

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 156

HOUSE BILL 2155

AN ACT

AMENDING SECTION 23-1026, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1987, THIRD SPECIAL SESSION, CHAPTER 2, SECTION 5; AMENDING SECTION 23-1026, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 157, SECTION 12; AMENDING SECTIONS 23-1062.02 AND 36-2604, ARIZONA REVISED STATUTES; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 23-1026, Arizona Revised Statutes, as amended by
3 Laws 1987, third special session, chapter 2, section 5, is amended to read:

4 23-1026. Periodical medical examination of employee; effect of
5 refusal or obstruction of examination or treatment

6 A. An employee who may be entitled to compensation under this chapter
7 shall submit himself for medical examination from time to time at a place
8 reasonably convenient for the employee, if and when requested by the
9 commission, the state compensation fund, his employer or the insurance
10 carrier. A place is reasonably convenient even if it is not where the
11 employee resides if it is the place where the employee was injured and the
12 employer or the insurance carrier pays in advance the employee's reasonable
13 travel expenses, including the cost of transportation, food, lodging and loss
14 of pay, if applicable.

15 B. The request for the medical examination shall fix a time and place
16 having regard to the convenience of the employee, his physical condition and
17 his ability to attend. The employee may have a physician present at the
18 examination if procured and paid for by himself.

19 C. If the employee refuses to submit to the medical examination or
20 obstructs the examination, his right to compensation shall be suspended until
21 the examination has been made, and no compensation shall be payable during or
22 for such period.

23 D. A physician who makes or is present at the medical examination
24 provided by this section may be required to testify as to the result thereof.

25 E. Upon appropriate application and hearing, the commission may reduce
26 or suspend the compensation of an employee who persists in unsanitary or
27 injurious practices tending to imperil or retard his recovery, or who refuses
28 to submit to medical or surgical treatment reasonably necessary to promote
29 his recovery.

30 F. An employee shall be excused from attending a scheduled medical
31 examination if the employee requests a protective order and the
32 administrative law judge finds that the scheduled examination is unnecessary,
33 would be cumulative or could reasonably be timely scheduled with an
34 appropriate physician where the employee resides. If a protective order is
35 requested the burden is on the employer or insurance carrier to establish
36 that a medical examination should be scheduled at a place other than where
37 the employee resides. If an employee has left this state and the employer or
38 insurance carrier pays in advance the employee's reasonable travel expenses,
39 including the cost of transportation, food, lodging and loss of pay, if
40 applicable, the employer or insurance carrier is entitled to have the
41 employee return to this state one time a year for examination or one time
42 following the filing of a petition to reopen.

1 G. IF A PHYSICIAN PERFORMS AN EXAMINATION UNDER THIS SECTION AND IS
2 PROVIDED DATA FROM THE ARIZONA STATE BOARD OF PHARMACY PURSUANT TO TITLE 36,
3 CHAPTER 28, THE PHYSICIAN MAY DISCLOSE THAT DATA TO THE EMPLOYEE, EMPLOYER,
4 INSURANCE CARRIER AND THE COMMISSION.

5 Sec. 2. Section 23-1026, Arizona Revised Statutes, as amended by Laws
6 2011, chapter 157, section 12, is amended to read:

7 23-1026. Periodical medical examination of employee; effect of
8 refusal or obstruction of examination or treatment

9 A. An employee who may be entitled to compensation under this chapter
10 shall submit himself for medical examination from time to time at a place
11 reasonably convenient for the employee, if and when requested by the
12 commission, his employer or the insurance carrier. A place is reasonably
13 convenient even if it is not where the employee resides if it is the place
14 where the employee was injured and the employer or the insurance carrier pays
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19 his ability to attend. The employee may have a physician present at the
20 examination if procured and paid for by himself.

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4 INSURANCE CARRIER AND THE COMMISSION.

5 Sec. 3. Section 23-1062.02, Arizona Revised Statutes, is amended to
6 read:

7 23-1062.02. Off-label prescription of controlled substances;
8 prescription of schedule II controlled
9 substances; reports; treatment plans; definition

10 A. On written request of an interested party as defined in section
11 23-901, a physician shall include in the report required under commission
12 rule information pertaining to the following:

13 1. The off-label use of a narcotic, opium based controlled substance
14 or schedule II controlled substance by a claimant.

15 2. The use of a narcotic or opium based controlled substance or the
16 prescription of a combination of narcotics or opium based controlled
17 substances at or exceeding a one hundred twenty milligram morphine equivalent
18 dose per day.

19 3. The prescription of a long-acting or controlled release opioid for
20 acute pain.

