

## SECTIONS OF LAW RELATED TO MEDICINE

The following are excerpted sections of Arizona law that may affect a physician's practice of medicine or a physician assistant's performance of healthcare tasks in this state. **In some cases only relevant portions of the law are reproduced here.**

### ARIZONA REVISED STATUTES TITLE 11 COUNTIES CHAPTER 3 COUNTY OFFICERS

### ARTICLE 12 COUNTY MEDICAL EXAMINER

#### 11-591. Definitions

In this article, unless the context otherwise requires:

1. "Alternate medical examiner" means a physician who has training and competence in the principles of death investigation and who performs or directs the conduct of death investigations.

2. "Autopsy" means a surgical procedure in which internal organs are exposed, removed or examined for the identification of trauma or natural disease.

3. "Death investigation" means the investigation directed by a county medical examiner or alternate medical examiner into the circumstances surrounding a death occurring as prescribed in Section 11-593.

4. "External examination" means an external inspection of a body.

5. "Forensic pathologist" means a physician who has successfully completed a pathology residency and a forensic fellowship or has extensive experience performing forensic autopsies in an official capacity.

6. "Investigative information" means information received by a medical examiner or alternate medical examiner from law enforcement, witnesses, family members, health care personnel or medical death investigators concerning cause and manner of death.

7. "Medical death investigator" means a person trained in the principles of death investigation.

8. "Medical examiner" means a forensic pathologist who performs or directs the conduct of death investigations.

9. "Medical information" means information received by a medical examiner or alternate medical examiner concerning the condition of a near-death patient or decedent including medical records, reports of an attending or primary care physician, nurse practitioner, medical death investigator, or organ procurement organizations and physical exams by a medical examiner or alternate medical examiner.

10. "Nurse practitioner" means a person licensed and certified pursuant to title 32, chapter 15.

11. "Organ procurement organization" means an organization located within this state that meets the requirements of section 371 of 42 United States code section 273.

12. "Physician" means a person licensed pursuant to title 32, chapter 13 or 17.

13. "Tissue bank" means a person that is licensed or regulated under federal or state law or accredited by a nationally recognized accrediting organization to engage in the recovery, screening, testing, processing, storage or distribution of tissue.

**11-593. Reporting of certain deaths; failure to report; classification**

A. Any person having knowledge of the death of a human being including a fetal death shall promptly notify the nearest peace officer of all information in the person's possession regarding the death and the circumstances surrounding it under any of the following circumstances:

1. Death when not under the current care of a physician for a potentially fatal illness or when an attending physician is unavailable to sign the death certificate.
2. Death resulting from violence.
3. Death occurring suddenly when in apparent good health.
4. Death occurring in a prison.
5. Death of a prisoner.
6. Death occurring in a suspicious, unusual or unnatural manner.
7. Death from disease or accident believed to be related to the deceased's occupation or employment.
8. Death believed to present a public health hazard.
9. Death occurring during, in association with or as a result of anesthetic or surgical procedures.
10. Unidentifiable bodies.

B. The peace officer shall promptly notify the county medical examiner or alternate medical examiner and, except in deaths occurring during, in association with or as a result of surgical or anesthetic procedures from natural diseases, shall promptly make or cause to be made an investigation of the facts and circumstances surrounding the death and report the results to the medical examiner or alternate medical examiner. If there is no county medical examiner or alternate medical examiner appointed and serving within the county, the county sheriff shall be notified by the peace officer and the sheriff shall in turn notify and secure a licensed physician having the qualifications of an alternate medical examiner to perform the death investigation or to arrange for an autopsy.

C. Every person who knows of the existence of a body where death occurred as specified in subsection A of this section and who knowingly fails to notify the nearest peace officer as soon as possible unless the person has good reason to believe that notice has already been given is guilty of a class 2 misdemeanor.

D. If the deceased was under treatment for accident or illness by prayer or spiritual means alone, in accordance with the tenets and practices of a well-recognized church or religious denomination, and death occurred without a physician or nurse practitioner in attendance, the person who has knowledge of the death shall report all information in his possession regarding the death and circumstances surrounding it directly to the county medical examiner or the alternate medical examiner who may waive an external examination or autopsy if the county medical examiner or alternate medical examiner is satisfied that the death of such person resulted from natural causes.

**11-594. Powers and duties of county medical examiner**

A. The county medical examiner or alternate medical examiner shall direct a death investigation, shall determine whether an external examination or autopsy is required and shall:

1. Take charge of the dead body.
2. Certify to the cause and manner of death following completion of the death investigation, unless the medical examiner or alternate medical examiner determines there is no jurisdiction pursuant to section 11-593, reduce the findings to writing and promptly make a full report on forms prescribed for that purpose.
3. Have subpoena authority for all documents, records and papers deemed useful in the death investigation.
4. Execute a death certificate provided by the state registrar of vital statistics indicating the cause and the manner of death for those bodies for which a death investigation has been conducted and jurisdiction is assumed.

5. Give approval for cremation of a dead body after a death investigation and record the approval on the death certificate.

6. Notify the county attorney or other law enforcement authority when death is found to be from other than natural causes.

7. Carry out the duties specified under section 28-668.

8. Carry out the duties specified under title 36, chapter 7, article 3.

9. Observe all policies adopted by the board of supervisors regarding conflicts of interest and disclosure of noncounty employment.

B. The county medical examiner or alternate medical examiner may:

1. Assign to a medical death investigator or other qualified personnel all aspects of a death investigation except the performance of autopsies.

2. Authorize forensic pathologists to perform examinations and autopsies. The medical examiner or alternate medical examiner may authorize medical students or residents and fellows in pathology training to perform autopsies under the supervision of a licensed physician who is board certified in anatomic pathology, pursuant to the procedures adopted by the county medical examiner or alternate medical examiner. Authorization and the amount to be paid by the county for pathology services are subject to approval of the board of supervisors.

3. Delegate any power, duty or function whether ministerial or discretionary vested by this chapter in the medical examiner or alternate medical examiner to a person meeting the qualifications prescribed in this chapter who is employed by or who has contracted with the county to provide death investigation services. The medical examiner or alternate medical examiner shall be responsible for the official acts of the person designated pursuant to this section and shall act under the name and authority of the medical examiner or alternate medical examiner.

4. Authorize the taking of organs and tissues as they prove to be usable for transplants, other treatment, therapy, education or research if all of the requirements of title 36, chapter 7, article 3 are met. The medical examiner or alternate medical examiner shall give this authorization within a time period that permits a medically viable donation.

5. Authorize licensed physicians, surgeons or trained technicians to remove parts of bodies provided they follow an established protocol approved by the medical examiner or alternate medical examiner.

6. Limit the removal of organs or tissues for transplants or other therapy or treatment if, based on a review of available medical and investigative information within a time that permits a medically viable donation, the medical examiner or alternate medical examiner makes an initial determination that their removal would interfere with a medical examination, autopsy or certification of death. Before making a final decision to limit the removal of organs, the medical examiner or alternate medical examiner shall consult with the organ procurement organization. After the consultation and when the organ procurement organization provides information that the organ procurement organization reasonably believes could alter the initial decision and at the request of the organ procurement organization, the medical examiner or alternate medical examiner shall conduct a physical examination of the body. If the medical examiner or alternate medical examiner limits the removal of organs, the medical examiner or alternate medical examiner shall maintain documentation of this decision and shall make the documentation available to the organ procurement organization.

C. A county medical examiner or alternate medical examiner shall not be held civilly or criminally liable for any acts performed in good faith pursuant to subsection B, paragraphs 4, 5 and 6 of this section.

D. If a dispute arises over the findings of the medical examiner's report, the medical examiner, upon an order of the superior court, shall make available all evidence and documentation to a court-designated licensed forensic pathologist for review, and the results of the review shall be reported to the superior court in the county issuing the order.

E. For providing external examinations and autopsies pursuant to this section, the medical examiner may charge a fee established by the board of supervisors pursuant to section 11-251.08.

**11-595. Right to enter premises; right to seize articles**

A. The county medical examiner or alternate medical examiner may enter any room, dwelling, building or other place in which the body or evidence of the circumstances of the death requiring investigation may be found, provided that a law enforcement agency investigating the death obtains a search warrant for private property other than in the immediate location where the body was found.

B. The county medical examiner or alternate medical examiner, with the permission of the law enforcement agency investigating the death may take into possession any object or article found on the deceased or in the deceased's immediate vicinity which may aid in the determination of the deceased's identity or determination of the cause or manner of death. Upon completion of the findings, the medical examiner or alternate medical examiner within thirty days, shall deliver the object or article to the law enforcement agency concerned, to the legal representative of the deceased or to the county treasurer.

**11-596. Removal or disturbance of body or effects or weapons without consent prohibited**

A. A human body or body suspected of being human shall not be removed from the place where the death occurred, if the death is of a nature requiring investigation without first obtaining permission of the county medical examiner or alternate medical examiner.

B. Embalming, cleansing of the surfaces of the body or other alteration of the appearance or state of the body, clothing or personal effects shall not be performed until the permission of the county medical examiner or alternate medical examiner has been obtained. A funeral director or embalmer who receives custody of a human body from a county medical examiner or alternate medical examiner is deemed to have the permission required by this subsection, unless permission is expressly withheld by the county medical examiner or alternate medical examiner.

C. A person, except a law enforcement agent in the performance of the agent's duties, shall not remove from the place of death or from the body of the deceased any of the effects of the deceased, or instruments or weapons that may have been used in the death requiring investigation, without prior permission of the county medical examiner, alternate medical examiner or the investigating law enforcement agent.

**11-597. Autopsies; reports; exemption from liability**

A. The county medical examiner or alternate medical examiner shall conduct a death investigation to determine whether or not the public interest requires an external examination, autopsy or other special investigation.

B. An external examination or autopsy is not required for deaths due to natural diseases that occur during surgical or anesthetic procedures unless the medical examiner or alternate medical examiner determines that an external examination or autopsy is necessary.

C. In the determination of the need for an autopsy, the county medical examiner or alternate medical examiner may consider the request for an autopsy made by private persons or public officials. If the county attorney or a superior court judge of the county where the death occurred requests an autopsy, the county medical examiner shall perform the autopsy, or in the case of an alternate medical examiner, an autopsy shall be performed by a forensic pathologist

D. A forensic pathologist shall perform an autopsy in cases of sudden and unexplained infant death in accordance with protocols adopted by the director of the department of health services. If the medical examiner or forensic pathologist determines that the infant died of sudden infant death syndrome, the medical examiner or forensic pathologist shall notify the department of health services. The medical examiner or forensic pathologist may take tissue samples for diagnostic purposes.

E. If an autopsy is performed, a full record or report of the facts developed by the autopsy in the findings of the person performing the autopsy shall be properly made and filed in the office of the county medical examiner or the board of supervisors. If the person performing the autopsy determines that the report should be forwarded to the county where the death occurred or the county in which any injury contributing to or causing the death was sustained, the report shall be forwarded to the county attorney.

F. A county attorney may request and upon request shall receive from the county medical examiner or alternate medical examiner a copy of the report on any autopsy performed.

G. The county medical examiner or alternate medical examiner may perform other tests deemed necessary to determine identity and the cause and manner of death and may retain tissues, specimens and other biological materials for subsequent examination.

H. When an autopsy or other tests are performed by a forensic pathologist, no cause of action shall lie against the physician or any other person for requesting the autopsy, for participating in the autopsy, or for retaining specimens or tissues.

**TITLE 12**  
**COURTS AND CIVIL PROCEEDINGS**  
**CHAPTER 5.1**  
**ACTIONS RELATING TO HEALTH CARE**

**ARTICLE 1**  
**GENERAL PROVISIONS**

**12-570. Malpractice settlement or award reporting; civil penalty; definition**

A. If a medical malpractice action or an action brought under §46-455 against a nursing care institution is settled or a court enters a monetary judgment:

1. The professional liability insurers shall provide the defendant's health profession regulatory board with all information required to be filed with the national practitioner data bank pursuant to Public Law 99-660. In the case of an action brought under §46-455 against a nursing care institution, the information shall be provided to the department of health services.

2. The plaintiff's attorney shall provide the defendant's health profession regulatory board, or, in the case of an action brought against a nursing care institution, the department of health services, with the notice described in subsection B of this section, a copy of the complaint and a copy of either the agreed terms of settlement or the judgment. The attorney shall provide this notice and these documents within thirty days after a settlement is reached or a judgment is entered.

B. The notice required by subsection A of this section shall contain the following information:

1. The name and address of each defendant.
2. The name, date of birth and address of each plaintiff.
3. The date and location of the occurrence which created the claim.
4. A statement specifying the nature of the occurrence resulting in the malpractice action.

5. A copy of all expert witness depositions, a transcript of all expert witness court testimony or a written evaluation of the case by an expert witness.

C. The notice required by subsection A of this section is not discoverable and not admissible as evidence.

D. An attorney who does not supply the information required by subsections A and B of this section within thirty days after the notice of settlement or judgment is due under subsection A of this section is subject to a civil penalty of five hundred dollars.

E. A confidentiality clause in a settlement agreement does not apply to the reporting requirements of this section.

F. For the purposes of this section, "health profession regulatory board" has the same meaning prescribed in section 32-3201.

**12-571. Qualified immunity; health professionals; nonprofit clinics; previously owned prescription eyeglasses**

A. A health professional, as defined in section 32-3201, who provides medical or dental treatment within the scope of the health professional's certificate or license at a nonprofit clinic where neither the professional nor the

clinic receives compensation for any treatment provided at the clinic is not liable in a medical malpractice action, unless such health professional was grossly negligent.

B. A health professional who, within the professional's scope of practice, provides previously owned prescription eyeglasses free of charge through a charitable, nonprofit or fraternal organization is not liable for an injury to the recipient if the recipient or the recipient's parent or legal guardian has signed a medical malpractice release form and the injury is not a direct result of the health professional's intentional misconduct or gross negligence. For purposes of this subsection, "medical malpractice release form" means a document that the recipient or the recipient's parent or legal guardian signs before the recipient receives the eyeglasses pursuant to this subsection to acknowledge that the eyeglasses were not made specifically for the recipient and to accept full responsibility for the recipient's eye safety.

