF COMPETENT JURISDICTION.

41 B. A HEALTH CARE PROVIDER MAY DISCLOSE MEDICAL RECORDS OR PAYMENT
42 RECORDS, OR THE INFORMATION CONTAINED IN MEDICAL RECORDS OR PAYMENT RECORDS,
43 PURSUANT TO WRITTEN AUTHORIZATION SIGNED BY THE PATIENT OR THE PATIENT'S
44 HEALTH CARE DECISION MAKER.

1 ~~B.~~ C. A health care provider may disclose medical records or the
2 information contained in medical records without the patient's written
3 authorization ~~as follows~~ or OF THE PATIENT OR THE PATIENT'S HEALTH CARE
4 DECISION MAKER as otherwise authorized by STATE OR FEDERAL law, INCLUDING THE
5 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS
6 (45 CODE OF FEDERAL REGULATIONS PART 160 AND PART 164, SUBPART E), OR AS
7 FOLLOWS:

8 1. To attending and consulting health care providers who are currently
9 providing health care to the patient for the purpose of diagnosis or
10 treatment of the patient.

11 2. To health care providers who have previously provided treatment to
12 the patient, to the extent that the records pertain to the provided
13 treatment.

14 3. To ambulance attendants as defined in section 36-2201 for the
15 purpose of providing care to or transferring the patient whose records are
16 requested.

17 4. To a private agency that accredits health care providers and to the
18 ~~Arizona medical board~~ WITH WHOM THE HEALTH CARE PROVIDER HAS AN AGREEMENT
19 REQUIRING THE AGENCY TO PROTECT THE CONFIDENTIALITY OF PATIENT INFORMATION.

20 5. TO A HEALTH PROFESSION REGULATORY BOARD AS DEFINED IN SECTION
21 32-3201.

22 ~~5.~~ 6. To health care providers for the purpose of conducting
23 utilization review, peer review and quality assurance pursuant to section
24 36-441, 36-445, 36-2402 or 36-2917.

25 ~~6.~~ 7. To a person or entity that provides billing, claims management,
26 medical data processing, utilization review or other administrative services
27 to the patient's health care providers.

28 ~~7.~~ 8. To the legal representative of a health care provider in
29 possession of the medical record for the purpose of securing legal advice.

30 ~~8.~~ To the personal representative or administrator of the estate of
31 a deceased patient. If a personal representative or administrator has not
32 been appointed, a health care provider may release medical records to the
33 following persons and in the following order of priority, unless the deceased
34 patient during the deceased patient's lifetime or a person in a higher order
35 of priority has notified the health care provider in writing that he opposes
36 the release of the medical records:

37 ~~(a) The deceased patient's spouse, unless the patient and the~~
38 ~~patient's spouse were legally separated at the time of the patient's death.~~

39 ~~(b) The acting trustee of a trust created by the deceased patient~~
40 ~~either alone or with the deceased patient's spouse if the trust was a~~
41 ~~revocable inter vivos trust during the deceased patient's lifetime and the~~
42 ~~deceased patient was a beneficiary of the trust during the deceased patient's~~
43 ~~lifetime.~~

44 ~~(c) An adult child of the deceased patient.~~

45 ~~(d) A parent of the deceased patient.~~

1 ~~(e) An adult brother or sister of the deceased patient.~~
2 ~~(f) A guardian or conservator of the deceased patient at the time of~~
3 ~~the patient's death.~~

4 9. To the patient's third party payor OR THE PAYOR'S CONTRACTOR if the
5 payor has separately obtained the patient's written authorization to disclose
6 medical record information to the payor and furnishes a copy of this
7 authorization to the health care provider.

8 10. TO THE INDUSTRIAL COMMISSION OF ARIZONA OR PARTIES TO AN INDUSTRIAL
9 COMMISSION CLAIM PURSUANT TO THE PROVISIONS OF TITLE 23, CHAPTER 6.

10 ~~C. In addition to the persons listed in subsection B, paragraph 8 of~~
11 ~~this section, a health care provider may release medical records or the~~
12 ~~information contained in medical records to the patient's health care~~
13 ~~decision maker at the time of the patient's death.~~

14 ~~D. A health care provider shall disclose medical records to persons~~
15 ~~listed in subsection B, paragraphs 2, 4, 5 and 8 of this section only on~~
16 ~~written request. The person requesting the records shall sign the request~~
17 ~~and shall demonstrate the authority to have access to the records.~~

18 ~~E. Medical records that are not in written form shall only be released~~
19 ~~if the written request specifically identifies the type of record desired.~~

20 D. A HEALTH CARE PROVIDER MAY DISCLOSE A DECEASED PATIENT'S MEDICAL
21 RECORDS OR THE INFORMATION CONTAINED IN MEDICAL RECORDS TO THE PATIENT'S
22 HEALTH CARE DECISION MAKER AT THE TIME OF THE PATIENT'S DEATH. A HEALTH CARE
23 PROVIDER ALSO MAY DISCLOSE A DECEASED PATIENT'S MEDICAL RECORDS OR THE
24 INFORMATION CONTAINED IN MEDICAL RECORDS TO THE PERSONAL REPRESENTATIVE OR
25 ADMINISTRATOR OF THE ESTATE OF A DECEASED PATIENT, OR IF A PERSONAL
26 REPRESENTATIVE OR ADMINISTRATOR HAS NOT BEEN APPOINTED, TO THE FOLLOWING
27 PERSONS IN THE FOLLOWING ORDER OF PRIORITY, UNLESS THE DECEASED PATIENT
28 DURING THE DECEASED PATIENT'S LIFETIME OR A PERSON IN A HIGHER ORDER OF
29 PRIORITY HAS NOTIFIED THE HEALTH CARE PROVIDER IN WRITING THAT THE DECEASED
30 PATIENT OPPOSED THE RELEASE OF THE MEDICAL RECORDS:

31 (a) THE DECEASED PATIENT'S SPOUSE, UNLESS THE PATIENT AND THE
32 PATIENT'S SPOUSE WERE LEGALLY SEPARATED AT THE TIME OF THE PATIENT'S DEATH.

33 (b) THE ACTING TRUSTEE OF A TRUST CREATED BY THE DECEASED PATIENT
34 EITHER ALONE OR WITH THE DECEASED PATIENT'S SPOUSE IF THE TRUST WAS A
35 REVOCABLE INTER VIVOS TRUST DURING THE DECEASED PATIENT'S LIFETIME AND THE
36 DECEASED PATIENT WAS A BENEFICIARY OF THE TRUST DURING THE DECEASED PATIENT'S
37 LIFETIME.

38 (c) AN ADULT CHILD OF THE DECEASED PATIENT.

39 (d) A PARENT OF THE DECEASED PATIENT.

40 (e) AN ADULT BROTHER OR SISTER OF THE DECEASED PATIENT.

41 (f) A GUARDIAN OR CONSERVATOR OF THE DECEASED PATIENT AT THE TIME OF
42 THE PATIENT'S DEATH.

43 ~~F. E. Medical records that are disclosed pursuant to this section~~
44 ~~remain privileged. A person who receives medical records pursuant to this~~
45 ~~section shall not disclose those records without the written authorization~~

1 of the patient or the patient's health care decision maker, unless otherwise
2 provided AUTHORIZED by law.

3 F. IF A HEALTH CARE PROVIDER RELEASES A PATIENT'S MEDICAL RECORD TO
4 A CONTRACTOR FOR THE PURPOSE OF DUPLICATING OR DISCLOSING THE RECORD ON
5 BEHALF OF THE HEALTH CARE PROVIDER, THE CONTRACTOR SHALL NOT DISCLOSE ANY
6 PART OR ALL OF A PATIENT'S MEDICAL RECORD IN ITS CUSTODY EXCEPT AS PROVIDED
7 IN THIS ARTICLE. AFTER DUPLICATING OR DISCLOSING A PATIENT'S MEDICAL RECORD
8 ON BEHALF OF A HEALTH CARE PROVIDER, A CONTRACTOR MUST RETURN THE RECORD TO
9 THE HEALTH CARE PROVIDER WHO RELEASED THE MEDICAL RECORD TO THE CONTRACTOR.

10 Sec. 6. Title 12, chapter 13, article 7.1, Arizona Revised Statutes,
11 is amended by adding section 12-2294.01, to read:

12 12-2294.01. Release of medical records to third parties
13 pursuant to subpoena

14 A. A SUBPOENA SEEKING MEDICAL RECORDS SHALL BE SERVED ON THE HEALTH
15 CARE PROVIDER AND ANY PARTY TO THE PROCEEDINGS AT LEAST TEN DAYS BEFORE THE
16 PRODUCTION DATE ON THE SUBPOENA.