21 B. The information required pursuant to subsection A of this section
22 shall include the justification for use of the controlled substance, and a
23 treatment plan that includes a description of measures that the physician
24 will implement to monitor and prevent the development of abuse, dependence,
25 addiction or diversion by the employee. The interested party may also
26 request that the physician submit AND REPORT THE RESULTS OF an inquiry to the
27 Arizona state board of pharmacy requesting prescription information for the
28 employee compiled under the controlled substances prescription monitoring
29 program prescribed in title 36, chapter 28, and that the physician include in
30 the treatment plan a medication contract, a plan for subsequent follow-up
31 visits and drug testing and documentation that the medication regime is
32 providing relief that is demonstrated by improved function.

33 C. If the physician does not comply with this section:

34 1. The interested party is not responsible for payment for the
35 physician's services until the physician complies with subsection A of this
36 section.

37 2. The employer, carrier or commission may request a change of
38 physician.

39 D. An employer, a carrier or the commission may request the
40 information required pursuant to subsection A of this section and require
41 physician compliance with this section notwithstanding the existence of a
42 prior award addressing medical maintenance benefits for medications. An
43 employer or carrier is not liable for bad faith or unfair claims processing
44 for any act taken in compliance of and consistent with this section.

1 E. For the purposes of this section, "off-label use" means use of a
2 prescription medication by a physician to treat a condition other than the
3 use for which the drug was approved by the United States food and drug
4 administration.

5 Sec. 4. Section 36-2604, Arizona Revised Statutes, is amended to read:
6 36-2604. Use and release of confidential information

7 A. Except as otherwise provided in this section, prescription
8 information submitted to the board pursuant to this article is confidential
9 and is not subject to public inspection. The board shall establish
10 procedures to ensure the privacy and confidentiality of patients and that
11 patient information that is collected, recorded and transmitted pursuant to
12 this article is not disclosed except as prescribed in this section.

13 B. The board or its designee shall review the prescription information
14 collected pursuant to this article. If the board or its designee has reason
15 to believe an act of unprofessional or illegal conduct has occurred, the
16 board or its designee shall notify the appropriate professional licensing
17 board or law enforcement or criminal justice agency and provide the
18 prescription information required for an investigation.

19 C. The board may release data collected by the program to the
20 following:

21 1. A person who is authorized to prescribe or dispense a controlled
22 substance to assist that person to provide medical or pharmaceutical care to
23 a patient or to evaluate a patient.

24 2. An individual who requests the individual's own prescription
25 monitoring information pursuant to section 12-2293.

26 3. A professional licensing board established pursuant to title 32,
27 chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25 or 29. Except as required
28 pursuant to subsection B of this section, the board shall provide this
29 information only if the requesting board states in writing that the
30 information is necessary for an open investigation or complaint.

31 4. A local, state or federal law enforcement or criminal justice
32 agency. Except as required pursuant to subsection B of this section, the
33 board shall provide this information only if the requesting agency states in
34 writing that the information is necessary for an open investigation or
35 complaint.

36 5. The Arizona health care cost containment system administration
37 regarding persons who are receiving services pursuant to chapter 29 of this
38 title. Except as required pursuant to subsection B of this section, the
39 board shall provide this information only if the administration states in
40 writing that the information is necessary for an open investigation or
41 complaint.

42 6. A person serving a lawful order of a court of competent
43 jurisdiction.

1 7. A PERSON WHO IS AUTHORIZED TO PRESCRIBE OR DISPENSE A CONTROLLED
2 SUBSTANCE AND WHO PERFORMS AN EVALUATION ON AN INDIVIDUAL PURSUANT TO SECTION
3 23-1026.

4 D. The board may provide data to public or private entities for
5 statistical, research or educational purposes after removing information that
6 could be used to identify individual patients or persons who received
7 prescriptions from dispensers.

8 Sec. 5. Effective date

9 Section 23-1026, Arizona Revised Statutes, as amended by Laws 2011,
10 chapter 157, section 12 and as amended by section 2 of this act, is effective
11 from and after December 31, 2012.

APPROVED BY THE GOVERNOR APRIL 3, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 3, 2012.

Passed the House February 7, 2012

Passed the Senate March 22, 2012

by the following vote: 54 Ayes,

by the following vote: 29 Ayes,

2 Nays, 3 Not Voting
1 vacant

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

~~This Bill received by the Governor this
_____ day of _____, 20____
at _____ o'clock _____ M.

Secretary to the Governor~~

~~Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona~~

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

~~This Bill received by the Secretary of State
this _____ day of _____, 20____
at _____ o'clock _____ M.

Secretary of State~~

H.B. 2155

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

March 29, 2012,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of March, 2012,

at 11:30 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 3rd day of

April, 2012

at 10:50 o'clock A M.

[Signature]
Governor of Arizona

H.B. 2155

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 3rd day of April, 2012,

at 1:16 o'clock P M.

[Signature]
Secretary of State