**TITLE 12**  
**COURTS AND CIVIL PROCEEDINGS**  
**CHAPTER 13**  
**COURTS OF RECORD**

**ARTICLE 7.1**  
**MEDICAL RECORDS**

**12-2291. Definitions**

In this article, unless the context otherwise requires:

1. "Contractor" means an agency or service that duplicates medical records on behalf of health care providers.
2. "Department" means the department of health services.
3. "Health care decision maker" means an individual who is authorized to make health care treatment decisions for the patient, including a parent of a minor or an individual who is authorized pursuant to section 8-514.05, title 14, chapter 5, article 2 or 3 or section 36-3221, 36-3231 or 36-3281.
4. "Health care provider" means:
  - a. A person who is licensed pursuant to title 32 and who maintains medical records.
  - b. A health care institution as defined in section 36-401.
  - c. An ambulance service as defined in section 36-2201.
  - d. A health care services organization licensed pursuant to title 20, chapter 4, article 9.
5. "Medical records" means all communications related to a patient's physical or mental health or condition that are recorded in any form or medium and that are maintained for purposes of patient diagnosis or treatment, including medical records that are prepared by a health care provider or by other providers. Medical records do not include materials that are prepared in connection with utilization review, peer review or quality assurance activities, including records that a health care provider prepares pursuant to section 36-441, 36-445, 36-2402 or 36-2917. Medical records do not include recorded telephone and radio calls to and from a publicly operated emergency dispatch office relating to requests for emergency services or reports of suspected criminal activity, but shall include communications that are recorded in any form or medium between emergency medical personnel and medical personnel concerning the diagnosis or treatment of a person.
6. "Payment records" means all communications related to payment for a patient's health care that contain individually identifiable information.
7. "Source data" means information that is summarized, interpreted or reported in the medical record, including x-rays and other diagnostic images.

**12-2292. Confidentiality of medical records and payment records**

A. Unless otherwise provided by law, all medical records and payment records, and the information contained in medical records and payment records, are privileged and confidential. A health care provider may only disclose that part or all of a patient's medical records and payment records as authorized by state or federal law or written authorization signed by the patient or the patient's health care decision maker.

B. This article does not limit the effect of any other federal or state law governing the confidentiality of medical records and payment records.

**12-2293. Release of medical records and payment records to patients and health care decision makers; definition**

A. Except as provided in subsections B and C of this section, on the written request of a patient or the patient's health care decision maker for access to or copies of the patient's medical records and payment records, the health care provider in possession of the record shall provide access to or copies of the records to the patient or the patient's health care decision maker.

B. A health care provider may deny a request for access to or copies of medical records or payment records if a health professional determines that either:

1. Access by the patient or the patient's health care decision maker is reasonably likely to endanger the life or physical safety of the patient or another person.

2. The records make reference to a person other than a health professional and access by the patient or the patient's health care decision maker is reasonably likely to cause substantial harm to that other person.

3. Access by the patient's health care decision maker is reasonably likely to cause substantial harm to the patient or another person.

4. Access by the patient or the patient's health care decision maker would reveal information obtained under a promise of confidentiality with someone other than a health professional and access would be reasonably likely to reveal the source of the information.

C. A health care provider may deny a request for access to or copies of medical records or payment records if the health care provider determines that either:

1. The information was created or obtained in the course of clinical research and the patient or the patient's health care decision maker agreed to the denial of access when consenting to participate in the research and was informed that the right of access will be reinstated on completion of the research.

2. A health care provider is a correctional institution or is acting under the direction of a correctional institution and access by a patient who is an inmate in the correctional institution would jeopardize the health, safety, security, custody or rehabilitation of the patient or other inmates or the safety of any officer, employee or other person at the correctional institution or of a person who is responsible for transporting the inmate.

D. If the health care provider denies a request for access to or copies of the medical records or payment records, the health care provider must note this determination in the patient's records and provide to the patient or the patient's health care decision maker a written explanation of the reason for the denial of access. The health care provider must release the medical records or payment records information for which there is not a basis to deny access under subsection B of this section.

E. For the purpose of this section, "health professional" has the same meaning prescribed in section 32-3201.

**12-2294. Release of medical records and payment records to third parties**

A. A health care provider shall disclose medical records or payment records, or the information contained in medical records or payment records, without the patient's written authorization as otherwise required by law or when ordered by a court or tribunal of competent jurisdiction.

B. A health care provider may disclose medical records or payment records, or the information contained in medical records or payment records, pursuant to written authorization signed by the patient or the patient's health care decision maker.

C. A health care provider may disclose medical records or payment records or the information contained in medical records or payment records without the written authorization of the patient or the patient's health care decision maker as otherwise authorized by state or federal law, including the health insurance portability and accountability act privacy standards (45 Code of Federal Regulations part 160 and part 164, subpart E), or as follows:

1. To health care providers who are currently providing health care to the patient for the purpose of diagnosis or treatment of the patient.
2. To health care providers who have previously provided treatment to the patient, to the extent that the records pertain to the provided treatment.
3. To ambulance attendants as defined in section 36-2201 for the purpose of providing care to or transferring the patient whose records are requested.
4. To a private agency that accredits health care providers and with whom the health care provider has an agreement requiring the agency to protect the confidentiality of patient information.
5. To a health profession regulatory board as defined in section 32-3201.
6. To health care providers for the purpose of conducting utilization review, peer review and quality assurance pursuant to section 36-441, 36-445, 36-2402 or 36-2917.
7. To a person or entity that provides billing, claims management, medical data processing, utilization review or other administrative services to the patient's health care providers and with whom the health care provider has an agreement requiring the person or entity to protect the confidentiality of patient information.
8. To the legal representative of a health care provider in possession of the medical records or payment records for the purpose of securing legal advice.
9. To the patient's third party payor or the payor's contractor.
10. To the industrial commission of Arizona or parties to an industrial commission claim pursuant to title 23, chapter 6.

D. A health care provider may disclose a deceased patient's medical records or payment records or the information contained in medical records or payment records to the patient's health care decision maker at the time of the patient's death. A health care provider also may disclose a deceased patient's medical records or payment records or the information contained in medical records or payment records to the personal representative or administrator of the estate of a deceased patient, or if a personal representative or administrator has not been appointed, to the following persons in the following order of priority, unless the deceased patient during the deceased patient's lifetime or a person in a higher order of priority has notified the health care provider in writing that the deceased patient opposed the release of the medical records or payment records:

1. The deceased patient's spouse, unless the patient and the patient's spouse were legally separated at the time of the patient's death.
2. The acting trustee of a trust created by the deceased patient either alone or with the deceased patient's spouse if the trust was a revocable inter vivos trust during the deceased patient's lifetime and the deceased patient was a beneficiary of the trust during the deceased patient's lifetime.
3. An adult child of the deceased patient.
4. A parent of the deceased patient.
5. An adult brother or sister of the deceased patient.
6. A guardian or conservator of the deceased patient at the time of the patient's death.

E. A person who receives medical records or payment records pursuant to this section shall not disclose those records without the written authorization of the patient or the patient's health care decision maker, unless otherwise authorized by law.

F. If a health care provider releases a patient's medical records or payment records to a contractor for the purpose of duplicating or disclosing the records on behalf of the health care provider, the contractor shall not disclose any part or all of a patient's medical records or payment records in its custody except as provided in this article. After duplicating or disclosing a patient's medical records or payment records on behalf of a health care

provider, a contractor must return the records to the health care provider who released the medical records or payment records to the contractor.

#### **12-2294.01 Release of medical records or payment records to third parties pursuant to subpoena**

A. A subpoena seeking medical records or payment records shall be served on the health care provider and any party to the proceedings at least ten days before the production date on the subpoena.

B. A subpoena that seeks medical records or payment records must meet one of the following requirements:

1. The subpoena is accompanied by a written authorization signed by the patient or the patient's health care decision maker.

2. The subpoena is accompanied by a court or tribunal order that requires the release of the records to the party seeking the records or that meets the requirements for a qualified protective order under the health insurance portability and accountability act privacy standards (42 Code of Federal Regulations section 164.512(e)).

3. The subpoena is a grand jury subpoena issued in a criminal investigation.

4. The subpoena is issued by a health profession regulatory board as defined in section 32-3201.

5. The health care provider is required by another law to release the records to the party seeking the records.

C. If a subpoena does not meet one of the requirements of subsection B of this section, a health care provider shall not produce the medical records or payment records to the party seeking the records, but may either file the records under seal pursuant to subsection D of this section, object to production under subsection E of this section or file a motion to quash or modify the subpoena under rule 45 of the Arizona Rules of Civil Procedure.

D. It is sufficient compliance with a subpoena issued in a court or tribunal proceeding if a health care provider delivers the medical records or payment records under seal as follows:

1. The health care provider may deliver by certified mail or in person a copy of all the records described in the subpoena by the production date to the clerk of the court or tribunal or if there is no clerk then to the court or tribunal, together with the affidavit described in paragraph 4 of this subsection.

2. The health care provider shall separately enclose and seal a copy of the records in an inner envelope or wrapper, with the title and number of the action, name of the health care provider and date of the subpoena clearly inscribed on the copy of the records. The health care provider shall enclose the sealed envelope or wrapper in an outer envelope or wrapper that is sealed and directed to the clerk of the court or tribunal or of there is no clerk then to the court or tribunal.

3. The copy of the records shall remain sealed and shall be opened only on order of the court or tribunal conducting the proceeding.

4. The records shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:

a. That the affiant is the duly authorized custodian of the records and has authority to certify the records.

b. That the copy is a true complete copy of the records described in the subpoena.

c. If applicable, that the health care provider is subject to the confidentiality requirements in 42 United States code sections 290dd-3 and 290ee-3 and applicable regulations and that those confidentiality requirements may apply to the requested records. The affidavit shall request that the court make a determination, if required under applicable federal law and regulations, as to the confidentiality of the records submitted.

d. If applicable, that the health care provider has none of the records described or only part of the records described in the subpoena.

5. The copy of the records is admissible in evidence as provided under rule 902(11), Arizona rules of evidence. The affidavit is admissible as evidence of the matters stated in the affidavit and the matters stated are presumed true. If more than one person has knowledge of the facts, more than one affidavit may be made. The presumption established by this paragraph is a presumption affecting the burden of producing evidence.

E. If a subpoena does not meet one of the requirements of subsection B of this section or if grounds for objection exist under rule 45 of the Arizona Rules of Civil Procedure, a health care provider may file with the court or tribunal an objection to the inspection or copying of any or all of the records as follows:

1. On filing an objection, the health care provider shall send a copy of the objection to the patient at the patient's last known address, to the patient's attorney if known and to the party seeking the records, unless after reasonable inquiry the health care provider cannot determine the last known address of the patient.

2. On filing the objection, the health care provider has no further obligation to assert a state or federal privilege pertaining to the records or to appear or respond to a motion to compel production of records, and may produce the records if ordered by a court or tribunal. If an objection is filed, the patient or the patient's attorney is responsible for asserting or waiving any state or federal privilege that pertains to the records.

3. If an objection is filed, the party seeking production may request an order compelling production of the records. If the court or tribunal issues an order compelling production, a copy of the order shall be provided to the health care provider. On receipt of the order, the health care provider shall produce the records.

4. If applicable, an objection shall state that the health care provider is subject to the confidentiality requirements in 42 United States code sections 290(dd)(3) and 290(ee)(3), shall state that the records may be subject to those confidentiality requirements and shall request that the court make a determination, if required under the applicable federal law and regulations, on whether the submitted records are subject to discovery.

F. If a party seeking medical records or payment records wishes to examine the original records maintained by a health care provider, the health care provider may permit the party to examine the original records if the subpoena meets one of the requirements of subsection B of this section. The party seeking the records also may petition a court or tribunal for an order directing the health care provider to allow the party to examine the original records or to file the original records under seal with the court or tribunal under subsection D of this section.

#### **12-2295. Charges**

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

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

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

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

3. The health care decision maker of the patient to whom the medical record pertains for the demonstrated purpose of obtaining health care for the patient.

4. The Arizona medical board, the board of osteopathic examiners in medicine and surgery or an officer of the department of health services or the local health department requesting records pursuant to section 36-662.

#### **12-2296. Immunity**

A health care provider or contractor that acts in good faith under this article is not liable for damages in any civil action for the disclosure of medical records or payment records or information contained in medical records or payment records that is made pursuant to this article or as otherwise provided by law. The health care provider or contractor is presumed to have acted in good faith. The presumption may be rebutted by clear and convincing evidence.

**12-2297. Retention of records**

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

1. If the patient is an adult, for at least six years after the last date the adult patient received medical or health care services from that provider.

2. If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least six years after the last date the child received medical or health care services from that provider, whichever date occurs later.

3. Source data may be maintained separately from the medical record and must be retained for six years from the date of collection of the source data.

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

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

D. A nursing care institution as defined in section 36-401, shall retain patient records for six years after the date of the patient's discharge. For a minor, the nursing care institution shall retain the records for three years after the patient reaches eighteen years of age or for six years after the date of the patient's discharge, whichever date occurs last.

**TITLE 12  
COURTS AND CIVIL PROCEEDINGS  
CHAPTER 17  
CLAIMS AGAINST LICENSED PROFESSIONALS**

**ARTICLE I  
GENERAL PROVISIONS**

**12-2604. Expert witness qualifications; medical malpractice actions.**

A. In an action alleging medical malpractice, a person shall not give expert testimony on the appropriate standard of practice or care unless the person is licensed as a health professional in this state or another state and the person meets the following criteria:

1. If the party against whom or on whose behalf the testimony is offered is or claims to be a specialist, specializes at the time of the occurrence that is the basis for the action in the same specialty or claimed specialty as the party against whom or on whose behalf the testimony is offered. If the party against whom or on whose behalf the testimony is offered is or claims to be a specialist who is board certified, the expert witness shall be a specialist who is board certified in that specialty or claimed specialty.

2. During the year immediately preceding the occurrence giving rise to the lawsuit, devoted a majority of the person's professional time to either or both of the following:

a. The active clinical practice of the same health profession as the defendant and, if the defendant is or claims to be a specialist, in the same specialty or claimed specialty.

b. The instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession as the defendant and, if the defendant is or claims to be a specialist, in an accredited health professional school or accredited residency or clinical research program in the same specialty or claimed specialty.