17 B. A HEALTH CARE PROVIDER SHALL RELEASE THE MEDICAL RECORDS TO THE
18 PARTY SEEKING THE MEDICAL RECORDS IF THE SUBPOENA MEETS ONE OF THE FOLLOWING
19 REQUIREMENTS:

20 1. THE SUBPOENA IS ACCOMPANIED BY A WRITTEN AUTHORIZATION SIGNED BY
21 THE PATIENT OR THE PATIENT'S HEALTH CARE DECISION MAKER.

22 2. THE SUBPOENA IS ACCOMPANIED BY A COURT OR TRIBUNAL ORDER REQUIRING
23 THE RELEASE OF THE MEDICAL RECORDS TO THE PARTY SEEKING THE MEDICAL RECORDS.

24 3. THE SUBPOENA IS A GRAND JURY SUBPOENA ISSUED IN A CRIMINAL
25 INVESTIGATION.

26 4. THE SUBPOENA IS ISSUED BY A HEALTH PROFESSION REGULATORY BOARD AS
27 DEFINED IN SECTION 32-3201.

28 5. THE HEALTH CARE PROVIDER IS REQUIRED BY ANOTHER LAW TO RELEASE THE
29 MEDICAL RECORDS TO THE PARTY SEEKING THE MEDICAL RECORDS.

30 C. IF THE SUBPOENA DOES NOT MEET ANY OF THE REQUIREMENTS OF SUBSECTION
31 B, A HEALTH CARE PROVIDER SHALL NOT PRODUCE THE RECORDS PURSUANT TO THE
32 SUBPOENA, BUT MAY CHOOSE TO DELIVER THE RECORDS UNDER SEAL AS FOLLOWS:

33 1. THE HEALTH CARE PROVIDER MAY DELIVER BY CERTIFIED MAIL OR IN PERSON
34 A COPY OF ALL THE MEDICAL RECORDS DESCRIBED IN THE SUBPOENA BY THE PRODUCTION
35 DATE TO THE CLERK OF THE COURT OR TRIBUNAL OR IF THERE IS NO CLERK THEN TO
36 THE COURT OR TRIBUNAL, TOGETHER WITH THE AFFIDAVIT DESCRIBED IN PARAGRAPH 4
37 OF THIS SUBSECTION.

38 2. THE HEALTH CARE PROVIDER SHALL SEPARATELY ENCLOSE AND SEAL A COPY
39 OF THE RECORDS IN AN INNER ENVELOPE OR WRAPPER, WITH THE TITLE AND NUMBER OF
40 THE ACTION, NAME OF THE HEALTH CARE PROVIDER AND DATE OF THE SUBPOENA CLEARLY
41 INSCRIBED ON THE COPY OF THE RECORDS. THE HEALTH CARE PROVIDER SHALL ENCLOSE
42 THE SEALED ENVELOPE OR WRAPPER IN AN OUTER ENVELOPE OR WRAPPER THAT IS SEALED
43 AND DIRECTED TO THE CLERK OF THE COURT OR TRIBUNAL OR IF THERE IS NO CLERK
44 THEN TO THE COURT OR TRIBUNAL.

1 3. THE COPY OF THE MEDICAL RECORDS SHALL REMAIN SEALED AND SHALL BE
2 OPENED ONLY ON ORDER OF THE COURT OR TRIBUNAL CONDUCTING THE PROCEEDING.

3 4. THE MEDICAL RECORDS SHALL BE ACCOMPANIED BY THE AFFIDAVIT OF THE
4 CUSTODIAN OR OTHER QUALIFIED WITNESS, STATING IN SUBSTANCE EACH OF THE
5 FOLLOWING:

6 (a) THAT THE AFFIANT IS THE DULY AUTHORIZED CUSTODIAN OF THE RECORDS
7 AND HAS AUTHORITY TO CERTIFY THE MEDICAL RECORDS.

8 (b) THAT THE COPY IS A TRUE COMPLETE COPY OF THE MEDICAL RECORDS
9 DESCRIBED IN THE SUBPOENA.

10 (c) IF APPLICABLE, THAT THE HEALTH CARE PROVIDER IS SUBJECT TO THE
11 CONFIDENTIALITY REQUIREMENTS IN 42 UNITED STATES CODE SECTIONS 290DD-3 AND
12 290EE-3 AND APPLICABLE REGULATIONS AND THAT THOSE CONFIDENTIALITY
13 REQUIREMENTS MAY APPLY TO THE REQUESTED RECORDS. THE AFFIDAVIT SHALL REQUEST
14 THAT THE COURT MAKE A DETERMINATION, IF REQUIRED UNDER APPLICABLE FEDERAL LAW
15 AND REGULATIONS, AS TO THE CONFIDENTIALITY OF THE RECORDS SUBMITTED.

16 (d) IF APPLICABLE, THAT THE HEALTH CARE PROVIDER HAS NONE OF THE
17 MEDICAL RECORDS DESCRIBED OR ONLY PART OF THE MEDICAL RECORDS DESCRIBED IN
18 THE SUBPOENA.

19 5. THE COPY OF THE MEDICAL RECORDS IS ADMISSIBLE IN EVIDENCE AS
20 PROVIDED UNDER ARIZONA RULES OF EVIDENCE, RULE 902(11). THE AFFIDAVIT IS
21 ADMISSIBLE AS EVIDENCE OF THE MATTERS STATED IN THE AFFIDAVIT AND THE MATTERS
22 STATED ARE PRESUMED TRUE. IF MORE THAN ONE PERSON HAS KNOWLEDGE OF THE
23 FACTS, MORE THAN ONE AFFIDAVIT MAY BE MADE. THE PRESUMPTION ESTABLISHED BY
24 THIS PARAGRAPH IS A PRESUMPTION AFFECTING THE BURDEN OF PRODUCING EVIDENCE.

25 D. IF THE SUBPOENA DOES NOT MEET ANY OF THE REQUIREMENTS OF SUBSECTION
26 B, A HEALTH CARE PROVIDER SHALL NOT PRODUCE THE RECORDS PURSUANT TO THE
27 SUBPOENA, BUT MAY CHOOSE TO FILE AN OBJECTION AS FOLLOWS:

28 1. ON FILING AN OBJECTION, THE HEALTH CARE PROVIDER SHALL SEND A COPY
29 OF THE OBJECTION TO THE PATIENT AT THE PATIENT'S LAST KNOWN ADDRESS, TO THE
30 PATIENT'S ATTORNEY IF KNOWN AND TO THE PARTY SEEKING THE MEDICAL RECORDS,
31 UNLESS AFTER REASONABLE INQUIRY THE HEALTH CARE PROVIDER CANNOT DETERMINE THE
32 LAST KNOWN ADDRESS OF THE PATIENT.

33 2. ON FILING THE OBJECTION, THE HEALTH CARE PROVIDER HAS NO FURTHER
34 OBLIGATION TO ASSERT A STATE OR FEDERAL PRIVILEGE PERTAINING TO THE MEDICAL
35 RECORDS OR TO APPEAR OR RESPOND TO A MOTION TO COMPEL PRODUCTION OF MEDICAL
36 RECORDS, AND MAY PRODUCE THE MEDICAL RECORDS IF ORDERED BY A COURT OR
37 TRIBUNAL. IF AN OBJECTION IS FILED, THE PATIENT OR THE PATIENT'S ATTORNEY
38 IS RESPONSIBLE FOR ASSERTING OR WAIVING ANY STATE OR FEDERAL PRIVILEGE THAT
39 PERTAINS TO THE MEDICAL RECORDS.

40 3. IF AN OBJECTION IS FILED, THE PARTY SEEKING PRODUCTION MAY REQUEST
41 AN ORDER COMPELLING PRODUCTION OF THE MEDICAL RECORDS. IF THE COURT OR
42 TRIBUNAL ISSUES AN ORDER COMPELLING PRODUCTION, A COPY OF THE ORDER SHALL BE
43 PROVIDED TO THE HEALTH CARE PROVIDER. ON RECEIPT OF THE ORDER, THE HEALTH
44 CARE PROVIDER SHALL PRODUCE THE RECORDS.

1 4. IF APPLICABLE, AN OBJECTION SHALL STATE THAT THE HEALTH CARE
2 PROVIDER IS SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS IN 42 UNITED STATES
3 CODE SECTIONS 290DD-3 AND 290EE-3, SHALL STATE THAT THE RECORDS MAY BE
4 SUBJECT TO THOSE CONFIDENTIALITY REQUIREMENTS AND SHALL REQUEST THAT THE
5 COURT MAKE A DETERMINATION, IF REQUIRED UNDER APPLICABLE FEDERAL LAW AND
6 REGULATIONS, ON WHETHER THE SUBMITTED RECORDS ARE SUBJECT TO DISCOVERY.

