House Engrossed Senate Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 283

SENATE BILL 1445

AN ACT

AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3221; RELATING TO HEALTH CARE SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 32, chapter 32, article 1, Arizona Revised Statutes, is amended by adding section 32-3221, to read:

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

A. THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR ANY DEPARTMENT OR AGENCY OF THIS STATE, INCLUDING A HEALTH PROFESSION REGULATORY BOARD, OR A PRIVATE ENTITY CONTRACTED WITH A HEALTH PROFESSION REGULATORY BOARD TO CARRY OUT FUNCTIONS OF THE BOARD MAY NOT PUNISH A HEALTH PROFESSIONAL, DIRECTLY OR INDIRECTLY THROUGH A SUBCONTRACTOR OR OTHERWISE, FOR MAKING A PATIENT AWARE OF OR EDUCATING OR ADVISING A PATIENT ABOUT LAWFUL HEALTH CARE SERVICES FOR WHICH THERE IS A REASONABLE BASIS, INCLUDING THE OFF-LABEL USE OF HEALTH CARE SERVICES OR HEALTH CARE-RELATED RESEARCH OR DATA, OR FOR OFFERING, PROVIDING OR MAKING AVAILABLE LAWFUL HEALTH CARE SERVICES, INCLUDING THE OFF-LABEL USE OF HEALTH CARE SERVICES FOR WHICH THERE IS A REASONABLE BASIS THAT IS ALLOWED UNDER STATE LAW.

B. UNLESS AN ENTITY HAS A SINCERELY HELD RELIGIOUS OR MORAL BELIEF, THE ENTITY MAY NOT RESTRICT A HEALTH PROFESSIONAL WHO IS AN EMPLOYEE OF OR AFFILIATED OR CONTRACTED WITH THE ENTITY FOR MAKING A PATIENT AWARE OF OR EDUCATING OR ADVISING A PATIENT ABOUT LAWFUL HEALTH CARE SERVICES, INCLUDING THE OFF-LABEL USE OF HEALTH CARE SERVICES, OR HEALTH CARE-RELATED RESEARCH OR DATA.

C. MAKING A PATIENT AWARE OF OR EDUCATING OR ADVISING A PATIENT ABOUT LAWFUL HEALTH CARE SERVICES, INCLUDING THE OFF-LABEL USE OF HEALTH CARE SERVICES, DOES NOT REQUIRE THE HEALTH CARE SERVICE TO BE COVERED UNDER THE HEALTH CARE PLAN OR THE HEALTH CARE SYSTEM THROUGH WHICH THE PATIENT RECEIVES CARE.

D. MAKING A PATIENT AWARE OF OR EDUCATING OR ADVISING A PATIENT ABOUT LAWFUL HEALTH CARE SERVICES, INCLUDING THE OFF-LABEL USE OF HEALTH CARE SERVICES, DOES NOT REQUIRE A HEALTH PROFESSIONAL, AN ENTITY THAT EMPLOYS THE HEALTH PROFESSIONAL OR A HEALTH CARE SYSTEM TO OFFER, PROVIDE OR MAKE THE LAWFUL HEALTH CARE SERVICE, INCLUDING THE OFF-LABEL USE OF HEALTH CARE SERVICES, AVAILABLE TO THE PATIENT.

E. THIS SECTION DOES NOT:

1. IMPAIR THE RIGHTS ESTABLISHED IN ARTICLE II, CONSTITUTION OF ARIZONA, OR IMPAIR ANY RIGHT OR LIMITATION ON MEDICAL LIABILITY.

2. PREVENT ANY REPORTING TO A HEALTH PROFESSION REGULATORY BOARD REGARDING MEDICAL LIABILITY CASES, SETTLEMENTS OR DECISIONS.

3. IMPAIR OR CONTRADICT ANY OTHER STATE LAW REGARDING LAWFUL HEALTH CARE SERVICES.

4. PROHIBIT A HEALTH PROFESSION REGULATORY BOARD FROM TAKING ACTION IF A HEALTH PROFESSIONAL COMMITS UNPROFESSIONAL CONDUCT ARISING OUT OF THE CONDUCT SPECIFIED IN THIS SECTION.

1 F. FOR THE PURPOSES OF THIS SECTION:
2 1. "LAWFUL HEALTH CARE SERVICE" MEANS ANY HEALTH-RELATED SERVICE OR
3 TREATMENT, TO THE EXTENT THAT THE SERVICE OR TREATMENT IS ALLOWED OR NOT
4 PROHIBITED BY LAW OR REGULATION, THAT MAY BE PROVIDED BY PERSONS OR
5 BUSINESSES THAT ARE OTHERWISE ALLOWED TO OFFER SUCH SERVICES.
6 2. "OFF-LABEL USE" MEANS ANY USE IF THE INTENT IS THE PRACTICE OF
7 MEDICINE AND THE USE IS NOT SPECIFIED IN THE LABELING OR INDICATIONS FOR USE
8 FOR PRESCRIPTION DRUGS, BIOLOGICS, APPROVED MEDICAL DEVICES AND DIETARY
9 SUPPLEMENTS APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION. FOR
10 THE PURPOSES OF THIS PARAGRAPH, "LABELING" INCLUDES ANY WRITTEN MATERIAL THAT
11 ACCOMPANIES, SUPPLEMENTS OR EXPLAINS A PRODUCT.
12 3. "PUNISH" MEANS TO IMPOSE ANY PENALTY, SANCTION OR DISCIPLINARY
13 ACTION TO DISCOURAGE THE EXERCISE OF A RIGHT UNDER THIS SECTION.
14 4. SINCERELY HELD RELIGIOUS OR MORAL BELIEF DOES NOT INCLUDE A BELIEF
15 THAT RESTRICTS THE ACCESS BY A PATIENT TO A LAWFUL HEALTH CARE SERVICE BASED
16 ON THE COST OF THE LAWFUL HEALTH CARE SERVICE FOR THAT PATIENT.
17 5. UNPROFESSIONAL CONDUCT DOES NOT INCLUDE CONDUCT BY A HEALTH
18 PROFESSIONAL WHO IS ACTING WITHIN THE MINIMUM STANDARDS OF PRACTICE AS
19 DETERMINED BY THE HEALTH PROFESSIONAL'S HEALTH PROFESSION REGULATORY BOARD.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2016.

Passed the House April 6, 2016,

by the following vote: 35 Ayes,

21 Nays, 1 Not Voting

Speaker of the House

Jim Drake

Chief Clerk of the House

Passed the Senate February 22, 2016,

by the following vote: 19 Ayes,

11 Nays, 0 Not Voting

President of the Senate

Susan Aceves

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

S.B. 1445

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 4, 2016

by the following vote: 20 Ayes,

9 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

4th day of May, 2016

at 4:26 o'clock P. M.

Secretary to the Governor

Approved this 17th day of

May

at 1:32 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 17th day of May, 2016

at 4:31 o'clock P M.

Secretary of State

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