3. If the defendant is a general practitioner, the witness has devoted a majority of the witness's professional time in the year preceding the occurrence giving rise to the lawsuit to either or both of the following:

a. Active clinical practice as a general practitioner.

b. Instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession as the defendant.

4. If the defendant is a health care institution that employs a health professional against whom or on whose behalf the testimony is offered, the provisions of this subsection apply as if the health professional were the party or defendant against whom or on whose behalf the testimony is offered.

B. This section does not limit the power of the trial court to disqualify an expert witness on grounds other than the qualifications set forth under this section.

C. An expert witness in a medical malpractice case shall not be permitted to testify if the fee of the witness is in any way contingent on the outcome of the case.

**12-2605. Evidence of admissions; civil proceedings; unanticipated outcomes; medical care**

In any civil action that is brought against a health care provider as defined in section 12-561 or in any arbitration proceeding that relates to the civil action, any statement, affirmation, gesture or conduct expressing apology, responsibility, liability, sympathy, commiseration, condolence, compassion or a general sense of benevolence that was made by a health care provider or an employee of a health care provider to the patient, a relative of the patient, the patient's survivors or a health care decision maker for the patient and that relates to the discomfort, pain, suffering, injury or death of the patient as the result of the unanticipated outcome of medical care is inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

**TITLE 12  
COURTS AND CIVIL PROCEEDINGS  
CHAPTER 19  
GENETIC TESTING**

**ARTICLE 1  
GENERAL PROVISIONS**

**12-2801. Definitions**

2. "Health care decision maker" means a person who is authorized to make health care treatment decisions for the patient, including a parent of a minor and a person who is authorized to make these decisions pursuant to title 14, chapter 5, article 2 or 3 or sections 8-514.05, 36-3221, 36-3231 or 36-3281.

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

**TITLE 13  
CRIMINAL CODE  
CHAPTER 14  
SEXUAL OFFENSES**

**13-1418. Sexual misconduct; behavioral health professionals; classification**

A. A behavioral health professional certified pursuant to title 32, chapter 33 or a psychiatrist or psychologist licensed pursuant to title 32, chapter 13, 17 or 19.1 commits sexual misconduct by intentionally or knowingly engaging in sexual intercourse with a client who is currently under the care or supervision of the licensed behavioral health professional, psychiatrist or psychologist.

B. Sexual misconduct by a licensed behavioral health professional, psychiatrist or psychologist is a class 6 felony.

C. This section does not apply to any act of sexual conduct that occurs between a licensed behavioral health professional, psychiatrist or psychologist and a client after the client has completed a course of treatment or if the client is not under the care of the licensed behavioral health professional, psychiatrist or psychologist.

**TITLE 13  
CRIMINAL CODE  
CHAPTER 34  
DRUG OFFENSES**

**13-3412. Exceptions and exemptions; burden of proof; privileged communications**

A. The provisions of sections 13-3402, 13-3403, section 13-3404.01, subsection A, paragraph 1, and sections 13-3405 through 13-3409 do not apply to:

1. Manufacturers, wholesalers, pharmacies and pharmacists under the provisions of sections 32-1921 and 32-1961.

2. Medical practitioners, pharmacies and pharmacists while acting in the course of their professional practice, in good faith and in accordance with generally accepted medical standards.

3. Persons who lawfully acquire and use such drugs only for scientific purposes.

4. Officers and employees of the United States, this state or a political subdivision of the United States or this state, while acting in the course of their official duties.

5. An employee or agent of a person described in paragraphs 1 through 4 of this subsection, and a registered nurse or medical technician under the supervision of a medical practitioner, while such employee, agent, nurse or technician is acting in the course of professional practice or employment, and not on his own account.

6. A common or contract carrier or warehouseman, or an employee of the carrier or warehouseman, whose possession of drugs is in the usual course of business or employment.

7. Persons lawfully in possession or control of controlled substances authorized by title 36, chapter 27.

8. The receipt, possession or use, of a controlled substance included in schedule I of section 36-2512, by any seriously ill or terminally ill patient, pursuant to the prescription of a doctor in compliance with the provisions of section 13-3412.01.

B. In any complaint, information or indictment and in any action or proceeding brought for the enforcement of any provision of this chapter the burden of proof of any such exception, excuse, defense or exemption is on the defendant.

C. In addition to other exceptions to the physician-patient privilege, information communicated to a physician in an effort to procure unlawfully a prescription-only, dangerous or narcotic drug, or to procure unlawfully the administration of such drug is not a privileged communication.

**13-3412.01. Prescribing controlled substances included in schedule I for seriously ill and terminally ill patients**

A. Notwithstanding any law to the contrary, any medical doctor licensed to practice in this state may prescribe a controlled substance included in schedule I as prescribed by section 36-2512 to treat a disease, or to relieve the pain and suffering of a seriously ill patient or terminally ill patient, subject to the provisions of this section. In prescribing such a controlled substance, the medical doctor shall comply with professional medical standards.

B. Notwithstanding any law to the contrary, a medical doctor shall document that scientific research exists that supports the use of a controlled substance listed in schedule I as prescribed by section 36-2512 to treat a disease, or to relieve the pain and suffering of a seriously ill patient or a terminally ill patient before prescribing the controlled substance. A medical doctor prescribing a controlled substance included in schedule I as prescribed by section 36-2512 to treat a disease, or to relieve the pain and suffering of a seriously ill patient or terminally ill patient, shall obtain the written opinion of a second medical doctor that prescribing the controlled substance is

appropriate to treat a disease or to relieve the pain and suffering of a seriously ill patient or terminally ill patient. The written opinion of the second medical doctor shall be kept in the patient's official medical file. Before prescribing the controlled substance included in schedule I as prescribed by section 36-2512 the medical doctor shall receive in writing the consent of the patient.

C. Any failure to comply with the provisions of this section may be the subject of investigation and appropriate disciplining action by the Arizona medical board.

(NOTE: For the complete text of the Arizona Uniform Controlled Substances Act, see Arizona Revised Statutes Section 36-2501 et seq.)

**TITLE 13  
CRIMINAL CODE  
CHAPTER 36  
FAMILY OFFENSES**

**ARTICLE 2  
DUTY TO REPORT NONACCIDENTAL INJURIES**

**13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions**

A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, christian science practitioner or priest who has received a confidential communication or a confession in that person's role as a member of the clergy, christian science practitioner or a priest in the course of the discipline enjoined by the church to which the member of the clergy, christian science practitioner or priest belongs may withhold reporting of the communication or confession if the member of the clergy, christian science practitioner or priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, christian science practitioner or priest may otherwise make of the minor. For the purposes of this subsection, "person" means:

1. Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.
2. Any peace officer, member of the clergy, priest or christian science practitioner.
3. The parent, stepparent or guardian of the minor.
4. School personnel or domestic violence victim advocate who develop the reasonable belief in the course of their employment.
5. Any other person who has responsibility for the care or treatment of the minor.

B. A report is not required under this section for conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional may

withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D. Reports shall be made immediately by telephone or in person and shall be followed by a written report within seventy-two hours. The reports shall contain:

1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor, if known.

2. The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.

3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made to child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer or child protective services worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer or child protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When telephone or in-person reports are received by a peace officer, the officer shall immediately notify child protective services in the department of economic security and make the information available to them. Notwithstanding any other statute, when child protective services receives these reports by telephone or in person, it shall immediately notify a peace officer in the appropriate jurisdiction.

I. Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the involved minor may be performed.

J. A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:

1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.

2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.

3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or child protective services in the department of economic security.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a christian science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the

clergy, a Christian science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. Nothing in this subsection discharges a member of the clergy, a christian science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.
2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, upon application of a peace officer or child protective services worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer or child protective services worker investigating the abuse, child abuse, physical injury or neglect.

O. A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P. For purposes of this section:

1. "Abuse" has the same meaning prescribed in section 8-201.
2. "Child abuse" means child abuse pursuant to section 13-3623.
3. "Neglect" has the same meaning prescribed in section 8-201.
4. "Reportable offense" means any of the following.
  - a. Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.
  - b. Surreptitious photographing, videotaping, filming or digitally recording of a minor pursuant to section 13-3019.
  - c. Child prostitution pursuant to section 13-3212.
  - d. Incest pursuant to section 13-3608.

**TITLE 13  
CRIMINAL CODE  
CHAPTER 38  
MISCELLANEOUS**

**ARTICLE 1  
DUTY TO REPORT TREATMENT OF WOUNDS**

**13-3806. Duty of physician or attendant upon treating certain wounds; classification**

A. A physician, surgeon, nurse or hospital attendant called upon to treat any person for gunshot wounds, knife wounds or other material injury which may have resulted from a fight, brawl, robbery or other illegal or unlawful act, shall immediately notify the chief of police or the city marshal, if in an incorporated city or town, or the sheriff, or the nearest police officer, of the circumstances, together with the name and description of the patient, the character of the wound and other facts which may be of assistance to the police authorities in the event the condition of the patient may be due to any illegal transaction or circumstances.

B. Any violation of the provisions of this section by a physician, surgeon, nurse or hospital attendant, is a class 3 misdemeanor.

**TITLE 20  
INSURANCE  
CHAPTER 6  
PARTICULAR TYPES OF INSURANCE**

**ARTICLE 4  
REPORTING REQUIREMENTS**

**20-1742. Insurers to report malpractice claims and actions; definition**

A. Each health care insurer providing professional liability insurance to a health professional as defined in section 32-3201 shall report to the appropriate health profession regulatory board, except the Arizona medical board, within thirty days of its receipt, any written or oral claim or action for damages for personal injury claimed to have been caused by:

1. An error, omission or negligence in the performance of an insured's professional services.
2. The performance of professional services without adequate informed consent.
3. An alleged breach of contract for professional services.

B. The reports required by subsection A of this section shall be confidential, nondiscoverable and nonadmissible as evidence, shall be filed on such forms as the health profession regulatory board, except the Arizona medical board, may require and shall contain:

1. The name and address of the health professional involved in the claim.
2. The name and address of the person on whose behalf the claim is being filed.
3. The date of the occurrence that created the claim.
4. The date of the claim if a complaint is not simultaneously filed.
5. The date the complaint is filed, if applicable.
6. A summary of the occurrence on which the claim is based as stated by the claimant.
7. Such other reasonable information related to the claim as the director may require.

C. Every health care insurer required to report to the health profession regulatory board pursuant to this section is required to advise the health profession regulatory board of any settlements or judgments entered against a health professional as defined in section 32-3201 within thirty days after the settlement was agreed to or the judgment was entered in superior court.

D. There shall be no liability on the part of and no cause of action shall arise against any health care insurer or its agents or employees reporting as required by this section.

E. The health profession regulatory board shall notify each health care insurer that is required to report pursuant to subsection A of this section of its duty to report.

F. Nothing in this section limits the director of insurance from obtaining any of the information required to be reported under this section.

G. For the purposes of this section "health profession regulatory board" means an agency, board or commission that licenses, certifies or registers a health professional as defined by section 32-3201.

**TITLE 20  
INSURANCE  
CHAPTER 15  
UTILIZATION REVIEW**

**ARTICLE 1  
GENERAL PROVISIONS**

**20-2510. Health care insurers requirements; medical directors**

A. A health care insurer that proposes to provide coverage of inpatient hospital and medical benefits, outpatient surgical benefits or any medical, surgical or health care service for residents of this state with utilization review of those benefits shall meet at least one of the following requirements:

1. Have a certificate issued pursuant to this chapter.
2. Be accredited by the utilization review accreditation commission, the national committee for quality assurance or any other nationally recognized accreditation process recognized by the director.
3. Contract with a utilization review agent that has a certificate issued pursuant to this chapter.
4. Contract with a utilization review agent that is accredited by the utilization review accreditation commission, the national committee for quality assurance or any other nationally recognized accreditation process recognized by the director.
5. Provide to the director a signed and notarized statement that the health care insurer has submitted an application for accreditation to the utilization review accreditation commission or the national committee for quality assurance and is awaiting completion of the accreditation review process. On completion of the accreditation review process, the insurer shall provide to the director adequate proof that the insurer has been accredited. If the insurer is denied accreditation, within sixty days after the denial the insurer shall meet at least one of the requirements set forth in paragraph 1, 2, 3 or 4 of this subsection.

B. Except as provided in subsections C, D and E of this section, any direct denial of prior authorization of a service requested by a health care provider on the basis of medical necessity by a health care insurer shall be made in writing by a medical director who holds an active unrestricted license to practice medicine in this state pursuant to title 32, chapter 13 or 17. The written denial shall include an explanation of why the treatment was denied, and the medical director who made the denial shall sign the written denial. The health care insurer shall send a copy of the written denial to the health care provider who requested the treatment. Health care insurers shall maintain copies of all written denials and shall make the copies available to the department for inspection during regular business hours. The medical director is responsible for all direct denials that are made on the basis of medical necessity. Nothing in this section prohibits a health care insurer from consulting with a licensed physician whose scope of practice may provide the health care insurer with a more thorough review of the medical necessity.

C. For determinations made pursuant to subsection B of this section, a dental service corporation as defined in section 20-822 or a prepaid dental plan organization as defined in section 20-1001 may use as a medical director either:

1. An individual who holds an active unrestricted license to practice dentistry in this state pursuant to title 32, chapter 11.
2. A physician who holds an active unrestricted license to practice medicine in this state pursuant to title 32, chapter 13 or 17.

D. For determinations made pursuant to subsection B of this section, an optometric service corporation may use as a medical director either:

1. An individual who holds an active unrestricted license to practice optometry in this state pursuant to title 32, chapter 16.
2. A physician who holds an active unrestricted license to practice medicine in this state pursuant to title 32, chapter 13 or 17.

E. For determinations made pursuant to subsection B of this section, a health care insurer may use a chiropractor licensed in this state pursuant to title 32, chapter 8 or by any regulatory board in another state to review any direct denial or prior authorization of a chiropractic service requested by a chiropractor on the basis of medical necessity.

**TITLE 28**  
**TRANSPORTATION**  
**CHAPTER 4**  
**DRIVING UNDER THE INFLUENCE**

**ARTICLE 3**  
**DRIVING UNDER THE INFLUENCE**

**28-1390.       Emergency personnel; law enforcement**

A. Notwithstanding any other law, if a law enforcement officer reasonably believes that a person may have violated section 28-1381, 28-1382 or 28-1383, the law enforcement officer may request emergency department personnel of a health care institution as defined in section 36-401 to provide to the law enforcement officer a copy of any written or electronic report of the person's blood alcohol concentration.