7 Sec. 7. Section 12-2295, Arizona Revised Statutes, is amended to read:
8 12-2295. Charges

9 A. Except as otherwise provided by law, a health care provider or
10 contractor may charge a person who requests copies of medical records a
11 reasonable fee for the production of the records. Except as necessary for
12 continuity of care, a health care provider or contractor may require the
13 payment of any fees in advance.

14 B. A health care provider or contractor shall not charge for the
15 pertinent information contained in medical records provided to:

16 1. Another health care provider for the purpose of providing
17 continuing care to the patient to whom the medical record pertains.

18 2. The patient to whom the medical record pertains for the
19 demonstrated purpose of obtaining health care.

20 3. The health care decision maker ~~or surrogate~~ of the patient to whom
21 the medical record pertains for the demonstrated purpose of obtaining health
22 care FOR THE PATIENT.

23 4. The Arizona medical board, THE BOARD OF OSTEOPATHIC EXAMINERS IN
24 MEDICINE AND SURGERY or an officer of the department of health services or
25 the local health department requesting records pursuant to section 36-662.

26 Sec. 8. Section 12-2297, Arizona Revised Statutes, is amended to read:
27 12-2297. Retention of records

28 A. Unless otherwise required by statute or by federal law, a health
29 care provider shall retain the original or copies of a patient's medical
30 records as follows:

31 1. If the patient is an adult, for at least ~~seven~~ SIX years after the
32 last date the adult patient received medical or health care services from
33 that provider.

34 2. If the patient is a child, either for at least three years after
35 the child's eighteenth birthday or for at least ~~seven~~ SIX years after the
36 last date the child received medical or health care services from that
37 provider, whichever date occurs ~~fast~~ LATER.

38 3. SOURCE DATA MAY BE MAINTAINED SEPARATELY FROM THE MEDICAL RECORD
39 AND MUST BE RETAINED FOR SIX YEARS FROM THE DATE OF COLLECTION OF THE SOURCE
40 DATA.

41 B. When a health care provider retires or sells the provider's
42 practice the provider shall take reasonable measures to ensure that the
43 provider's records are retained pursuant to this section.

1 C. A person who is licensed pursuant to title 32 as an employee of a
2 health care provider is not responsible for storing or retaining medical
3 records but shall compile and record the records in the customary manner.

4 D. A nursing care institution as defined in section 36-401, shall
5 retain patient records for ~~five~~ SIX years after the date of the patient's
6 discharge. For a minor, the nursing care institution shall retain the
7 records for three years after the patient reaches eighteen years of age or
8 for ~~three~~ SIX years after the date of the patient's discharge, whichever date
9 occurs last.

10 Sec. 9. Section 12-2801, Arizona Revised Statutes, is amended to read:
11 12-2801. Definitions

12 In this chapter, unless the context otherwise requires:

13 ~~1. "Authorized representative" means a person who is authorized~~
14 ~~pursuant to title 14, chapter 5, article 2 or 3 and sections 36-3221 and~~
15 ~~36-3231.~~

16 ~~2.~~ 1. "Genetic test" or "genetic testing":

17 (a) Means a test of a person's genes, genetic sequence, gene products
18 or chromosomes for abnormalities or deficiencies, including carrier status,
19 that:

20 (i) Are linked to physical or mental disorders or impairments.

21 (ii) Indicate a susceptibility to any illness, disease, impairment or
22 other disorder, whether physical or mental.

23 (iii) Demonstrate genetic or chromosomal damage due to any
24 environmental factor.

25 (b) Does not include:

26 (i) Chemical, blood and urine analyses that are widely accepted and
27 used in clinical practice and that are not used to determine genetic traits.

28 (ii) Tests used in a criminal investigation or prosecution or as a
29 result of a criminal conviction.

30 (iii) Tests for the presence of the human immunodeficiency virus.

31 (iv) Tests to determine paternity conducted pursuant to title 25,
32 chapter 6, article 1.

33 (v) Tests given for use in biomedical research that is conducted to
34 generate scientific knowledge about genes or to learn about the genetic basis
35 of disease or for developing pharmaceutical and other treatment of disease.

36 2. "HEALTH CARE DECISION MAKER" MEANS A PERSON WHO IS AUTHORIZED TO
37 MAKE HEALTH CARE TREATMENT DECISIONS FOR THE PATIENT, INCLUDING A PARENT OF
38 A MINOR AND A PERSON WHO IS AUTHORIZED TO MAKE THESE DECISIONS PURSUANT TO
39 TITLE 14, CHAPTER 5, ARTICLE 2 OR 3 OR SECTION 8-514.05, 36-3221, 36-3231 OR
40 36-3281.

41 3. "Health care provider" means physicians licensed pursuant to title
42 32, chapter 13 or 17, physician assistants licensed pursuant to title 32,
43 chapter 25, REGISTERED nurse practitioners licensed pursuant to title 32,
44 chapter 15, health care institutions as defined in section 36-401 and
45 clinical laboratories licensed pursuant to title 36, chapter 4.1.

1 Sec. 10. Section 12-2802, Arizona Revised Statutes, is amended to
2 read:

3 12-2802. Confidentiality of genetic testing results; disclosure

4 A. Except as otherwise provided in this article, genetic testing and
5 information derived from genetic testing are confidential and considered
6 privileged to the person tested and shall be released only to:

7 1. The person tested.

8 2. Any person who is specifically authorized in writing by the person
9 tested or by that person's ~~authorized representative~~ HEALTH CARE DECISION
10 MAKER to receive this information.

11 3. The ~~authorized representative~~ HEALTH CARE DECISION MAKER of the
12 person tested.

13 4. A researcher for medical research or public health purposes only
14 if the research is conducted pursuant to applicable federal or state laws and
15 regulations governing clinical and biological research or if the identity of
16 the individual providing the sample is not disclosed to the person collecting
17 and conducting the research.

18 5. A third person if approved by a human subjects review committee or
19 a human ethics committee, with respect to persons who are subject to an
20 Arizona cancer registry.

21 6. An authorized agent or employee of a health care provider if all
22 of the following are true:

23 (a) The health care provider performs the test or is authorized to
24 obtain the test results by the person tested for the purposes of genetic
25 counseling or treatment.

26 (b) The agent or employee provides patient care, treatment or
27 counseling.

28 (c) The agent or employee needs to know the information in order to
29 conduct the test or provide patient care, treatment or counseling.

30 7. A health care provider that procures, processes, distributes or
31 uses:

32 (a) A human body part from a deceased person with respect to medical
33 information regarding that person.

34 (b) Semen or ova for the purpose of artificial insemination.

35 8. A health care provider to conduct utilization review, peer review
36 and quality assurance pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

37 9. The authorized agent of a federal, state or county health
38 department to conduct activities specifically authorized pursuant to the laws
39 of this state for the birth defects registry, children's rehabilitative
40 services, newborn screening and sickle cell diagnosis and treatment programs
41 and chronic, ~~environmentally-provoked~~ ENVIRONMENTALLY PROVOKED and infectious
42 disease programs.

43 10. To obtain legal advice, the legal representative of a health care
44 provider that is in possession of the medical record.

1 11. A health care provider that assumes the responsibility to provide
2 care for, or consultation to, the patient from another health care provider
3 that had access to the patient's genetic records.

4 B. A person shall not disclose or be compelled to disclose the
5 identity of any person on whom a genetic test is performed or the results of
6 a genetic test in a manner that allows identification of the person tested
7 except to the persons specified in the circumstances set forth in subsection
8 A of this section.

9 C. If genetic testing information is subpoenaed, a health care
10 provider shall respond pursuant to section ~~12-2282~~ 12-2294.01. ~~If genetic~~
11 ~~testing information is subpoenaed or obtained pursuant to court order, the~~
12 SUBSECTION D. IN DETERMINING WHETHER TO ORDER PRODUCTION OF THE GENETIC
13 TESTING INFORMATION, THE court shall take all steps necessary to prevent the
14 disclosure or dissemination of that information. ~~pursuant to section~~
15 ~~12-2282, subsection G.~~

16 D. EXCEPT AS PROVIDED IN THIS SECTION, chapter 13, article 7.1 of this
17 title does not apply to genetic testing information that is contained within
18 a patient's medical record.

19 E. Following the death of a person who had genetic testing performed,
20 the release of the testing information is governed by section 12-2294,
21 subsection ~~B~~, ~~paragraph 8 D~~, except that the person may deny, release or
22 limit release of the genetic testing results by adopting a provision in a
23 testamentary document.

24 F. Except as specifically provided in this article, a person to whom
25 test results have been disclosed pursuant to this article, other than the
26 person tested, shall not disclose the test results to any other person.

27 G. A health care provider and the provider's agents and employees that
28 act in good faith and that comply with this article are not subject to civil
29 liability. The good faith of a health care provider that complies with this
30 article is presumed. The presumption may be rebutted by a preponderance of
31 the evidence.

32 H. This article does not limit the effect of title 20 provisions
33 governing the confidentiality and use of genetic testing information.