B. Before requesting the information required by subsection A of this section, a law enforcement officer shall obtain permission from the emergency department director or the director's designee to speak with the personnel. The permission shall not be refused, but may be delayed if, in the opinion of the emergency department director or the director's designee, taking the personnel away from patient care duties could cause patient harm.

C. If a law enforcement officer makes a request of emergency department personnel pursuant to subsection A of this section, the personnel shall comply with the request. Emergency department personnel are not required to determine whether a law enforcement officer has a reasonable belief that a person may have violated section 28-1381, 28-1382 or 28-1383 when complying with the request in subsection A of this section.

D. Emergency department personnel do not incur any civil liability as a result of complying with this section unless the personnel, while performing the activity, act with gross negligence.

**CHAPTER 8  
MOTOR VEHICLE DRIVER LICENSES**

**ARTICLE 1  
GENERAL PROVISIONS**

**28-3005. Medical or psychological reports; immunity; definitions**

A. For medical conditions, a physician or registered nurse practitioner, for psychological conditions, a psychologist, physician, psychiatric mental health nurse practitioner or substance abuse counselor who provides information in good faith and at the written request of a driver license applicant or licensee concerning a person's medical or psychological condition with respect to operation of a motor vehicle is immune from personal liability with respect to the information provided.

B. Notwithstanding the physician-patient, nurse-patient or psychologist-client confidentiality relationship, a physician, registered nurse or psychologist may voluntarily report a patient to the department who has a medical or psychological condition that in the opinion of the physician, registered nurse practitioner or psychologist could significantly impair the person's ability to safely operate a motor vehicle. If a report is made, the physician, registered nurse practitioner or psychologist shall make the report in writing, including the name, address and date of birth of the patient. On receipt of the report, the department may require an examination of the person reported in the manner provided for in §28-3314. A person shall not bring an action against a physician, registered nurse practitioner or psychologist for not making a report pursuant to this section. The physician, registered nurse practitioner or psychologist submitting the report in good faith is immune from civil or criminal liability for making the report pursuant to this section. The physician's, registered nurse practitioner's or psychologist's report is subject to subpoena or order to produce in any action except an action against the physician, registered nurse practitioner or psychologist submitting the report.

C. In this section:

1. "Medical or psychological condition" means a condition that could affect a person's functional ability to safely operate a motor vehicle.

2. "Physician" means a medical doctor, optometrist, chiropractor, naturopathic physician, doctor of osteopathy or doctor of homeopathy who is licensed to practice in this state or another state or who is employed by the federal government and practicing in this state or their agents.

3. "Psychiatric mental health nurse practitioner" means a person certified as a registered nurse practitioner in a psychiatric mental health specialty area under the provisions of title 32, chapter 15.

4. "Psychologist" means a person who is licensed pursuant to title 32, chapter 19.1, who is licensed to practice psychology in another state or who is employed by the federal government and practicing in this state.

5. "Registered nurse practitioner" has the same meaning prescribed in section 32-1601.

6. "Substance abuse counselor" means a person who is licensed by the board of behavioral health examiners in this state, who is licensed or certified in another state, who is certified by a board for certification of addiction counselors, who is a nationally certified addiction counselor or who is employed by the federal government and practicing in this state.

**TITLE 32  
PROFESSIONS AND OCCUPATIONS  
CHAPTER 18  
PHARMACY**

**ARTICLE 1  
BOARD OF PHARMACY**

**32-1901. Definitions**

In this chapter, unless the context otherwise requires:

21. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare for that delivery.

73. "Prescription order" means either:

a. An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

b. An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone, or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964 and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

**32-1909. Prescription medication donation program; distribution; immunity; rules**

A. Pursuant to board rules and this section, the board shall establish a prescription medication donation program to accept and dispense prescription medications. Prescription medications may be donated at a physician's office, a pharmacy or a health care institution as defined in section 36-401 that elects to participate in the program and that meets the requirements of this section and board rules. Prescription medications shall be accepted or dispensed under the prescription medication donation program only in their original sealed and tamper-evident unit dose packaging. Prescription medication that is packaged in single unit doses may be accepted and dispensed even if the outside packaging is opened if the single unit dose packaging is undisturbed. The program shall not accept a donation of a prescription medication that either:

1. Expires within six months after the donation.
2. Is deemed adulterated pursuant to section 32-1966.

B. A person, manufacturer or health care institution may donate prescription medication to a physician's office, pharmacy, hospital or health care institution that volunteers to participate in the program and that meets the requirements prescribed by the board.

C. A physician's office, pharmacy, hospital or health care institution that participates in the program shall dispense donated prescription medication:

1. Either directly or through participating governmental or nonprofit private entities.
2. Only pursuant to a prescription order.
3. Only to a recipient who is a resident of this state and who meets the eligibility standards prescribed by the Board by rule.

D. Before dispensing donated prescription medication, the physician's office, pharmacy, hospital or health care institutions participating in the program:

1. Shall comply with all applicable federal laws and the laws of this state dealing with the storage and distribution of dangerous drugs.

2. Shall examine the donated prescription medication to determine that it has not been adulterated and certify that the medication has been stored in compliance with the requirements of the product label.

3. May charge persons receiving donated prescription medication pursuant to this section a handling fee as prescribed by the board by rule to cover the costs of inspection, stocking and dispensing the prescription medication.

E. A pharmaceutical manufacturer is not liable for any claim or injury arising from the transfer of any prescription medication pursuant to this section including liability for failure to transfer or communicate product or consumer information regarding the transferred prescription medication, including the expiration date of the transferred prescription medication.

F. Persons and entities participating in the program as prescribed by this section and board rules are not subject to civil liability or professional disciplinary action.

G. In consultation with the director of the department of health services, the board shall adopt rules prescribing the following:

1. Eligibility criteria for physicians' offices, pharmacies, hospitals and health care institutions to receive and dispense donated prescription medication.

2. Standards and procedures for accepting, storing and dispensing donated prescription medication.

3. Standards and procedures for inspecting donated prescription medication to determine that the original unit dose packaging is sealed and tamper evident and that the donated prescription medication is unadulterated, safe and suitable for dispensing.

4. Eligibility standards, based on economic need, for persons receiving donated prescription medication.

5. A means, such as an identification card, by which persons prove that they are eligible to receive donated prescription medication.

6. A form that each recipient shall sign before the recipient may receive donated prescription medication to confirm that the recipient understands the immunity provisions of the program.

7. A formula to determine the amount of the handling fee that a physician's office, pharmacy, hospital or health care institution may charge recipients.

8. A list of prescription medication, arranged either by category or by individual drug, that the program may accept from individuals.

9. A list of prescription medication, arranged either by category or by individual drug, that the program shall not accept from individuals.

10. A form each individual shall sign stating that the donor is the owner of the prescription medication and wishes to voluntarily donate the prescription medication to the program.

11. A list of prescription medication, arranged either by category or by individual drug, that the program may accept from a health care institution.

12. A list of prescription medication, arranged either by category or by individual drug, that the program shall not accept from a health care institution. The list shall include a statement as to why the prescription medication is ineligible for donation.

13. Any other standards the board determines are necessary and appropriate.

H. Notwithstanding any other law, a dispenser of donated prescription medication pursuant to this section shall not submit a claim or otherwise seek reimbursement from a public or private third-party payor for the donation and a public or private third-party payor shall not provide reimbursement for donations made pursuant to this section.

**ARTICLE 3  
REGULATION**

**32-1968. Dispensing prescription-only drug; prescription orders; renewals; labels; misbranding; dispensing soft contact lenses**

A. A prescription-only drug shall be dispensed only under one of the following conditions:

1. By a medical practitioner in conformance with section 32-1921.
2. On a written prescription order bearing the prescribing medical practitioner's manual signature.
3. On an electronically transmitted prescription order containing the prescribing medical practitioner's electronic or digital signature that is reduced promptly to writing and filed by the pharmacist.
4. On a written prescription order generated from electronic media containing the prescribing medical practitioner's electronic or manual signature. A prescription order that contains only an electronic signature must be applied to paper that uses security features that will ensure the prescription order is not subject to any form of copying or alteration.
5. On an oral prescription order that is reduced promptly to writing and filed by the pharmacist.
6. By refilling any written, electronically submitted or oral prescription order if a refill is authorized by the prescriber either in the original prescription order, by an electronically transmitted refill order that is documented promptly and filed by the pharmacist or by an oral refill order that is documented promptly and filed by the pharmacist.

B. A prescription order shall not be refilled if it is either:

1. Ordered by the prescriber not to be refilled.
2. More than one year since it was originally ordered.

C. A prescription order shall contain the date it was issued, the name and address of the person for whom or owner of the animal for which the drug is ordered, refills authorized, if any, the legibly printed name, address and telephone number of the prescribing medical practitioner, the name, strength and dosage form and quantity of the drug ordered and directions for its use.

D. Any drug dispensed in accordance with subsection A of this section is exempt from the requirements of section 32-1967, except subsection A, paragraphs 1, 10 and 11 and the packaging requirements of subsection A, paragraphs 7 and 8, if the drug container bears a label containing the name and address of the dispenser, serial number, date of dispensing, name of the prescriber, name of the patient, or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the order. This exemption does not apply to any drug dispensed in the course of conduct of a business of dispensing drugs pursuant to diagnosis by mail or the internet or to a drug dispensed in violation of subsection A of this section.

E. The board may also by rule require additional information on the label of prescription medication that the board believes to be necessary for the best interest of the public's health and welfare.

F. A prescription-only drug or a controlled substance that requires a prescription order is deemed to be misbranded if, at any time before dispensing, its label fails to bear the statement "Rx only". A drug to which subsection A of this section does not apply is deemed to be misbranded if, at any time before dispensing, its label bears the caution statement quoted in this subsection.

G. A pharmacist may fill a prescription order for soft contact lenses only as provided in this chapter.

**32-1970. Implementing, monitoring and modifying drug therapy and use; conditions; definitions**

A. A pharmacist licensed pursuant to this chapter may implement, monitor and modify drug therapy and use only under the following circumstances:

1. The patient's drug therapy and use are pursuant to a diagnosis by a physician licensed pursuant to chapter 13 or 17 of this title in an inpatient setting except for health care provided pursuant to paragraph 4, subdivisions (b) and (d) of this subsection.

2. The pharmacist complies with rules adopted by the state board of pharmacy that have been approved by the Arizona medical board and the board of osteopathic examiners in medicine and surgery.

3. The pharmacist follows the written drug therapy management protocols prescribed by the physician who made the diagnosis.

4. The pharmacist implements, monitors or modifies a person's drug therapy and use only in the following health care institutions:

a. A hospital as defined in section 32-1901.

b. A staff model of a health care services organization.

c. A nursing care institution that has a contractual relationship between a limited service pharmacy or a long-term care consultant pharmacist or has an on-site pharmacy.

d. A qualifying community health center as defined in section 32-1921 that has an on-site pharmacy.

5. The pharmacist includes the approved guidelines and protocols in the patient's chart or file and makes the chart or file available for review by the patient's other health care providers.

B. A licensee who violates this section commits an act of unprofessional conduct.

C. A pharmacist is responsible for the pharmacist's negligent acts that are the result of the pharmacist's change of medication or that relate to patient drug usage pursuant to drug therapy management protocols. This subsection does not limit a physician's liability for negligent acts that are not related to a pharmacist's change of medication pursuant to the protocols.

D. For the purposes of this section:

1. "Implement, monitor and modify" means that a pharmacist may perform specific acts as authorized by a physician pursuant to written guidelines and protocols. This does not include the selection of drug products not prescribed by the physician unless selection of the specific drug product is authorized by the written guidelines and protocols.

2. "Long-term care consultant pharmacist" means a pharmacist providing consulting services to a long-term care facility.

3. "Protocol" means a physician's written order, written standing medical order or other written order of protocol as defined by rules adopted by the Arizona medical board and the board of osteopathic examiners in medicine and surgery and that are patient, physician and pharmacist specific for prescriptions or orders given by the physician authorizing the written protocol.

4. "Staff model of a health care services organization" means an organization that is licensed pursuant to title 20 and that employs its health care providers.

**TITLE 32  
PROFESSIONS AND OCCUPATIONS  
CHAPTER 31  
REGULATION OF HEALTH PROFESSIONS**

**ARTICLE 1  
PUBLIC TESTIMONY**

**32-3108. Grievance process, public testimony**

Notwithstanding any law to the contrary, a regulatory entity shall allow a person or a representative of a person who has made a complaint or a person or a representative of a person against whom a complaint has been made attending a board disciplinary meeting open to the public to address the board on that complaint on the agenda by filling out a request form before or at the time of the meeting.

**TITLE 32  
PROFESSIONS AND OCCUPATIONS  
CHAPTER 32  
HEALTH PROFESSIONALS**

**ARTICLE 1  
GENERAL PROVISIONS**

**32-3201. Definitions**

In this chapter, unless the context otherwise requires:

1. "Health profession regulatory board" means any board that regulates one or more health professionals in this state.
2. "Health professional" means a person who is certified or licensed pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41 or 42 of this title, title 36, chapter 4, article 6, title 36, chapter 6, article 7 or title 36, chapter 17.
3. "Medical record" has the same meaning prescribed in section 12-2291 but does not include prescription orders.

**32-3206. Disciplinary action; information; disclosure.**

A. At least ten business days before a disciplinary interview or a hearing, if the board does not hold a disciplinary interview, the health profession regulatory board shall notify the health professional and, at that person's request, the board shall provide the health professional or the health professional's attorney with the information listed in this section. The board shall provide the following information:

1. Any review conducted by an expert or consultant providing an evaluation of or opinion on the allegations.
2. Any records on the patient obtained by the board from other health care providers.
3. The results of any evaluations or tests of the health professional conducted at the board's direction.
4. Any other factual information that the board will use in making its determination.

B. A person who obtains information from the board pursuant to this section may not release it to any other person or entity or use it in any proceeding or action except the disciplinary interview and any administrative proceedings or appeals related to the disciplinary interview. A person who violates this subsection commits an act of unprofessional conduct.

C. The board may charge the health professional or the health professional's attorney for the cost of providing the information received up to the fee for making a copy of each page as prescribed by section 12-284, subsection a.

**32-3207. Health professionals disease hazard; testing; petition; definition**

A. A health professional may petition the court to allow for the testing of a patient or deceased person if there is probable cause to believe that in the course of that health professional's practice there was a significant exposure.

B. The court shall hear the petition promptly. If the court finds that probable cause exists to believe that significant exposure occurred between the patient or deceased person and the health professional, the court shall order that either:

1. The person who transferred blood or bodily fluids onto the health professional provide two specimens of blood for testing.

2. If the person is deceased, the medical examiner draw two specimens of blood for testing.

C. On written notice from the employer of the health professional, the medical examiner is authorized to draw two specimens of blood for testing during the autopsy or other examination of the deceased person's body. The medical examiner shall release the specimen to the employing agency or entity for testing only after the court issues its order pursuant to subsection B. If the court does not issue an order within thirty days after the medical examiner collects the specimen, the medical examiner shall destroy the specimen.

D. Notice of the test results shall be provided as prescribed by the department of health services to the person tested, the health professional named in the petition and the health professional's employer. If the person is incarcerated or detained, the notice shall also be provided to the chief medical officer of the facility in which the person is incarcerated or detained.

E. For the purposes of this section, "significant exposure" means contact of a person's ruptured or broken skin or mucous membranes with another person's blood or bodily fluid, other than tears, saliva or perspiration, of a magnitude that the centers for disease control of the United States public health service have epidemiologically demonstrated can result in the transmission of blood borne or bodily fluid carried diseases.

**32-3208. Criminal charges; mandatory reporting requirements; civil penalty**

A. A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed.

B. An applicant for licensure or certification as a health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after submitting the application must notify the regulatory board in writing within ten working days after the charge is filed.

C. On receipt of this information the regulatory board may conduct an investigation.

D. A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary action it takes.

E. The regulatory board may deny the application of an applicant who does not comply with the notification requirements of this section.

F. On request a health profession regulatory board shall provide an applicant or health professional with a list of misdemeanors that the applicant or health professional must report.

**32-3209. Release of information; fees**

A. On request of any person, a health professional regulatory board must provide the following information to that person:

1. A copy of the minutes of any specified board meeting.

2. A copy of a board action concerning a person regulated by the board.
  3. A copy of the final adjudication of a complaint against a person regulated by the board. For the purposes of this paragraph, final adjudication of a complaint does not include any complaint that was dismissed or terminated more than five years before the request was submitted.
  4. The name and primary practice address of a person regulated by the board.
- B. A health regulatory board may charge a fee for copies of any of the information in subsection A.

**32-3210. Billing for laboratory costs; unprofessional conduct; definition**

A. It is an act of unprofessional conduct for a health professional to request a laboratory that provides anatomic pathology services at the health professional's orders to submit a bill for anatomic pathology services, whether occurring in this state or elsewhere, to any person or entity other than the following:

1. The patient.
2. The responsible insurer or other third-party payor.
3. The health care institution.
4. A referring laboratory, excluding the laboratory of the health professional who ordered the test.
5. A governmental agency or the agency's public or private agent, agency or organization that is acting on behalf of the recipient of the services.

B. For the purposes of this section, "anatomic pathology services" includes cytology services, molecular pathology services, hematopathology, histopathology, surgical pathology, and blood banking services performed by a pathologist. Anatomic pathology services does not include the collection, packaging and transportation of the specimen.

**32-3211. Medical records; protocol; unprofessional conduct; corrective action; exemption**

A. A health professional must prepare a written protocol for the secure storage, transfer and access of the medical records of the health professional's patients. At a minimum the protocol must specify:

1. If the health professional terminates or sells the health professional's practice and the patient's medical records will not remain in the same physical location, the procedure by which the health professional shall notify each patient in a timely manner before the health professional terminates or sells the health professional's practice in order to inform the patient regarding the future location of the patient's medical records and how the patient can access those records.
2. The procedure by which the health professional may dispose of unclaimed medical records after a specified period of time and after the health professional has made good faith efforts to contact the patient.
3. How the health professional shall timely respond to requests from patients for copies of their medical records or to access their medical records.

B. The protocol prescribed in subsection A of this section must comply with the relevant requirements of title 12, chapter 13, article 7.1 regarding medical records.

C. A health professional shall indicate compliance with the requirements of this section on the health professional's application for relicensure in a manner prescribed by the health professional's regulatory board.

D. A health professional who does not comply with this section commits an act of unprofessional conduct.

E. In addition to taking disciplinary action against a health professional who does not comply with this section, the health professional's regulatory board may take corrective action regarding the proper storage, transfer and access of the medical records of the health professional's patients. For the purposes of this subsection, corrective action does not include taking possession or management of the medical records.

F. For the purposes of this section, health professional does not include a veterinarian.

G. This section does not apply to a health professional who is employed by a health care institution as defined in section 36-401 that is responsible for the maintenance of the medical records.

**32-3212. Umbilical cord blood donations; information; definition**

A. Beginning January 1, 2007, if a health professional has a patient who is in her second trimester of pregnancy, the health professional must inform the patient of the following options relating to stem cells that are contained in the umbilical cord blood after the delivery of her child.

1. Discard the stem cells.
2. Donate the stem cells to a public umbilical cord blood bank.
3. Store the stem cells in a family umbilical cord blood bank for use by the immediate and extended family members.
4. Store the stem cells for family use through a family or sibling donor banking program that provides free collection, processing and storage where there is a medical need.

B. If the department of health services has issued a pamphlet on this subject, the health professional must also provide the patient with this pamphlet.

C. A health professional meets the notification requirements of this section by providing this information verbally or in writing or by providing the woman with a publication prepared by the department of health services.

D. This section does not impose an obligation on a health professional to inform a pregnant woman regarding the option of umbilical cord blood collection if that information conflicts with the health professional's bona fide religious beliefs.

E. A person who acts in good faith pursuant to this section is not subject to civil or criminal liability or professional discipline for those acts.

F. For the purposes of this section, "umbilical cord blood" means the blood that remains in the umbilical cord and placenta after the birth of a newborn child.

**TITLE 32  
PROFESSIONS AND OCCUPATIONS  
CHAPTER 37  
CHILD SUPPORT OBLIGATIONS**

**ARTICLE 1  
GENERAL PROVISIONS**

**32-3701. Child support arrearages; suspension of license or certificate; applicability; definition**

A. A licensing board or agency shall suspend a license within thirty days after receiving a certificate of noncompliance from the court pursuant to section 25-518. The licensing board or agency shall not lift the suspension until it receives a certificate of compliance from the court.

B. The licensing board or agency shall notify the department of economic security within thirty days in writing, or by any other means prescribed by the department, of all license suspensions pursuant to this section. The information shall include the person's name, address, date of birth and social security number.

C. This section applies to support obligations ordered by any state, territory or district of the United States.

D. For purposes of this section, "license" means any license, certificate, registration, permit or other authorization that:

1. Is issued by an agency or regulatory board.
2. Is subject before expiration to suspension, revocation, forfeiture or termination by the issuing board or agency.
3. A person must obtain to practice or engage in a particular business, occupation or profession.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 1  
STATE AND LOCAL BOARDS AND DEPARTMENTS OF HEALTH**

**ARTICLE 1  
DEPARTMENT OF HEALTH SERVICES**

**36-112. Umbilical cord donations; information pamphlet; distribution; health care institution responsibilities; definition**

A. On or before January 1, 2007, the department of health services shall prepare a pamphlet that includes information regarding the following:

1. The medical process involved in the collection of umbilical cord blood.
2. The medical risks of umbilical cord blood collection to the mother and her unborn child.
3. The current and potential future medical uses, risks and benefits of umbilical cord blood collection to a mother, her newborn child and her biological family.
4. The current and potential future medical uses, risks and benefits of umbilical cord blood collection to persons who are not biologically related to a mother and her newborn child.
5. Any costs that may be incurred by a pregnant woman who chooses to make an umbilical cord blood donation.
6. Options for ownership and future use of the donated material.
7. The average cost of public and private umbilical cord blood banking.

B. The department shall update the pamphlet prepared pursuant to this section as necessary.

C. The department shall distribute the pamphlet free of charge to physicians and health care institutions on request and shall make the pamphlet available on its web site.

D. The department may accept gifts, grants and donations for the purposes of this section.

E. A health care institution licensed pursuant to Chapter 4 of this title that treats a pregnant woman during the delivery of her child shall permit her to arrange for an umbilical cord blood donation if she has made this request unless, in the professional judgment of a health care provider, the donation would threaten the health of the mother or the newborn child.

F. This section does not impose an obligation on a health care provider to permit an umbilical cord blood collection if the collection conflicts with the provider's bona fide religious beliefs and the provider makes this fact known to the woman as soon as reasonably feasible.

G. A health care institution that acts in good faith pursuant to this section is not subject to civil or criminal liability or regulatory discipline for those acts.

H. For the purposes of this section, "umbilical cord blood" means the blood that remains in the umbilical cord and placenta after the birth of a newborn child.

**CHAPTER 3  
RECORDS AND PUBLIC HEALTH STATISTICS**

**ARTICLE 2  
DEATH REGISTRATION, PROCEDURES AND CERTIFICATES  
AND BIRTH REGISTRATION CERTIFICATE REQUIREMENTS**

**36-325. Death certificate registration; moving human remains; definition**

G. If a person under the current care of a physician or nurse practitioner for a potentially fatal illness dies of that illness, the physician or nurse practitioner, if available, shall complete and sign the medical certification of death on a death certificate within seventy-two hours. If the physician or nurse practitioner is not available, the medical examiner shall complete and sign the medical certification of death on a death certificate.

H. If a person dies in a hospital, nursing care institution or hospice inpatient facility, the following person shall complete and sign the medical certification of death within seventy-two hours of the death:

1. If the person is under the care of a nurse practitioner, the nurse practitioner or attending physician, if available.
2. If the person is not under the care of a nurse practitioner, the attending physician, if available.
3. If the nurse practitioner or attending physician is not available, the medical examiner.

N. For the purposes of this section, "medical certification" means confirmation of a cause of death.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 4  
HEALTH CARE INSTITUTIONS**

**ARTICLE 4  
HEALTH CARE UTILIZATION REVIEW**

**36-441. Health care utilization committees; immunity; exception; definition**

A. A person who without malice makes a decision or recommendation as a member, agent or employee of a health care utilization committee or who furnishes any records, information or assistance to that committee at its request is not subject to liability for civil damages or any legal action in consequence of that action. In any such action, the absence of malice is presumed. This presumption may be overcome only by a showing of clear and convincing evidence. This section does not relieve a person of liability arising from treatment of a patient. For the purposes of this subsection, "malice" means evil intent and outrageous, oppressive or intolerable conduct that creates a substantial risk of tremendous harm to others.

B. All proceedings, records and materials prepared in connection with the activities of a health care utilization committee are confidential and are not subject to discovery except:

1. In proceedings before the Arizona medical board or the board of osteopathic examiners.
2. In actions by an individual health care provider against the health care institution or outpatient surgical center arising from the discipline or other adverse action taken against the individual as a result of utilization review.

C. No member of a utilization review committee, person engaged in assisting the committee or person furnishing information to the committee may be subpoenaed to testify in a judicial or quasi-judicial proceeding if the subpoena is based solely on the utilization review committee's activities.

D. This section does not:

1. Affect a patient's claim to privilege or privacy.
2. Prevent the subpoena of a patient's medical records if they are otherwise subject to discovery.
3. Restrict the powers and duties of the director pursuant to this chapter with respect to records and information that are not subject to this section.

E. In a legal action brought against a hospital or outpatient surgical center for failure to adequately perform utilization review, representatives of the facility may testify as to whether there was utilization review with respect to the subject matter of the litigation.

F. All proceedings, records and materials prepared in connection with utilization review are confidential and inadmissible as evidence in a court proceeding.

G. For the purposes of this section, "health care utilization committee" means a committee established by a hospital or an outpatient surgical center to review or evaluate the utilization, appropriateness and necessity of health care services provided by that facility.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 4  
HEALTH CARE INSTITUTIONS**

**ARTICLE 5  
REVIEW OF CERTAIN HEALTH CARE PRACTICES**

**36-445. Review of certain medical practices**

The governing body of each licensed hospital or outpatient surgical center as defined in section 36-401 shall require that physicians admitted to practice in the hospital or center organize into committees or other organizational structures to review the professional practices within the hospital or center for the purposes of reducing morbidity and mortality and for the improvement of the care of patients provided in the institution. Such review shall include the nature, quality and necessity of the care provided and the preventability of complications and deaths occurring in the hospital or center. Such review need not identify the patient or doctor by name but may use a case number or some other such designation.

**36-445.01. Confidentiality of information; conditions of disclosure**

A. All proceedings, records and materials prepared in connection with the reviews provided for in section 36-445, including all peer reviews of individual health care providers practicing in and applying to practice in hospitals or outpatient surgical centers and the records of such reviews, are confidential and are not subject to discovery except in proceedings before the Arizona medical board or the board of osteopathic examiners, or in actions by an individual health care provider against a hospital or center or its medical staff arising from discipline of such individual health care provider or refusal, termination, suspension or limitation of the health care provider's privileges. No member of a committee established under the provisions of section 36-445 or officer or other member of a hospital's or center's medical, administrative or nursing staff engaged in assisting the hospital or center to carry out functions in accordance with that section or any person furnishing information to a committee performing peer review may be subpoenaed to testify in any judicial or quasi-judicial proceeding if the subpoena is based solely on those activities.

B. This article does not affect any patient's claim to privilege or privacy or to prevent the subpoena of a patient's medical records if they are otherwise subject to discovery or to restrict the powers and duties of the director pursuant to this chapter, with respect to records and information that are not subject to this article. In any legal action brought against a hospital or outpatient surgical center licensed pursuant to this chapter claiming negligence for failure to adequately do peer review, representatives of the hospital or center are permitted to testify as to whether there was peer review as to the subject matter being litigated. The contents and records of the peer review proceedings are fully confidential and inadmissible as evidence in any court of law.