34 Sec. 11. Section 36-501, Arizona Revised Statutes, is amended to read:

35 36-501. Definitions

36 In this chapter, unless the context otherwise requires:

37 1. "Admitting officer" means a psychiatrist or other physician with
38 experience in performing psychiatric examinations who has been designated as
39 an admitting officer of the evaluation agency by the person in charge of the
40 evaluation agency.

41 2. "Chief medical officer" means the chief medical officer under the
42 supervision of the superintendent of the state hospital.

43 3. "CONTRAINDICATED" MEANS THAT ACCESS IS REASONABLY LIKELY TO
44 ENDANGER THE LIFE OR PHYSICAL SAFETY OF THE PATIENT OR ANOTHER PERSON.

1 ~~3.~~ 4. "Court" means the superior court in the county in this state
2 in which the patient resides or was found prior to screening or emergency
3 admission under provisions of this title.

4 ~~4.~~ 5. "Danger to others" means that the judgement of a person who has
5 a mental disorder is so impaired that he is unable to understand his need for
6 treatment and as a result of his mental disorder his continued behavior can
7 reasonably be expected, on the basis of competent medical opinion, to result
8 in serious physical harm.

9 ~~5.~~ 6. "Danger to self" means:

10 (a) Behavior ~~which~~ THAT, as a result of a mental disorder, constitutes
11 a danger of inflicting serious physical harm upon oneself, including
12 attempted suicide or the serious threat thereof, if the threat is such that,
13 when considered in the light of its context and in light of the individual's
14 previous acts, it is substantially supportive of an expectation that the
15 threat will be carried out.

16 (b) Behavior ~~which~~ THAT, as a result of a mental disorder, will,
17 without hospitalization, result in serious physical harm or serious illness
18 to the person, except that this definition shall not include behavior ~~which~~
19 THAT establishes only the condition of gravely disabled.

20 ~~6.~~ 7. "Department" means the department of health services.

21 ~~7.~~ 8. "Deputy director" means the deputy director of the division of
22 behavioral health in the department of health services.

23 ~~8.~~ 9. "Detention" means the taking into custody of a patient or
24 proposed patient.

25 ~~9.~~ 10. "Director" means the director of the department.

26 ~~10.~~ 11. "Division" means the division of behavioral health in the
27 department.

28 ~~11.~~ 12. "Evaluation" means a professional multidisciplinary analysis
29 based on data describing the person's identity, biography and medical,
30 psychological and social conditions carried out by a group of persons
31 consisting of not less than the following:

32 (a) Two licensed physicians, who shall be qualified psychiatrists, if
33 possible, or at least experienced in psychiatric matters, and who shall
34 examine and report their findings independently. The person against whom a
35 petition has been filed shall be notified that he may select one of the
36 physicians. A psychiatric resident in a training program approved by the
37 American medical association or by the American osteopathic association may
38 examine the person in place of one of the psychiatrists if he is supervised
39 in the examination and preparation of the affidavit and testimony in court
40 by a qualified psychiatrist appointed to assist in his training, and if the
41 supervising psychiatrist is available for discussion with the attorneys for
42 all parties and for court appearance and testimony if requested by the court
43 or any of the attorneys.

44 (b) Two other individuals, one of whom, if available, shall be a
45 psychologist and in any event a social worker familiar with mental health and

1 human services ~~which~~ THAT may be available placement alternatives appropriate
2 for treatment. An evaluation may be conducted on an inpatient basis, an
3 outpatient basis or a combination of both and every reasonable attempt shall
4 be made to conduct the evaluation in any language preferred by the person.

5 ~~12.~~ 13. "Evaluation agency" means a health care agency ~~which~~ THAT is
6 licensed by the department and ~~which~~ THAT has been approved pursuant to this
7 title, providing those services required of such agency by this chapter.

8 ~~13.~~ 14. "Examination" means an exploration of the person's past
9 psychiatric history and of the circumstances leading up to the person's
10 presentation, a psychiatric exploration of the person's present mental
11 condition and a complete physical examination.

12 ~~14.~~ 15. "Family member" means a spouse, parent, adult child, adult
13 sibling or other blood relative of a person undergoing treatment or
14 evaluation pursuant to this chapter.

15 ~~15.~~ 16. "Gravely disabled" means a condition evidenced by behavior in
16 which a person, as a result of a mental disorder, is likely to come to
17 serious physical harm or serious illness because he is unable to provide for
18 his basic physical needs.

19 17. "HEALTH CARE DECISION MAKER" HAS THE SAME MEANING PRESCRIBED IN
20 SECTION 12-2801.

21 18. "HEALTH CARE ENTITY" MEANS A HEALTH CARE PROVIDER, THE DEPARTMENT,
22 THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM OR A REGIONAL BEHAVIORAL
23 HEALTH AUTHORITY UNDER CONTRACT WITH THE DEPARTMENT.

24 19. "HEALTH CARE PROVIDER" MEANS A HEALTH CARE INSTITUTION AS DEFINED
25 IN SECTION 36-401 THAT IS LICENSED AS A BEHAVIORAL HEALTH PROVIDER PURSUANT
26 TO DEPARTMENT RULES OR A MENTAL HEALTH PROVIDER.

27 ~~16.~~ 20. "Independent evaluator" means a licensed physician or
28 psychologist selected by the person to be evaluated or by such person's
29 attorney.

30 ~~17.~~ 21. "Informed consent" means a voluntary decision following
31 presentation of all facts necessary to form the basis of an intelligent
32 consent by the patient or guardian with no minimizing of known dangers of any
33 procedures.

34 ~~18.~~ 22. "Least restrictive treatment alternative" means the treatment
35 plan and setting ~~which~~ THAT infringe in the least possible degree with the
36 patient's right to liberty and ~~which~~ THAT are consistent with providing
37 needed treatment in a safe and humane manner.

38 ~~19.~~ 23. "Licensed physician" means any medical doctor or doctor of
39 osteopathy who is either:

40 (a) Licensed in this state.

41 (b) A full-time hospital physician licensed in another state and
42 serving on the staff of a hospital operated or licensed by the United States
43 government.

44 ~~20.~~ 24. "Medical director of an evaluation agency" means a
45 psychiatrist, or other licensed physician experienced in psychiatric matters,

1 who is designated in writing by the governing body of the agency as the
2 person in charge of the medical services of the agency for the purposes of
3 this chapter and may include the chief medical officer of the state hospital.

4 ~~21.~~ 25. "Medical director of a mental health treatment agency" means
5 a psychiatrist, or other licensed physician experienced in psychiatric
6 matters, who is designated in writing by the governing body of the agency as
7 the person in charge of the medical services of the agency for the purposes
8 of this chapter and includes the chief medical officer of the state hospital.

9 ~~22.~~ 26. "Mental disorder" means a substantial disorder of the person's
10 emotional processes, thought, cognition or memory. Mental disorder is
11 distinguished from:

12 (a) Conditions which THAT are primarily those of drug abuse,
13 alcoholism or mental retardation, unless, in addition to one or more of these
14 conditions, the person has a mental disorder.

15 (b) The declining mental abilities that directly accompany impending
16 death.

17 (c) Character and personality disorders characterized by lifelong and
18 deeply ingrained antisocial behavior patterns, including sexual behaviors
19 which THAT are abnormal and prohibited by statute unless the behavior results
20 from a mental disorder.

21 ~~23.~~ 27. "Mental health provider" means any physician or provider of
22 health, mental health or social welfare BEHAVIORAL HEALTH services involved
23 in evaluating, caring for, treating or rehabilitating a patient.

24 ~~24.~~ 28. "Mental health treatment agency" means the state hospital or
25 a health care agency which THAT is licensed by the department and which THAT
26 provides those services which THAT are required of the agency by this
27 chapter.

28 ~~25.~~ 29. "Outpatient treatment" or "combined inpatient and outpatient
29 treatment" means any treatment program not requiring continuous inpatient
30 hospitalization.

31 ~~26.~~ 30. "Outpatient treatment plan" means a treatment plan that does
32 not require continuous inpatient hospitalization.

33 ~~27.~~ 31. "Patient" means any person undergoing evaluation or treatment
34 EXAMINATION, EVALUATION OR BEHAVIORAL OR MENTAL HEALTH TREATMENT under the
35 provisions of this chapter.

36 ~~28.~~ 32. "Peace officers" means sheriffs of counties, constables,
37 marshals and policemen of cities and towns.

38 ~~29.~~ 33. "Persistently or acutely disabled" means a severe mental
39 disorder that meets all the following criteria:

40 (a) If not treated has a substantial probability of causing the person
41 to suffer or continue to suffer severe and abnormal mental, emotional or
42 physical harm that significantly impairs judgment, reason, behavior or
43 capacity to recognize reality.