**36-445.02. Immunity relating to review of medical practices**

A. Any individual who, in connection with duties or functions of a hospital or outpatient surgical center pursuant to section 36-445, makes a decision or recommendation as a member, agent or employee of the medical or administrative staff of a hospital or center or of one of its review committees or related organizations or who furnishes any records, information, or assistance to such medical staff or review committee or related organization is not subject to liability for civil damages or legal action in consequence thereof.

B. No hospital or outpatient surgical center and no individual involved in carrying out review or disciplinary duties or functions of a hospital or center pursuant to section 36-445 may be liable in damages to any person who is denied the privilege to practice in a hospital or center or whose privileges are suspended, limited or revoked. The only legal action which may be maintained by a licensed health care provider based on the performance or nonperformance of such duties and functions is an action for injunctive relief seeking to correct an erroneous decision or procedure. The review shall be limited to a review of the record. If the record shows that the denial, revocation, limitation or suspension of membership or privileges is supported by substantial evidence, no injunction shall issue. In such actions, the prevailing party shall be awarded taxable costs, but no other monetary relief shall be awarded.

C. Nothing in this section relieves any individual, hospital or outpatient surgical center from liability arising from treatment of a patient.

**36-445.03. Limitation of publication; identity of patient confidential**

Any publication of the results of a review for the purposes provided in sections 36-445 and 36-445.01 shall be made only for the purposes provided in those sections and shall keep confidential the identity of any patient whose condition, care or treatment was a part thereof.

**36.445.04. Freestanding urgent care center incident reporting; confidentiality requirement**

If a patient's death occurs at a freestanding urgent care center, the center shall report the death to the department not later than the next department workday. The department shall not release personally identifiable patient or physician information.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 4.1  
CLINICAL LABORATORIES  
  
ARTICLE 1  
LABORATORY LAWS**

**36-451. Definitions**

4. "Clinical laboratory" or "laboratory" means any facility, agency, institution, medical office, health care institution, building, or place which provides through its ownership or operation facilities for the microbiological, serological, chemical, immunohematological, hematological, cytologic, histologic, radiobioassay, cytogenetic, histocompatibility, pathological, toxicological or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention and treatment of a disease or an impairment or the assessment of human health conditions or to determine the presence, absence or concentration of various substances in the body. Clinical laboratory does not include law enforcement crime laboratories.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 4.1  
CLINICAL LABORATORIES**

**ARTICLE 2  
LICENSURE AND REGULATION OF CLINICAL LABORATORIES**

**36-470. Examination of specimens; written requests; reports of results; retention of test records**

A. Except as otherwise provided, a clinical laboratory shall examine specimens at the authorization of any person licensed pursuant to title 32, chapter 7, 8, 13, 14, 17 or 29 or title 32, chapter 11, article 2, a person licensed to practice medicine or surgery in another state, or a person authorized by law or department rules.

B. The result of a test shall be reported to the person who authorized it. A report of results issued from a clinical laboratory shall provide information required by the department by rule. No clinical interpretation, diagnosis or prognosis or suggested treatment other than normal values shall appear on the laboratory report form, except that a report made by a physician licensed to practice medicine and surgery in this state or another state may include this information.

C. All specimens accepted by a laboratory for specified tests shall be tested on its premises, except that specimens, other than those for proficiency testing purposes, may be forwarded for examination to another laboratory licensed under this article or exempted by section 36-461, paragraph 1.

D. When the laboratory performing the examination is other than the laboratory accepting the specimen, the report submitted shall include information required by the department by rule.

E. Records involving laboratory services and copies of reports of laboratory tests shall be kept in a manner as prescribed by the department by rule.

F. A person authorized to request clinical laboratory examinations pursuant to this section may direct that a clinical laboratory examine a person's specimens at that person's request if the authorization is given pursuant to department rules and specifies:

1. The name of the person authorized to request an examination and to receive the results of that examination.
2. The type of examinations to be performed by the laboratory.
3. The total number of examinations the authorized person may request.
4. The beginning and expiration dates of the authorization.
5. The identification of the person giving the authorization.

G. The laboratory shall report test results ordered pursuant to subsection F to the person who authorized the test and to the person who requested it.

**36-471. Persons authorized to collect human specimens or blood**

A. Only a person authorized by law shall collect human bodily materials. Technical personnel of a laboratory may collect blood, remove stomach contents and collect material for smears and cultures or inject substances under the direction or upon the written request of a licensed physician for examination by a licensed laboratory.

B. Emergency paramedics, intermediate emergency medical technicians or personnel who have written approval of the director may collect blood and collect material for smears and cultures under the direction or upon the written request of a licensed physician.

**36-472. Rebates, fee-splitting and solicitation of referrals prohibited**

A. The owner or director of a laboratory shall not personally or through an agent, solicit the referral of specimens to his or any other laboratory in a manner which offers or implies an offer of rebates to persons submitting specimens or other fee-splitting inducements or participate in any fee-splitting arrangement. This applies to contents of fee schedules, billing methods or personal solicitation. The contractual provision of laboratory services for a fixed fee independent of the number of specimens submitted for such services is declared to be a violation of this section.

B. The bill to the patient shall specify the actual charge by the reference laboratory together with the reasonable specimen collection charge by the referring laboratory or physician.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 5  
MENTAL HEALTH SERVICES**

**ARTICLE 2  
PATIENT'S CIVIL AND LEGAL RIGHTS**

**36-517.02. Limitation of liability; exception; discharge of duty; immunity for disclosure**

A. There shall be no cause of action against a mental health provider nor shall legal liability be imposed for breaching a duty to prevent harm to a person caused by a patient, unless both of the following occur:

1. The patient has communicated to the mental health provider an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable victim or victims, and the patient has the apparent intent and ability to carry out such threat.

2. The mental health provider fails to take reasonable precautions.

B. Any duty owed by a mental health provider to take reasonable precautions to prevent harm threatened by a patient is discharged by all of the following:

1. Communicating when possible the threat to all identifiable victims.

2. Notifying a law enforcement agency in the vicinity where the patient or any potential victim resides.

3. Taking reasonable steps to initiate proceedings for voluntary or involuntary hospitalization, if appropriate.

4. Taking any other precautions that a reasonable and prudent mental health provider would take under the circumstances.

C. Whenever a patient has explicitly threatened to cause serious harm to a person or whenever a mental health provider reasonably concludes that a patient is likely to do so, and the mental health provider, for the purpose of reducing the risk of harm, discloses a confidential communication made by or relating to the patient, the mental health provider shall be immune from liability resulting from such disclosure.

D. This section shall not limit and shall be in addition to any other statutory immunities from liability of mental health providers or mental health treatment agencies as otherwise provided by law.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 6  
PUBLIC HEALTH CONTROL**

**ARTICLE 4  
COMMUNICABLE DISEASE INFORMATION**

**36-661. Definitions**

In this article, unless the context otherwise requires:

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

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

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

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

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

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

7. "Department" means the department of health services.

8. "Director" means the director of the department of health services.

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

10. "Health care decision maker" has the same meaning prescribed in section 12-2801.

11. "Health care provider" means a physician, nurse or other person involved in providing health services.

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

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

14. "HIV" means the human immunodeficiency virus.

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

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

17. "HIV-related information" means information concerning whether a person has had an HIV-related test or has HIV infection, HIV-related illness or acquired immune deficiency syndrome and includes information that identifies or reasonably permits identification of that person or the person's contacts.

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

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

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

### **36-662. Access to records**

In conducting an investigation of a reportable communicable disease the department of health services and local health departments may inspect and copy medical or laboratory records in the possession of or maintained by a health care provider or health care facility which are related to the diagnosis, treatment and control of the specific communicable disease case reported. Requests for records shall be made in writing by the appropriate officer of the department of health services or local health department and shall specify the communicable disease case and the patient under investigation.

### **36-663. HIV-related testing; restrictions; exceptions**

A. Except as otherwise specifically authorized or required by this state or by federal law, no person may order the performance of an HIV-related test within a hospital licensed pursuant to chapter 4, article 2 of this title without first receiving the specific written informed consent of the subject of the test who has capacity to consent or, if the subject lacks capacity to consent, of the subject's health care decision maker. Before ordering the performance of an HIV-related test as a part of a patient examination or consultation conducted outside a hospital licensed pursuant to chapter 4, article 2 of this title, a health care provider licensed pursuant to title 32, chapter 13, 17 or 29, a nurse practitioner certified pursuant to title 32, chapter 15 or a physician assistant certified pursuant to title 32, chapter 25 shall obtain specific oral or written informed consent of the subject of the test who has capacity to consent or, if the subject lacks capacity to consent, of a person authorized pursuant to law to consent to health care for that person. Other health care providers who are licensed pursuant to title 32 and who are allowed to provide HIV-related tests within their scope of practice shall obtain specific written informed consent. Written consent shall be in a form as prescribed by the department except for entities complying with the form prescribed by §20-448.01. Oral consent shall be documented in the medical record of the subject of the test. If the test is performed on an anonymous basis the consent shall be oral and no record shall be made containing the subject's name.

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

1. The test including its purpose, the meaning of its results and the benefits of early diagnosis and medical intervention.
2. The nature of acquired immune deficiency syndrome and HIV-related illness and information about behaviors known to pose risks for transmitting the human immunodeficiency virus.
3. The confidentiality protections afforded HIV-related information.
4. That an HIV-related test is voluntary and can be performed anonymously at a public health agency.
5. That a positive test result must be reported to a public health agency as required by law.
6. That the consent for the test may be withdrawn at any time before drawing the sample for the test and that the withdrawal of consent may be given orally if the consent was given orally or shall be in writing if the consent was given in writing.

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

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

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

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

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

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

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

### **36-664. Confidentiality; exceptions**

A. A person who obtains communicable disease related information in the course of providing a health service or obtains that information from a health care provider pursuant to an authorization shall not disclose or be compelled to disclose that information except to the following:

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

2. The department or a local health department for purposes of notifying a good samaritan pursuant to subsection E of this section.

3. An agent or employee of a health facility or health care provider to provide health services to the protected person or the protected person's child or for billing or reimbursement for health services.

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

5. A health facility or health care provider, or an organization, committee or individual designated by the health facility or health care provider, that is engaged in the review of professional practices, including the review of the quality, utilization or necessity of medical care, or an accreditation or oversight review organization responsible for the review of professional practices at a health facility or by a health care provider.

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

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

8. A federal, state or local government agency authorized by law to receive the information. The agency is authorized to redisclose the information only pursuant to this article or as otherwise permitted by law.

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

10. A person, health care provider or health facility to which disclosure is ordered by a court or administrative body pursuant to §36-665.

11. The industrial commission or parties to an industrial commission claim pursuant to the provisions of §23-908, subsection D and 23-1043.02.

12. Insurance entities pursuant to §20-448.01 and third party payor's or the payor's contractors.

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

14. A person or entity as required by federal law.

15. The legal representative of the entity holding the information in order to secure legal advice.

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

B. At the request of the department of economic security in conjunction with the placement of children in foster care or for adoption or court-ordered placement, a health care provider shall disclose communicable disease information, including HIV-related information, to the department of economic security.

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

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

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

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

4. For the purposes of research as authorized by state and federal law.

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

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

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

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

H. If a disclosure of communicable disease related information is made pursuant to an authorization under subsection F of this section, the disclosure shall be accompanied by a statement in writing that warns that the information is from confidential records protected by state law and that prohibits further disclosure of the information without the specific written authorization of the person to whom it pertains or as otherwise permitted by law.

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

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

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

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

L. This section or and sections 36-663, 36-666, 36-667 and 36-668 do not apply to persons or entities subject to regulation under title 20.

### **36-665. Order for disclosure of confidential communicable disease related information**

A. Notwithstanding any other law, no court or administrative body may issue an order for the disclosure of or a search warrant for communicable disease related information, except as provided by this section. An administrative body includes any administrative law judge or hearing officer presiding over matters relating to the administrative body.

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

1. A compelling need for disclosure of the information for the adjudication of a criminal, civil or administrative proceeding.
2. A clear and imminent danger to a person whose life or health may unknowingly be at significant risk as a result of contact with the person to whom the information pertains.
3. If the application is filed by a state, county or local health officer, a clear and imminent danger to the public health.
4. That the applicant is lawfully entitled to the disclosure and the disclosure is consistent with the provisions of this article.
5. A clear and imminent danger to a person or to public health or a compelling need requiring disclosure of the communicable disease related information.

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

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

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

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

G. In assessing compelling need and clear and imminent danger, the court or administrative body shall provide written findings of fact, including scientific or medical findings, citing specific evidence in the record which supports each finding, and shall weigh the need for disclosure against the privacy interest of the protected person and the public interest which may be disserved by disclosure which deters future testing or treatment or which may lead to discrimination.

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

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

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

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

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

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

### **36-666. Violation; classification; immunity**

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

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

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

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

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

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

### **36-667. Civil penalty**

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

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

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

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

### **36-669. Human immunodeficiency testing of prisoners**

The state department of corrections in consultation with the department of health services may require that a prisoner be tested for the human immunodeficiency virus if the department of corrections has reasonable grounds to believe that the person is infected with the human immunodeficiency virus and is a health threat to others.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 6  
PUBLIC HEALTH CONTROL**

**ARTICLE 5  
Maternal and Child Welfare**

**36-694. Report of blood tests; newborn screening program; fee; definitions**

A. When a birth or stillbirth is reported, the attending physician or other person required to make a report of the birth shall state on the certificate whether a blood test for syphilis was made on a specimen of blood taken from the woman who bore the child or from the umbilical cord at delivery, as required by section 36-693, and the approximate date when the specimen was taken.

B. When a birth is reported the attending physician or person who is required to make a report on the birth shall order or cause to be ordered tests for certain congenital disorders. The results of the tests for these disorders must be reported to the department of health services. The department of health services shall specify in rule the disorders, the process for collecting and submitting specimens and reporting requirements for test results.

C. When a hearing test is performed on a newborn, the initial hearing test results and any subsequent hearing test results must be reported to the department of health services as prescribed by department rules.

D. The director of the department of health services shall establish a newborn screening program within the department to assure that the testing for congenital disorders and the reporting of hearing test results required by this section are conducted in an effective and efficient manner. The newborn screening program shall include an education program for the general public, the medical community, parents and professional groups.

E. The newborn screening program shall establish and maintain a central database of newborns and infants who are tested for hearing loss and congenital disorders that include information required in rule.