44 (b) Substantially impairs the person's capacity to make an informed
45 decision regarding treatment and this impairment causes the person to be

1 incapable of understanding and expressing an understanding of the advantages
2 and disadvantages of accepting treatment and understanding and expressing an
3 understanding of the alternatives to the particular treatment offered after
4 the advantages, disadvantages and alternatives are explained to that person.

5 (c) Has a reasonable prospect of being treatable by outpatient,
6 inpatient or combined inpatient and outpatient treatment.

7 ~~30.~~ 34. "Prepetition screening" means the review of each application
8 requesting court-ordered evaluation, including an investigation of facts
9 alleged in such application, an interview with each applicant and an
10 interview, if possible, with the proposed patient. The purpose of the
11 interview with the proposed patient is to assess the problem, explain the
12 application and, when indicated, attempt to persuade the proposed patient to
13 receive, on a voluntary basis, evaluation or other services.

14 ~~31.~~ 35. "Prescribed form" means a form established by a court or the
15 rules of the division which THAT have been approved by the director or in
16 accordance with the laws of this state.

17 ~~32.~~ 36. "Professional" means a physician licensed pursuant to title
18 32, chapter 13 or 17 or a psychologist certified LICENSED pursuant to title
19 32, chapter 19.1.

20 ~~33.~~ 37. "Proposed patient" means a person for whom an application for
21 evaluation has been made or a petition for court-ordered evaluation has been
22 filed.

23 ~~34.~~ 38. "Psychiatrist" means a licensed physician who has completed
24 three years of graduate training in psychiatry in a program approved by the
25 American medical association or the American osteopathic association.

26 ~~35.~~ 39. "Psychologist" means a person licensed under the provisions
27 of title 32, chapter 19.1 and experienced in the practice of clinical
28 psychology.

29 40. "RECORDS" MEANS ALL COMMUNICATIONS THAT ARE RECORDED IN ANY FORM
30 OR MEDIUM AND THAT RELATE TO PATIENT EXAMINATION, EVALUATION OR BEHAVIORAL
31 OR MENTAL HEALTH TREATMENT. RECORDS INCLUDE MEDICAL RECORDS THAT ARE
32 PREPARED BY A HEALTH CARE PROVIDER OR OTHER PROVIDERS. RECORDS DO NOT
33 INCLUDE:

34 (a) MATERIALS THAT ARE PREPARED IN CONNECTION WITH UTILIZATION REVIEW,
35 PEER REVIEW OR QUALITY ASSURANCE ACTIVITIES, INCLUDING RECORDS THAT A HEALTH
36 CARE PROVIDER PREPARES PURSUANT TO SECTION 36-441, 36-445, 36-2402 OR
37 36-2917.

38 (b) RECORDED TELEPHONE AND RADIO CALLS TO AND FROM A PUBLICLY OPERATED
39 EMERGENCY DISPATCH OFFICE RELATING TO REQUESTS FOR EMERGENCY SERVICES OR
40 REPORTS OF SUSPECTED CRIMINAL ACTIVITY.

41 ~~36.~~ 41. "Screening agency" means a health care agency which THAT is
42 licensed by the department and which THAT provides those services required
43 of such agency by this chapter.

1 ~~37.~~ 42. "Social worker" means a person who has completed two years of
2 graduate training in social work in a program approved by the council of
3 social work education and who has experience in mental health.

4 ~~38.~~ 43. "State hospital" means the Arizona state hospital.

5 ~~39.~~ 44. "Superintendent" means the superintendent of the state
6 hospital.

7 Sec. 12. Section 36-509, Arizona Revised Statutes, is amended to read:
8 36-509. Confidential records

9 ~~A. All information and records obtained in the course of evaluation,~~
10 ~~examination or treatment shall be kept~~ A HEALTH CARE ENTITY MUST KEEP RECORDS
11 AND INFORMATION CONTAINED IN RECORDS confidential and not as public records,
12 except as the requirements of a hearing pursuant to this chapter may
13 necessitate a different procedure. Information and records may only be
14 disclosed, ~~pursuant to rules established by the department,~~ to:

15 1. Physicians and providers of health, mental health or social and
16 welfare services involved in caring for, treating or rehabilitating the
17 patient.

18 2. Individuals to whom the patient OR THE PATIENT'S HEALTH CARE
19 DECISION MAKER has given consent AUTHORIZATION to have information disclosed.

20 ~~3. Persons legally representing the patient, and in such case, the~~
21 ~~department's rules shall not delay complete disclosure.~~

22 ~~4.~~ 3. Persons authorized by a court order.

23 ~~5.~~ 4. Persons doing research or maintaining health statistics,
24 provided that the department establishes rules for the conduct of such
25 research as will ensure the anonymity of the patient.

26 ~~6.~~ 5. The state department of corrections in cases where IN WHICH
27 prisoners confined to the state prison are patients in the state hospital on
28 authorized transfers either by voluntary admission or by order of the court.

29 ~~7.~~ 6. Governmental or law enforcement agencies if necessary to secure
30 the return of a patient who is on unauthorized absence from any agency where
31 the patient was undergoing evaluation and treatment.

32 ~~8.~~ 7. Family members PERSONS, INCLUDING FAMILY MEMBERS, actively
33 participating in the patient's care, treatment or supervision. ~~An agency or~~
34 ~~nonagency treating professional~~ A HEALTH CARE PROVIDER may only release
35 information relating to the person's PATIENT'S diagnosis, prognosis, need for
36 hospitalization, anticipated length of stay, discharge plan, medication,
37 medication side effects and short-term and long-term treatment goals. A
38 HEALTH CARE PROVIDER MAY MAKE THIS RELEASE ONLY AFTER THE TREATING
39 PROFESSIONAL OR THAT PERSON'S DESIGNEE INTERVIEWS THE PATIENT AND THE PATIENT
40 OR THE PATIENT'S HEALTH CARE DECISION MAKER DOES NOT OBJECT, UNLESS FEDERAL
41 OR STATE LAW OTHERWISE PERMITS THE DISCLOSURE. A DECISION TO RELEASE OR
42 WITHHOLD INFORMATION IS SUBJECT TO REVIEW PURSUANT TO SECTION 36-517.01. THE
43 HEALTH CARE PROVIDER MUST RECORD THE NAME OF ANY PERSON TO WHOM ANY
44 INFORMATION IS GIVEN UNDER THIS PARAGRAPH.

1 ~~9.~~ 8. A state agency that licenses health professionals pursuant to
2 title 32, chapter 13, 15, 17, or 19.1 OR 33 and that requires these records
3 in the course of investigating complaints of professional negligence,
4 incompetence or lack of clinical judgment.

5 ~~10.~~ The department of education or school district of residence of a
6 person between three and twenty-two years of age for whom the information is
7 necessary in order to provide educational services required by the
8 individuals with disabilities education act (20 United States Code sections
9 1400 through 1415). The information provided is limited to evaluation and
10 treatment information that affects the educational programming and placement
11 decisions for the patient.

12 ~~11.~~ 9. A governmental agency or a competent professional, as defined
13 in section 36-3701, in order to comply with chapter 37 of this title.

14 ~~12.~~ An agent appointed pursuant to chapter 32 of this title.

15 ~~13.~~ 10. Human rights committees established pursuant to title 41,
16 chapter 35. Any information released pursuant to this paragraph shall comply
17 with the requirements of section 41-3804 and applicable federal law and shall
18 be released without personally identifiable information unless the personally
19 identifiable information is required for the official purposes of the human
20 rights committee. Case information received by a human rights committee
21 shall be maintained as confidential. For the purposes of this paragraph,
22 "personally identifiable information" includes name, address, date of birth,
23 social security number, tribal enrollment number, telephone or telefacsimile
24 number, driver license number, places of employment, school identification
25 and military identification number or any other distinguishing characteristic
26 that tends to identify a particular person.

27 11. A PATIENT OR THE PATIENT'S HEALTH CARE DECISION MAKER PURSUANT TO
28 SECTION 36-507.

29 ~~14.~~ 12. The department of public safety by the court to comply with
30 the requirements of section 36-540, subsection N only.

31 13. A THIRD PARTY PAYOR TO OBTAIN REIMBURSEMENT FOR HEALTH CARE, MENTAL
32 HEALTH CARE OR BEHAVIORAL HEALTH CARE PROVIDED TO THE PATIENT.

33 14. A PRIVATE ENTITY THAT ACCREDITS THE HEALTH CARE PROVIDER AND WITH
34 WHOM THE HEALTH CARE PROVIDER HAS AN AGREEMENT REQUIRING THE AGENCY TO
35 PROTECT THE CONFIDENTIALITY OF PATIENT INFORMATION.