F. If tests conducted pursuant to this section indicate that a newborn or infant may have a hearing loss or a congenital disorder, the screening program shall provide follow-up services to encourage the child's family to access evaluation services, specialty care and early intervention services.

G. The director shall establish a committee to provide recommendations and advice to the department on at least an annual basis regarding tests that the committee believes should be included in the newborn screening program. Any recommendation by the committee that a test be added to the newborn screening program shall be accompanied by a cost-benefit analysis.

H. The committee shall include the following members who are appointed by the director and who serve without compensation or reimbursement of expenses at the pleasure of the director:

1. Seven physicians who are licensed pursuant to title 32, chapter 13 or 17 and who represent the medical specialties of endocrinology, pediatrics, neonatology, family practice, otology and obstetrics.

2. A neonatal nurse practitioner who is licensed and certified pursuant to title 32, chapter 15.

3. An audiologist who is licensed pursuant to chapter 17, article 4 of this title.

4. A representative of an agency that provides services under part C of the individuals with disabilities education act.

5. At least one parent of a child with a hearing loss or a congenital disorder.

6. A representative from the insurance industry familiar with health care reimbursement issues.

7. The director of the Arizona health care cost containment system or the director's designee.

8. A representative of the hospital or health care industry.

I. The department of health services shall prepare and issue a solicitation including a proposed contract format, at least once every four years, to contract for the testing of congenital disorders. The procurement shall comply with title 41, chapter 23, with the following exceptions:

1. The contracts for these services are exempt from section 41-2511, subsection B.
  2. Proposals may be accepted from hospitals, clinical laboratories licensed pursuant to chapter 4.1, article 2, of this title, the state laboratory described in section 36-251, and any other qualified public or private persons.
  3. The department of health services may negotiate price reductions in eligible proposals if offerors are given an equal opportunity to negotiate and negotiations are confidential in accordance with section 41-2534, subsection F.
- J. The director may establish by rule a fee that the department may collect for operation of the newborn screening program, including contracting for the testing pursuant to this section. The fee for the first specimen and hearing test shall not exceed thirty dollars. The fee for the second specimen and hearing test shall not exceed forty dollars.
- K. For purposes of this section:
1. "Infant" means a child who is twenty-nine days of age to two years of age.
  2. "Newborn" means a child who is not more than twenty-eight days of age.

## COMMUNICABLE DISEASE REPORTING

These diseases are to be reported to the local health agency (county health department or Indian Health Service Unit) as indicated. Reports should be made on an ADHS Communicable Disease Reporting form, which includes the patient's name, telephone number, complete street address, date of birth, race, sex, ethnicity, date of onset, date of diagnosis, diagnosis, laboratory results and date, name of reporter, and the reporter's telephone number and complete address. Reports may also be telephoned or faxed to the local health agency.

### Legend:

- ◇ Submit a report by telephone or through an electronic reporting system authorized by the Department within 24 hours after a case or suspect case is diagnosed, treated, or detected or an occurrence is detected.
- \* If a case or suspect case is a food handler or works in a child care establishment or a health care institution, submit a report within 24 hours after the case or suspect case is diagnosed, treated, or detected.
- Submit a report within one working day after a case or suspect case is diagnosed, treated, or detected.
- ▣ Submit a report within five working days after a case or suspect case is diagnosed, treated, or detected.
- Submit a report within 24 hours after detecting an outbreak.

Amebiasis \*■○  
 Anthrax ◇  
 Aseptic Meningitis: Viral ■  
 Basidiobolomycosis ■  
**Botulism** ◇  
 Brucellosis ■  
**Campylobacteriosis** ■\*○  
 Chancroid (*Haemophilus ducreyi*) ■  
 Chlamydia infection, genital ■  
**Cholera** ■\*  
 Coccidioidomycosis (Valley Fever) ■  
 Colorado Tick Fever ■  
 Conjunctivitis, Acute (outbreaks only) ○  
 Creutzfeldt-Jakob disease ■  
**Cryptosporidiosis** ■\*○  
 Cyclospora infection ■  
 Cysticercosis ■  
 Dengue ■  
**Diarrhea, nausea, or vomiting** (outbreaks only) ○

**Diphtheria** ◇  
 Ehrlichiosis ■  
**Emerging or exotic disease** ◇  
 Encephalitis: Viral or parasitic ■  
**Enterohemorrhagic *Escherichia coli*** ◇  
**Enterotoxigenic *Escherichia coli*** ◇  
**Giardiasis** ■\*○  
 Gonorrhea ■  
*Haemophilus Influenza*: Invasive disease ■  
 Hansen's disease (Leprosy) ■  
 Hantavirus Infection ■  
**Hemolytic uremic syndrome** ◇  
**Hepatitis A** ■\*○  
 Hepatitis B and D ■  
 Hepatitis C ■  
**Hepatitis E** ■\*○  
 Herpes Genitalis ■  
 HIV infection and related disease ■  
 Kawasaki syndrome ■  
 Legionellosis (Legionnaires' Disease) ■  
 Leptospirosis ■  
**Listeriosis** ◇  
 Lyme disease ■  
 Lymphocytic choriomeningitis ■  
 Malaria ■  
**Measles (Rubeola)** ◇  
**Meningococcal Invasive Disease** ◇  
 Mumps ■  
**Pertussis (Whooping cough)** ◇  
**Plague** ◇  
**Poliomyelitis** ◇  
 Psittacosis (Ornithosis) ■  
 Q fever ■  
**Rabies in Humans** ◇  
 Relapsing Fever (Borreliosis) ■  
 Reye Syndrome ■  
 Rocky Mountain Spotted Fever ■  
**Rubella (German Measles)** ■\*  
 Rubella Syndrome, Congenital ■  
**Salmonellosis** ■\*○  
 Scabies (outbreaks only) ○  
**Severe acute respiratory syndrome (SARS)**◇  
**Shigellosis** ■\*○  
**Smallpox** ◇  
 Streptococcal Group A Invasive Disease ■  
 Streptococcal Group B Invasive Disease in Infants younger than 90 days of age ■  
 Streptococcus pneumoniae (pneumococcal  
 invasive disease)■  
 Syphilis ■  
**Taeniasis** ■\*○  
 Tetanus ■  
 Toxic shock syndrome ■  
 Trichinosis ■  
**Tuberculosis** ■  
**Tuberculosis infection in a child younger  
 than 6 (positive test result)** ■  
**Tularemia** ◇  
**Typhoid Fever** ◇

Typhus Fever ■  
**Unexplained death with a history of fever** ◇  
 Vaccinia-related adverse event ■  
 Vancomycin resistant *Enterococcus* spp. ■  
**Vancomycin resistant or Vancomycin-intermediately susceptible** *Staphylococcus aureus* ◇  
**Vancomycin resistant** *Staphylococcus Epidermidis* ◇  
 Varicella (Chickenpox) ■  
**Vibrio infection** ■\*○  
**Viral hemorrhagic fever** ◇  
**West Nile virus infection** ◇  
**Yellow Fever** ◇  
 Yersiniosis ■\*○

A clinical laboratory director or designee is required to submit positive findings for specific agents to the LS Coordinator of the Arizona Department of Health Services as follows:

Legend:

- ◆ Submit a report immediately after receiving one specimen for detection of the agent. Report receipt of subsequent specimens within 5 working days after receipt
- Submit a report within 24 hours after obtaining a positive test result.
- ▲ Submit a report within one working day after obtaining a positive test result.
- ▣ Submit a report within 5 working days after obtaining a positive test result or the described test result.
- ▼ Submit isolates of the organism to the Arizona State Laboratory at least once each week, as applicable.
- + A clinical laboratory director may report aggregate numbers of positive tests results every 5 working days rather than submitting individual reports.
- ▶ Submit a report only when an initial positive result is obtained for an individual.
- ◀ Submit an isolate of the organism only when an initial positive result is obtained for an individual, when a change in resistance pattern is detected, or when a positive result is obtained ≥ 12 months after the initial positive result is obtained for an individual.

Arboviruses ▲  
*Bacillus anthracis* ◆●▼  
*Bordetella pertussis* ●▼  
*Brucella* spp ▲▼  
*Campylobacter* spp. ▣  
 CD4-T-lymphocyte count of <200/microliter  
 whole blood or percentage of total lymphocytes of less than 14%) ▣  
*Chlamydia trachomatis* ▣  
*Clostridium botulinum* toxin (botulism) ◆●  
*Coccidioides* spp by culture or serologies ▣  
*Coxiella burnetti* ▲  
*Cryptosporidium* spp. ▣  
*Cyclospora* spp. ▲  
 Dengue virus ◆●  
 Emerging or exotic disease agent ◆●  
*Entamoeba histolytica* ▣  
*Escherichia coli* 0157:H7 ▲  
*Escherichia coli*, Shiga-toxin producing ▲▼  
*Francisella tularensis* ◆●▼  
*Haemophilus influenzae*: type B isolated from a normally sterile site ●▼  
 Hantavirus ▣  
 Hepatitis A Virus (anti HAV-IgM serologies) ▣

Hepatitis B Virus (anti-Hepatitis B core-IgM serologies, Hepatitis B surface antigen serologies, and PCR) ☐  
 Hepatitis C Virus ☐  
 Hepatitis D Virus ☐  
 Hepatitis E virus ☐  
 HIV (by culture, antigen, antibodies to the virus or detection of viral nucleic acid) ☐  
 HIV – any test result from an infant (by culture, antigen, antibodies to the virus or detection of viral nucleic acid) ☐  
 Influenza virus ☐+  
*Legionella* spp. (culture or DFA) ☐ ▼  
*Listeria* spp.: isolated from a normally sterile site ▲ ▼  
 Methicillin-resistant *Staphylococcus aureus*, isolated from a normally sterile site ▲▶  
*Mycobacterium tuberculosis* complex and its drug sensitivity pattern ☐▼◀  
*Neisseria gonorrhoeae* ☐  
*Neisseria meningitides*, isolated from a normally sterile site ●▼  
*Plasmodium* spp. ☐  
 Respiratory syncytial virus ☐+  
*Salmonella* spp. ▲ ▼  
 SARS-associated corona virus ●  
*Shigella* spp. ▲ ▼  
*Streptococcus* Group A: isolated from a normally sterile site ☐▼  
*Streptococcus* Group B: isolated from a normally sterile site in an infant <90 days of age ☐  
*Streptococcus pneumoniae* and its drug sensitivity pattern: isolated from a normally sterile site ☐▼  
*Treponema pallidum* (syphilis) ☐  
 Vancomycin resistant *Enterococcus* spp. ☐  
 Vancomycin resistant or Vancomycin-intermediately susceptible *Staphylococcus aureus* ▲ ▼  
 Vancomycin resistant *Staphylococcus Epidermidis* ▲ ▼  
 Variola virus (smallpox) ◆●  
*Vibrio* spp. ▲ ▼  
 Viral hemorrhagic fever agent ◆●  
 West Nile virus ▲  
*Yersinia* spp (other than *Y. pestis*) ▲ ▼  
*Yersinia pestis* (plague) ◆●▼

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 20  
ABORTION**

**ARTICLE 1  
GENERAL PROVISIONS**

**36-2151. Right to refuse to participate in abortion**

No hospital is required to admit any patient for the purpose of performing an abortion. A physician, or any other person who is a member of or associated with the staff of a hospital, doctor, clinic, or other medical or surgical facility in which an abortion has been authorized, who shall state in writing an objection to such abortion on moral or religious grounds shall not be required to participate in the medical or surgical procedures which will result in the abortion.

**36-2152. Parental consent; exception; hearings; time limits; violation; classification; definitions**

A. A person shall not knowingly perform an abortion on a pregnant unemancipated minor unless the attending physician has secured the written consent from one of the minor's parents or the minor's guardian or conservator or unless a judge of the superior court authorizes the physician to perform the abortion pursuant to subsection B.

B. A judge of the superior court shall, on petition or motion, and after an appropriate hearing, authorize a physician to perform the abortion if the judge determines that the pregnant minor is mature and capable of giving informed consent to the proposed abortion. If the judge determines that the pregnant minor is not mature or if the pregnant minor does not claim to be mature, the judge shall determine whether the performance of an abortion on her without the consent from one of her parents or her guardian or conservator would be in her best interests and shall authorize a physician to perform the abortion without consent if the judge concludes that the pregnant minor's best interests would be served.

G. Parental consent or judicial authorization is not required under this section if either:

1. The pregnant minor certifies to the attending physician that the pregnancy resulted from sexual conduct with a minor by the minor's parent, stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or foster parent or by a person who lives in the same household with the minor and the minor's mother. The physician performing the abortion shall report the sexual conduct with a minor to the proper law enforcement officials pursuant to section 13-3620 and shall preserve and forward a sample of the fetal tissue to these officials for use in a criminal investigation.

2. The attending physician certifies in the pregnant minor's medical record that, on the basis of the physician's good faith clinical judgment, the pregnant minor has a condition that so complicates her medical condition as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

H. A person who performs an abortion in violation of this section is guilty of a class 1 misdemeanor. A person is not subject to any liability under this section if the person establishes by written evidence that the person relied on evidence sufficient to convince a careful and prudent person that the representations of the pregnant minor regarding information necessary to comply with this section are true.

I. For purposes of this section:

1. "Abortion" means the use of an instrument, medicine or drug or other substance or device with the intent to terminate a pregnancy for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus. Abortion does not include birth control devices or oral contraceptives that inhibit or prevent ovulation, fertilization or the implantation of a fertilized ovum within the uterus.

2. "Fetus" means any individual human organism from fertilization until birth.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 22  
PROTECTION OF MINORS**

**ARTICLE 2  
PRESERVING THE LIVES OF NEWBORN AND OTHER CHILDREN**

**36-2281. Infants; nutritional and medical denial or deprivation prohibited; definition**

A. A person shall not deny or deprive an infant of nourishment with the intent to cause or allow the death of the infant for any reason including:

1. The infant was born with a handicap.
2. The infant is not wanted by the parent, parents or guardian.
3. The child is born alive by natural or artificial means.