36 ~~B.~~ An agency or nonagency treating professional shall release
37 information pursuant to subsection A, paragraph 8 of this section only after
38 the treating professional or that person's designee interviews the person
39 undergoing treatment or evaluation to determine whether or not release is in
40 that person's best interests. A decision to release or withhold information
41 is subject to review pursuant to section 36-517.01. The treating agency
42 shall record the name of any person to whom any information is given.

1 Sec. 13. Section 36-517.01, Arizona Revised Statutes, is amended to
2 read:

3 36-517.01. Review of decisions regarding release of treatment
4 information; notice; appeal; immunity

5 A. An agency providing evaluation or treatment ~~shall~~, on request of
6 a person undergoing evaluation or treatment, a member of his family or his
7 guardian, SHALL review the treating professional's decision to release or
8 withhold information requested pursuant to section 36-504, subsection B or
9 section 36-509, ~~subsection A~~, paragraph ~~8~~ 7. The agency shall inform a
10 person whose request is denied of his right to a review when it notifies that
11 person of its decision. The agency director or his designee shall conduct
12 the review within five business days after the request for review is made.
13 The review shall include an interview of the person undergoing evaluation or
14 treatment. The agency shall make a decision to uphold or reverse the treating
15 professional's decision within five business days after initiating the
16 review. The agency shall bear the costs of conducting the review. Agency
17 review pursuant to this section does not apply to a decision to release or
18 withhold information made by a nonagency treating professional.

19 B. A final agency decision made pursuant to subsection A of this
20 section or a decision to release or withhold information made by a nonagency
21 treating professional is subject to judicial review by filing a petition in
22 the superior court within five business days after the agency or nonagency
23 treating professional issues its decision. The court shall hold a hearing
24 on the petition within five business days after the petition is filed. The
25 agency or nonagency treating professional shall not release any treatment
26 information during the period an appeal may be filed or is pending.

27 C. An agency or nonagency treating professional that makes a decision
28 to release or withhold treatment information in good faith pursuant to
29 section 36-504, subsection B or section 36-509, ~~subsection A~~, paragraph ~~8~~
30 7 is not subject to civil liability for this decision.

31 Sec. 14. Section 36-661, Arizona Revised Statutes, is amended to read:

32 36-661. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Acquired immune deficiency syndrome" has the same meaning as
35 defined by the centers for disease control of the United States public health
36 service.

37 2. "Capacity to consent" means a person's ability, determined without
38 regard to the person's age, to understand and appreciate the nature and
39 consequences of a proposed health care service, treatment or procedure and
40 to make an informed decision concerning that service, treatment or procedure.

41 3. "Child" means an unemancipated person under eighteen years of age.

42 4. "Communicable disease" means a contagious, epidemic or infectious
43 disease required to be reported to the local board of health or the
44 department pursuant to chapter 1 of this title and this chapter.

1 5. "Confidential Communicable disease related information" means
2 information regarding a communicable disease in the possession of a person
3 who provides health services or who obtains the information pursuant to the
4 release of confidential communicable disease related information.

5 ~~6. "Confidential HIV-related information" means information concerning
6 whether a person has had an HIV-related test or has HIV infection,
7 HIV-related illness or acquired immune deficiency syndrome and includes
8 information which identifies or reasonably permits identification of that
9 person or the person's contacts.~~

10 ~~7.~~ 6. "Contact" means a spouse or sex partner of a protected person,
11 a person who has shared hypodermic needles or syringes with a protected
12 person or a person otherwise exposed to a protected person with a
13 communicable disease in a manner that poses an epidemiologically significant
14 risk of transmission of that disease.

15 ~~8.~~ 7. "Department" means the department of health services.

16 ~~9.~~ 8. "Director" means the director of the department of health
17 services.

18 ~~10.~~ 9. "Good samaritan" means a person who renders emergency care or
19 assistance in good faith and without compensation at the scene of any
20 accident, fire or other life-threatening emergency and who believes that a
21 significant exposure risk occurred while the person rendered care or
22 assistance.

23 10. "HEALTH CARE DECISION MAKER" HAS THE SAME MEANING PRESCRIBED IN
24 SECTION 12-2801.

25 11. "Health care provider" means a physician, nurse or other person
26 involved in providing medical, nursing, counseling or other health care or
27 mental health services.

28 12. "Health facility" means a health care institution as defined in
29 section 36-401, a blood bank, blood center, milk bank, sperm bank, organ or
30 tissue bank or clinical laboratory or a health care services organization
31 holding a certificate of authority pursuant to section 20-1054.

32 13. "Health service" means public or private care, treatment, clinical
33 laboratory tests, counseling or educational service for adults or children
34 and acute, chronic, custodial, residential, outpatient, home or other health
35 care or activities related to the detection, reporting, prevention and
36 control of communicable or preventable diseases.

37 14. "HIV" means the human immunodeficiency virus.

38 15. "HIV infection" means infection with the human immunodeficiency
39 virus or a related virus identified as a probable causative agent of acquired
40 immune deficiency syndrome.

41 16. "HIV-related illness" means an illness that may result from or be
42 associated with HIV infection.

43 17. "HIV-RELATED INFORMATION" MEANS INFORMATION CONCERNING WHETHER A
44 PERSON HAS HAD AN HIV-RELATED TEST OR HAS HIV INFECTION, HIV-RELATED ILLNESS
45 OR ACQUIRED IMMUNE DEFICIENCY SYNDROME AND INCLUDES INFORMATION THAT

1 IDENTIFIES OR REASONABLY PERMITS IDENTIFICATION OF THAT PERSON OR THE
2 PERSON'S CONTACTS.

3 ~~17.~~ 18. "HIV-related test" means a laboratory test or series of tests
4 for the virus, components of the virus or antibodies to the virus thought to
5 indicate the presence of HIV infection.

6 ~~18.~~ 19. "Protected person" means a person who takes an HIV-related
7 test or who has been diagnosed as having HIV infection, acquired immune
8 deficiency syndrome, HIV-related illness or another communicable disease.

9 ~~19. "Release of confidential communicable disease related information"~~
10 ~~means a written authorization for disclosure of confidential communicable~~
11 ~~disease related information.~~

12 20. "Significant exposure risk" means contact with another person in
13 a manner that, if the other person has a communicable disease, poses an
14 epidemiologically significant risk of transmission of that disease as
15 determined by the department.

16 Sec. 15. Section 36-663, Arizona Revised Statutes, is amended to read:
17 36-663. HIV-related testing; restrictions; exceptions

18 A. Except as otherwise specifically authorized or required by this
19 state or by federal law, no person may order the performance of an
20 HIV-related test within a hospital licensed pursuant to chapter 4, article
21 2 of this title without first receiving the specific written informed consent
22 of the subject of the test who has capacity to consent or, if the subject
23 lacks capacity to consent, of a person authorized pursuant to law to consent
24 to health care for that person THE SUBJECT'S HEALTH CARE DECISION MAKER.
25 Before ordering the performance of an HIV-related test as a part of a patient
26 examination or consultation conducted outside a hospital licensed pursuant
27 to chapter 4, article 2 of this title, a health care provider licensed
28 pursuant to title 32, chapter 13, 17 or 29, a nurse practitioner certified
29 pursuant to title 32, chapter 15 or a physician assistant certified pursuant
30 to title 32, chapter 25 shall obtain specific oral or written informed
31 consent of the subject of the test who has capacity to consent or, if the
32 subject lacks capacity to consent, of a person authorized pursuant to law to
33 consent to health care for that person. Other health care providers WHO ARE
34 licensed pursuant to title 32 AND who are allowed to provide HIV-related
35 tests within their scope of practice shall obtain specific written informed
36 consent. Written consent shall be in a form as prescribed by the department
37 except for entities complying with the form prescribed by section 20-448.01.
38 Oral consent shall be documented in the medical record of the subject of the
39 test. If the test is performed on an anonymous basis the consent shall be
40 oral and no record shall be made containing the subject's name.

41 B. In order to obtain specific oral or written informed consent the
42 health care provider licensed pursuant to title 32 shall provide the patient
43 with an explanation of the following:

44 1. The test including its purpose, the meaning of its results and the
45 benefits of early diagnosis and medical intervention.

1 2. The nature of acquired immune deficiency syndrome and HIV-related
2 illness and information about behaviors known to pose risks for transmitting
3 the human immunodeficiency virus.

4 3. The confidentiality protections afforded HIV-related information.

5 4. That an HIV-related test is voluntary and can be performed
6 anonymously at a public health agency.

7 5. That a positive test result must be reported to a public health
8 agency as required by law.

9 6. That the consent for the test may be withdrawn at any time before
10 drawing the sample for the test and that the withdrawal of consent may be
11 given orally if the consent was given orally or shall be in writing if the
12 consent was given in writing.

13 C. The director shall provide in writing to all health care providers
14 a form which THAT contains the list of informed consent explanations in
15 subsection B of this section. If the health care provider chooses to use
16 oral consent, the provider shall sign and return the form to the director.

17 D. This section does not apply to the performance of an HIV-related
18 test:

19 1. By a health care provider or health facility in relation to the
20 procuring, processing, distributing or use of a human body or a human body
21 part, including organs, tissues, eyes, bones, arteries, blood, semen, milk
22 or other body fluids, for use in medical research or therapy or for
23 transplantation to other persons.

24 2. For the purpose of research if the testing is performed in a manner
25 by which the identity of the test subject is not known and may not be
26 retrieved by the researcher.

27 3. On a deceased person, if the test is conducted in order to
28 determine the cause of death or for epidemiologic or public health purposes.

29 4. In the course of providing necessary emergency medical treatment
30 to a patient who lacks capacity to consent to HIV-related testing and for
31 whom no person authorized pursuant to law to consent to health care for that
32 person can be identified on a timely basis if the testing is necessary for
33 the diagnosis and treatment of the emergency condition. The attending
34 physician shall document the existence of an emergency medical condition, the
35 necessity of the HIV-related testing to diagnose and treat the emergency
36 condition and the patient's lack of capacity.

37 5. On a patient who lacks capacity to consent and for whom no person
38 authorized pursuant to law to consent to health care for that person can be
39 identified on a timely basis if the HIV-related testing is directly related
40 to and necessary for the diagnosis and treatment of the person's medical
41 condition. HIV-related testing shall be performed under these circumstances
42 only on written certification by the attending physician and a consulting
43 physician that the HIV-related testing is directly related to and necessary
44 for the diagnosis and treatment of the patient's medical condition.

1 Sec. 16. Section 36-664, Arizona Revised Statutes, is amended to read:
2 36-664. Confidentiality; exceptions

3 A. A person who obtains ~~confidential~~ communicable disease related
4 information in the course of providing a health service or pursuant to a
5 ~~release of confidential communicable disease related information~~ OBTAINS THAT
6 INFORMATION FROM A HEALTH CARE PROVIDER PURSUANT TO AN AUTHORIZATION shall
7 not disclose or be compelled to disclose that information except to the
8 following:

9 1. The protected person or, if the protected person lacks capacity to
10 consent, ~~a person authorized pursuant to law to consent to health care for~~
11 ~~the person~~ THE PROTECTED PERSON'S HEALTH CARE DECISION MAKER.

12 2. THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT FOR PURPOSES OF
13 NOTIFYING a person to whom disclosure is authorized GOOD SAMARITAN pursuant
14 to subsection ~~D~~ E of this section or as otherwise allowed by law.

15 3. An agent or employee of a health facility or health care provider
16 ~~if the agent or employee is authorized to access medical records, the health~~
17 ~~facility or health care provider itself is authorized to obtain the~~
18 ~~communicable disease related information and the agent or employee provides~~
19 ~~health care to the protected individual or maintains or processes medical~~
20 ~~records for billing or reimbursement~~ TO PROVIDE HEALTH SERVICES TO THE
21 PROTECTED PERSON OR THE PROTECTED PERSON'S CHILD OR FOR BILLING OR
22 REIMBURSEMENT FOR HEALTH SERVICES.

23 4. ~~A health care provider or health facility if knowledge of the~~
24 ~~communicable disease related information is necessary to provide appropriate~~
25 ~~care or treatment to the protected person or the person's child.~~

26 5. 4. A health facility or health care provider, in relation to the
27 procurement, processing, distributing or use of a human body or a human body
28 part, including organs, tissues, eyes, bones, arteries, blood, semen, milk
29 or other body fluids, for use in medical education, research or therapy or
30 for transplantation to another person.

31 6. 5. A health facility OR HEALTH CARE PROVIDER, or an organization,
32 committee or individual designated by the health facility, ~~OR HEALTH CARE~~
33 ~~PROVIDER, THAT IS engaged in the review of professional practices, including~~
34 ~~the review of the quality, utilization or necessity of medical care, or an~~
35 ~~accreditation or oversight review organization responsible for the review of~~
36 ~~professional practices at a health facility OR BY A HEALTH CARE PROVIDER.~~
37 ~~Confidential communicable disease related information disclosed to these~~
38 ~~organizations, committees or individuals shall include only that information~~
39 ~~necessary for the authorized review and shall not include information~~
40 ~~directly identifying the protected person.~~

41 6. A PRIVATE ENTITY THAT ACCREDITS THE HEALTH FACILITY OR HEALTH CARE
42 PROVIDER AND WITH WHOM THE HEALTH FACILITY OR HEALTH CARE PROVIDER HAS AN
43 AGREEMENT REQUIRING THE AGENCY TO PROTECT THE CONFIDENTIALITY OF PATIENT
44 INFORMATION.

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

3 8. A FEDERAL, STATE OR LOCAL government agency specifically authorized
4 by law to receive the information. The agency is authorized to redisclose
5 the information only pursuant to this article or as otherwise permitted by
6 law.

7 9. AN AUTHORIZED EMPLOYEE OR AGENT OF A FEDERAL, STATE OR LOCAL
8 GOVERNMENT AGENCY THAT SUPERVISES OR MONITORS THE HEALTH CARE PROVIDER OR
9 HEALTH FACILITY OR ADMINISTERS THE PROGRAM UNDER WHICH THE HEALTH SERVICE IS
10 PROVIDED. AN AUTHORIZED EMPLOYEE OR AGENT INCLUDES ONLY AN EMPLOYEE OR AGENT
11 WHO, IN THE ORDINARY COURSE OF BUSINESS OF THE GOVERNMENT AGENCY, HAS ACCESS
12 TO RECORDS RELATING TO THE CARE OR TREATMENT OF THE PROTECTED PERSON.

13 ~~9.~~ 10. A person, health care provider or health care facility to
14 which disclosure is ordered by a court or administrative body pursuant to
15 section 36-665.

16 ~~10. The department of economic security in conjunction with the~~
17 ~~placement of children for adoption.~~

18 11. The industrial commission or parties to an industrial commission
19 claim pursuant to the provisions of section 23-908, subsection C and
20 23-1043.02.

21 12. Insurance entities pursuant to section 20-448.01 AND THIRD PARTY
22 PAYORS OR THE PAYOR'S CONTRACTORS.

23 13. ANY PERSON OR ENTITY AS AUTHORIZED BY THE PATIENT OR THE PATIENT'S
24 HEALTH CARE DECISION MAKER.

25 B. AT THE REQUEST OF THE DEPARTMENT OF ECONOMIC SECURITY IN
26 CONJUNCTION WITH THE PLACEMENT OF CHILDREN IN FOSTER CARE OR FOR ADOPTION OR
27 COURT-ORDERED PLACEMENT, A HEALTH CARE PROVIDER SHALL DISCLOSE COMMUNICABLE
28 DISEASE INFORMATION, INCLUDING HIV-RELATED INFORMATION, TO THE DEPARTMENT OF
29 ECONOMIC SECURITY.

30 ~~B.~~ C. A state, county or local health department or officer may
31 disclose confidential communicable disease related information if the
32 disclosure is any of the following:

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

34 ~~2. Made pursuant to a release of confidential communicable disease~~
35 ~~related information.~~

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. For the purposes of research AS AUTHORIZED BY STATE AND FEDERAL
41 LAW.

42 ~~C.~~ D. The director may authorize the release of information that
43 identifies the protected person to the national center for health statistics
44 of the United States public health service for the purposes of conducting a
45 search of the national death index.

1 D. E. The department or a local health department shall disclose
2 confidential communicable disease related information to a good Samaritan who
3 submits a request to the department or the local health department. The
4 request shall document the occurrence of the accident, fire or other
5 life-threatening emergency and shall include information regarding the nature
6 of the significant exposure risk. The department shall adopt rules that
7 prescribe standards of significant exposure risk based on the best available
8 medical evidence. The department shall adopt rules that establish procedures
9 for processing requests from good Samaritans pursuant to this subsection. The
10 rules shall provide that the disclosure to the good Samaritan shall not
11 reveal the protected person's name and shall be accompanied by a written
12 statement that warns the good Samaritan that the confidentiality of the
13 information is protected by state law.

14 E. F. ~~A release of confidential~~ AN AUTHORIZATION TO RELEASE
15 communicable disease related information shall be signed by the protected
16 person or, if the protected person lacks capacity to consent, a person
17 authorized pursuant to law to consent to health care for the person THE
18 PROTECTED PERSON'S HEALTH CARE DECISION MAKER. ~~A release~~ AN AUTHORIZATION
19 shall be dated and shall specify to whom disclosure is authorized, the
20 purpose for disclosure and the time period during which the release is
21 effective. A general authorization for the release of medical or other
22 information, including confidential communicable disease related information,
23 is not an authorization for the release of confidential HIV-related
24 information unless the authorization specifically indicates its purpose as
25 ~~a general authorization and~~ an authorization for the release of confidential
26 HIV-related information and complies with the requirements of this section.

27 F. G. A person to whom confidential communicable disease related
28 information is disclosed pursuant to this section shall not disclose the
29 information to another person except as authorized by this section. This
30 subsection does not apply to the protected person or a person who is
31 authorized pursuant to law to consent to health care for the protected person
32 PROTECTED PERSON'S HEALTH CARE DECISION MAKER.

33 G. H. If a disclosure of confidential communicable disease related
34 information is made pursuant to ~~a release~~ AN AUTHORIZATION UNDER SUBSECTION
35 F OF THIS SECTION, the disclosure shall be accompanied by a statement in
36 writing which THAT warns that the information is from confidential records
37 which are protected by state law AND that prohibits further disclosure of the
38 information without the specific written consent AUTHORIZATION of the person
39 to whom it pertains or as otherwise permitted by law.

40 H. ~~The person making a disclosure pursuant to a release of~~
41 ~~confidential communicable disease related information shall keep a record of~~
42 ~~all disclosures. On request, a protected person or a protected person's~~
43 ~~legal representative shall have access to the record.~~

44 I. ~~A provider of a health service in possession of confidential~~
45 ~~communicable disease related information relating to a recipient of its~~

1 B. An order for disclosure of or a search warrant for confidential
2 communicable disease related information may be issued on an application
3 showing any one of the following:

4 1. A compelling need for disclosure of the information for the
5 adjudication of a criminal, civil or administrative proceeding.

6 2. A clear and imminent danger to a person whose life or health may
7 unknowingly be at significant risk as a result of contact with the person to
8 whom the information pertains.

9 3. If the application is filed by a state, county or local health
10 officer, a clear and imminent danger to the public health.

11 4. That the applicant is lawfully entitled to the disclosure and the
12 disclosure is consistent with the provisions of this article.

13 5. A clear and imminent danger to a person or to public health or a
14 compelling need requiring disclosure of the confidential communicable disease
15 RELATED information.

16 C. On receiving an application pursuant to this section, the court or
17 administrative body shall enter an order directing that the file be sealed
18 and not made available to any person, except to the extent necessary to
19 conduct a proceeding in connection with the determination of whether to grant
20 or deny the application, including an appeal. The court or administrative
21 body shall also order that all subsequent proceedings in connection with the
22 application be conducted in camera and, if appropriate to prevent the
23 unauthorized disclosure of confidential communicable disease related
24 information, that pleadings, papers, affidavits, judgments, orders, briefs
25 and memoranda of law which THAT are part of the application or the decision
26 not state the name of the person concerning whom confidential communicable
27 disease related information is sought.

28 D. The person concerning whom the information is sought and a person
29 holding records from whom disclosure is sought shall be given adequate notice
30 of the application in a manner which does not disclose to any other person
31 the identity of the person and may file a written response to the application
32 or appear in person for the limited purpose of providing evidence on the
33 criteria for the issuance of an order pursuant to this section.

34 E. The court or administrative body may grant an order without notice
35 and an opportunity to be heard if an ex parte application by a public health
36 officer shows that a clear and imminent danger to a person whose life or
37 health may unknowingly be at risk requires an immediate order and that notice
38 to the individual about whom the information is sought is not reasonable
39 under the circumstances.

40 F. Service of a subpoena is not required for actions brought pursuant
41 to subsections D and E.

42 G. In assessing compelling need and clear and imminent danger, the
43 court or administrative body shall provide written findings of fact,
44 including scientific or medical findings, citing specific evidence in the
45 record which supports each finding, and shall weigh the need for disclosure

1 against the privacy interest of the protected person and the public interest
2 which may be disserved by disclosure which deters future testing or treatment
3 or which may lead to discrimination.

4 H. An order authorizing disclosure of or a search warrant for
5 ~~confidential~~ communicable disease related information shall:

6 1. Limit disclosure to that information which is necessary to fulfill
7 the purpose for which the order is granted.

8 2. Limit disclosure to those persons whose need for the information
9 is the basis for the order, and specifically prohibit redisclosure by persons
10 to any other persons, whether or not they are parties to the action.

11 3. To the extent possible consistent with this section, conform to the
12 provisions of this article.

13 4. Include other measures as deemed necessary to limit disclosures not
14 authorized by the order.

15 I. Notwithstanding any other law, a court or administrative body shall
16 not order the department, a county health department or a local health
17 department to release ~~confidential~~ HIV-related information in its possession.

18 Sec. 18. Section 36-666, Arizona Revised Statutes, is amended to read:

19 36-666. Violation; classification; immunity

20 A. A person who knowingly does the following is guilty of a class 3
21 misdemeanor:

22 1. Performs, or permits or procures the performance of, an HIV-related
23 test in violation of this article.

24 2. Discloses, compels another person to disclose or procures the
25 disclosure of ~~confidential~~ communicable disease related information in
26 violation of this article.

27 B. A person, health care facility or health care provider disclosing
28 ~~confidential~~ communicable disease related information pursuant to or required
29 by this article is immune from civil or criminal liability if the person,
30 health care facility or health care provider acted in good faith and without
31 malice.

32 C. A health care facility or health care provider, including a
33 physician, the physician's employer or the health care facility or health
34 care provider with which the physician is associated, is immune from civil
35 or criminal liability for failing to disclose ~~confidential~~ communicable
36 disease related information to a contact or a person authorized pursuant to
37 law to consent to health care for a protected person if the health care
38 facility or health care provider acted in good faith and without malice.

39 D. For the purposes of this section, good faith and the absence of
40 malice are presumed unless the presumption is overcome by a demonstration of
41 clear and convincing evidence to the contrary.

42 Sec. 19. Section 36-667, Arizona Revised Statutes, is amended to read:

43 36-667. Civil penalty

44 A. The department may impose a civil penalty of not more than five
45 thousand dollars if a person does the following in violation of this article:

1 1. Performs, or permits or procures the performance of, an HIV-related
2 test in violation of this article.

3 2. Discloses, compels another person to disclose or procures the
4 disclosure of confidential communicable disease related information in
5 violation of this article.

6 B. The director shall deposit, pursuant to sections 35-146 and 35-147,
7 all monies collected pursuant to this section in the state general fund.

8 Sec. 20. Section 36-2220, Arizona Revised Statutes, is amended to
9 read:

10 36-2220. Records; confidentiality; definition

11 A. Information developed and records kept by the department or a
12 political subdivision of this state for the purpose of administering or
13 evaluating the Arizona emergency medical services system or for the trauma
14 system are available to the public except:

15 1. Any patient record including clinical records, prehospital care
16 records, medical reports, laboratory statements and reports, any file, film,
17 record or report or oral statement relating to diagnostic findings,
18 treatment or outcome of patients, whether written or recorded, and any
19 information from which a patient, the patient's family or the patient's
20 health care provider or facility might be identified except records, files
21 and information shall be available to the patient, the patient's guardian or
22 the patient's agent.

23 2. Information obtained for purposes of chapter 25 or chapter 4,
24 article 5 of this title.

25 B. Unless otherwise provided by law, all medical records developed and
26 kept by a prehospital component of the statewide trauma system and
27 information contained in these records are confidential and may not be
28 released to the public without written authorization by the patient, the
29 patient's guardian or the patient's agent.

30 C. Notwithstanding subsection B, a prehospital incident history report
31 completed and kept by a nonhospital political subdivision of this state is
32 available to the public except for information in that report that is
33 protected from disclosure by the laws of this state or federal law including
34 but not limited to confidential patient treatment information.

35 D. Patient records and medical records covered by this section may be
36 obtained pursuant to the provisions of title 12, chapter 13, article 7
37 SECTION 12-2294.01.

38 E. For the purposes of this section, "prehospital incident history
39 report" means a record of the prehospital response, nature of the incident
40 and transportation of an emergency medical services patient that is
41 documented on a prehospital incident history report.

42 Sec. 21. Section 36-3601, Arizona Revised Statutes, is amended to
43 read:

44 36-3601. Definitions

45 For the purposes of this chapter:

Passed the House March 15, 2004;

Passed the Senate April 14, 2004;

by the following vote: 58 Ayes,

by the following vote: 30 Ayes,

1 Nays, 1 Not Voting

0 Nays, 0 Not Voting

Jake Flake
Speaker of the House
Norman L. Fyooce
Chief Clerk of the House

John Blument
President of the Senate
Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

H.B. 2397

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 28, 2004,

by the following vote: 52 Ayes,

0 Nays, 8 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
28th day of April, 2004,

at 12:58 o'clock P. M.

Jennifer Lybana
Secretary to the Governor

Approved this 4 day of

May, 2004,

at 12:05 o'clock P. M.

J. R. McEwen
Governor of Arizona

H.B. 2397

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 4 day of May, 2004,

at 1:38 o'clock P. M.

James K. Brewer
Secretary of State