B. A person shall not deprive an infant of necessary lifesaving medical treatment or surgical care.

C. This section shall not be construed to prevent an infant's parent, parents or guardian from refusing to give consent to medical treatment or surgical care which is not medically necessary, including care or treatment which either:

1. Is not necessary to save the life of the infant.
2. Has a potential risk to the infant's life or health that outweighs the potential benefit to the infant of the treatment or care.
3. Is futile treatment or treatment that will do no more than temporarily prolong the act of dying when death is imminent.

D. In determining whether any of the possible medical treatments will be medically necessary for an infant, reasonable medical judgments in selecting among alternative courses of treatment shall be respected.

E. In this article "infant" means a child less than one year of age.

**36-2282. Duty to inform; reports of denial or deprivation; disciplinary action prohibited; report to department of economic security**

A. Any health care institution with a perinatal, obstetrical or pediatric unit shall inform its administrators and other employees associated with the perinatal, obstetrical or pediatric unit of:

1. Their duty pursuant to section 13-3620 to report any denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of the infant.
2. Their right to make a report free from any disciplinary action by the health care institution.
3. A full description of the manner in which a report is to be made.

B. A health care institution shall not take or threaten to take any disciplinary action against any employee in retaliation for the employee making a report pursuant to section 13-3620.

C. A health care institution as specified in subsection A of this section shall report all suspected incidents of denial or deprivation of medically necessary treatment, surgical care or nourishment with the intent to cause or allow the death of the infant to the child protective services program of the department of economic security as each incident occurs.

**36-2283. Certain information to parents required**

Any health care institution with a perinatal, obstetrical or pediatric unit shall make available to each parent of any newborn child born with an identifiable handicap information it receives from public or private agencies regarding

agencies which are available to provide the parent with assistance, information or support pertaining to the care of the child and the manner in which the agencies may be contacted.

**TITLE 1  
STATE AND LOCAL BOARDS AND DEPARTMENTS OF HEALTH  
CHAPTER 23  
PROTECTION OF FETUS OR EMBRYO**

**ARTICLE 1  
GENERAL PROVISIONS**

**36-2302. Experimentation on human fetus or embryo prohibited; physician-patient privilege inapplicable**

A. A person shall not knowingly use any human fetus or embryo, living or dead, or any parts, organs or fluids of any such fetus or embryo resulting from an induced abortion in any manner for any medical experimentation or scientific or medical investigation purposes except as is strictly necessary to diagnose a disease or condition in the mother of the fetus or embryo and only if the abortion was performed because of such disease or condition.

B. The physician-patient privilege as provided in section 13-4062, paragraph 4 shall not prevent the production of documents or records relevant to an investigation arising under this section. All documents or records produced in an action brought pursuant to this section shall be inspected by the court in camera, and before the documents or records are released to the requesting party, the court shall remove the names and other identifying information, if any, of the patients and substitute pseudonyms.

C. This section shall not prohibit routine pathological examinations conducted by a medical examiner or hospital laboratory provided such pathological examination is not a part of or in any way related to any medical or scientific experimentation.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 27  
UNIFORM CONTROLLED SUBSTANCES ACT**

**ARTICLE 3  
REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF  
CONTROLLED SUBSTANCES**

**36-2522. Registration requirements**

A. Every person who manufactures, distributes, dispenses, prescribes or uses for scientific purposes any controlled substance within this state or who proposes to engage in the manufacture, distribution, prescribing or dispensing of or using for scientific purposes any controlled substance within this state must first:

1. Obtain and possess a current license or permit as a medical practitioner as defined in section 32-1901 or as a pharmacy, pharmacist, manufacturer or wholesaler pursuant to title 32, chapter 18.

2. Be a registrant under the federal controlled substances act (P.L. 91-513; 84 Stat. 1242; 21 United States Code Section 801 et seq.).

B. A person who is registered under this chapter to manufacture, distribute, dispense, prescribe or use for scientific purposes controlled substances may possess, manufacture, distribute, dispense, prescribe or use for scientific purposes those substances to the extent authorized by that person's license or permit in conformity with this chapter and title 32, chapter 18.

C. The following persons need not register and may lawfully possess controlled substances under this chapter:

1. An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if he is acting in the usual course of his business or employment.

2. A common or contract carrier or warehouseman or that person's employee whose possession of any controlled substance is in the usual course of his business or employment.

3. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a medical practitioner or in lawful possession of a schedule V substance.

4. An officer or employee of the department of public safety, a professional regulatory board established by title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25, or 29 or the Arizona state board of pharmacy or a peace officer as defined in section 1-215 in the lawful performance of that person's duties.

D. The board may waive by rule the requirement for registration of certain manufacturers, distributors or dispensers if the board finds waiver consistent with the public health and safety or the requirements of the United States drug enforcement administration.

E. The board or its designee may inspect the establishment of a registrant or applicant for registration in accordance with the board's regulation if the board or its designee has information that the board or its designee believes would require an on-site inspection.

### **36-2525. Prescription orders; labels**

A. In addition to requirements in section 32-1968, pertaining to prescription orders for prescription-only drugs, the prescription order for a controlled substance shall bear the name, address and federal registration number of the prescriber. A prescription order for a schedule II controlled substance drug other than a hospital drug order for a hospital inpatient shall contain only one drug order per prescription blank. If authorized verbally by the prescriber, the pharmacist may make changes to correct errors or omissions made by the prescriber on the following parts of a written schedule II controlled substance prescription order:

1. The date issued.
2. The strength, dosage form or quantity of drug.
3. The directions for its use.

B. The pharmacist must document on the original prescription order the changes that were made pursuant to the verbal authorization and record the time and date the authorization was granted.

C. A person registered to dispense controlled substances under this chapter must keep and maintain prescription orders for controlled substances as follows:

1. Prescription orders for controlled substances listed in schedules I and II must be maintained in a separate prescription file for controlled substances listed in schedules I and II only.

2. Prescriptions orders for controlled substances listed in schedules III, IV and V must be maintained either in a separate prescription file for controlled substances listed in schedules III, IV and V only or in a form that allows them to be readily retrievable from the other prescription records of the registrant. For the purposes of this paragraph, "readily retrievable" means that when the prescription is initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" in a font that is not less than one inch high and that the prescription is filed in the usual consecutively numbered prescription file for noncontrolled substance prescriptions. The requirement to stamp the hard copy prescription with a red "C" is waived if a registrant employs an electronic data processing system or other electronic record keeping system for prescriptions that permits identification by prescription number and retrieval of original documents by prescriber's name, patient's name, drug dispensed and date filled.

D. Except in emergency situations in conformity with subsection E of this section, under the conditions specified in subsection F and G of this section or when dispensed directly by a medical practitioner to an ultimate user, a controlled substance in schedule II shall not be dispensed without the written prescription order in ink or indelible pencil or typewritten and manually signed by the medical practitioner. A prescription order for a schedule II substance shall not be dispensed more than ninety days after the date on which the prescription order was issued. A prescription order for a schedule II substance shall not be refilled.

E. In emergency situations, emergency quantities of schedule II substances may be dispensed on an oral prescription order of a medical practitioner. Such an emergency prescription order shall be immediately reduced to writing by the pharmacist and shall contain all the information required for schedule II drugs except for the manual signing of the order by the medical practitioner. Within seven days after authorizing an emergency oral prescription order, the prescribing medical practitioner shall cause a written prescription order manually signed for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to other requirements for prescription orders for schedule II substances, it shall have written on its face "authorization for emergency dispensing" and the date of the oral order. If the prescribing medical practitioner fails to deliver such an emergency prescription order within seven days in conformance with board rules, the pharmacist shall notify the board. Failure of the pharmacist to notify the board shall void the authority conferred by this subsection to dispense without a written, manually-signed prescription order of a medical practitioner.

F. The following may be transmitted to a pharmacy by facsimile by a patient's medical practitioner or the medical practitioner's agent:

1. A prescription order written for a schedule II controlled substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion.

2. A prescription order written for any schedule II controlled substance for a resident of a long-term care facility.

3. A prescription order written for a schedule II substance for a patient enrolled in hospice care program certified or paid for by medicare under title XVIII or a hospice program that is licensed by this state. The medical practitioner or the medical practitioner's agent must note on the prescription that the patient is a hospice patient.

G. A facsimile transmitted pursuant to subsection F of this section is the original written prescription order for purposes of this section and must be maintained as required by subsection C of this section.

H. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance included in schedule III or IV that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order shall not be filled or refilled more than six months after the date on which such prescription order was issued. A prescription order authorized to be refilled shall not be refilled more than five times. Additional quantities may only be authorized by the prescribing medical practitioner through issuance of a new prescription order that shall be treated by the pharmacist as a new and separate prescription order.

I. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance that is included in schedule V and that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order may be refilled as authorized by the prescribing medical practitioner but shall not be filled or refilled more than one year after the date of issuance. J. A controlled substance that is listed in schedule III, IV or V and that does not require a prescription order as determined under state or federal laws may be dispensed at retail by a pharmacist, a pharmacy intern or graduate intern under the pharmacist's supervision without a prescription order to a purchaser who is at least eighteen years of age if all of the following are true:

1. It is for a legitimate medical purpose.

2. Not more than two hundred forty cubic centimeters (eight ounces) of any such controlled substance containing opium, nor more than one hundred twenty cubic centimeters (four ounces) of any other such controlled substance, nor more than forty-eight dosage units of any such controlled substance containing opium, nor more than twenty-four dosage units of any other controlled substance may be dispensed at retail to the same purchaser in any given forty-eight hour period.

3. No more than one hundred dosage units of any single active ingredient ephedrine preparation may be sold, offered for sale, bartered, or given away to any one person in any one thirty day period.

4. The pharmacist, pharmacy intern or graduate intern requires every purchase of a controlled substance under this subsection not known to that person to furnish suitable identification, including proof of age where appropriate.

5. A bound record book for dispensing controlled substances under this subsection is maintained by the pharmacist and contains the name and address of the purchaser, the name and quantity of the controlled substance purchased, the date of each purchase and the name or initials of the pharmacist, pharmacy intern or graduate intern

who dispensed the substance to the purchaser. Such book shall be maintained in conformity with the record keeping requirements of section 36-2523.

K. In the absence of a law requiring a prescription for a schedule V controlled substance, the board may, by rules, may require, or remove the requirement of, a prescription order for a schedule V controlled substance.

L. The label on a container of a controlled substance directly dispensed by a medical practitioner or pharmacist, not for the immediate administration to the ultimate user, such as a bed patient in a hospital, shall bear the name and address of the dispensing medical practitioner or pharmacist, the serial number, date of dispensing, name of prescriber, name of patient or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the prescription order or required by law. If the controlled substance is included in schedule II, III or IV the label shall bear a transfer warning to the effect: "Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed".

M. The board, by rule, may provide additional requirements for prescribing and dispensing controlled substances.

### **36-2602.           Controlled substance prescription monitoring program; contracts; retention and maintenance of records**

A. The Board shall adopt rules to establish a controlled substances prescription monitoring program. The program shall:

1. Include a computerized central database tracking system to track the prescribing, dispensing and consumption of schedule II, III and IV controlled substances that are dispensed by a medical practitioner or by a pharmacy that holds a valid license or permit issued pursuant to title 32. The tracking system shall not interfere with the legal use of a controlled substance for the management of severe or intractable pain.

2. Assist law enforcement to identify illegal activity related to the prescribing, dispensing and consumption of schedule II, III and IV controlled substances.

3. Provide information to patients, medical practitioners and pharmacists to help avoid the inappropriate use of schedule II, III and IV controlled substances.

4. Be designed to minimize inconvenience to patients, prescribing medical practitioners and pharmacies while effectuating the collection and storage of information.

B. The board may enter into private or public contracts, including intergovernmental agreements pursuant to title 11, chapter 7, article 3, to ensure the effective operation of the program. Each contractor must comply with the confidentiality requirements prescribed in this article and is subject to the criminal penalties prescribed in section 36-2610.

C. The board shall maintain medical records information in the program pursuant to the standards prescribed in section 12-2297.

### **36-2604.           Use and release of confidential information**

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

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

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

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

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

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

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

5. The Arizona Health Care Cost Containment System administration regarding persons who are receiving services pursuant to chapter 29 of this title. Except as required pursuant to subsection B of this section, the board shall provide this information only if the administration states in writing that the information is necessary for an open investigation or complaint.

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

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

### **36-2606. Registration; requirements**

A. Beginning November 1, 2007 and pursuant to rules adopted by the board, each medical practitioner who is issued a license pursuant to title 32 and who possess a registration under the federal controlled substances act must have a current controlled substances prescription monitoring program registration issued by the board. This registration is:

1. Subject to biennial renewal as specified in this article.

2. Not transferable or assignable.

3. Valid only in conjunction with a valid license issued by a professional licensing board established pursuant to title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25, or 29.

B. An applicant for registration pursuant to this section must submit an application as prescribed by the board.

C. The board shall assign all persons registered under this article to one of two registration renewal groups. The holder of a registration ending in an even number must renew the registration biennially on or before May 1 of the next even-number year. The holder of a registration ending in an odd number must renew the registration biennially on or before May 1 of the next odd-numbered year. The board shall automatically suspend the registration of any registrant who fails to renew the registration on or before May 1 of the year in which the renewal is due. The board shall vacate a suspension if the registrant submits a renewal application. A suspended registrant is prohibited from accessing information in the prescription monitoring program database monitoring system.

D. A registrant shall not apply for registration renewal more than sixty days before the expiration date of the registration.

E. An applicant for registration renewal pursuant to this section must submit a renewal application prescribed by board rule.

F. Pursuant to a fee prescribed by the board by rule, the board may issue a replacement registration to a registrant who requests a replacement because the original was damaged or destroyed, because of a change of name or for any other good cause as prescribed by the board.

### **36-2607. Disciplinary Action**

A. The registrant's professional licensing board may revoke or suspend a registrant's registration or may place the registrant on probation for any of the following:

1. The registrant's professional licensing board determines that the registration was obtained by fraudulent means.

2. The registrant's professional licensing board takes action to revoke, suspend or place on probation the registrant's license, permit or registration to prescribe or dispense drugs.

3. The registration was issued through error.

4. The registrant knowingly files with the board any application, renewal or other document that contains false or misleading information or the registrant gives false or misleading testimony to the board.

5. The registrant knowingly makes a false report or record required by this article.

B. The board may deny a registration to an applicant for the grounds prescribed in subsection A.

C. In addition to any other license, a licensed or permitted medical practitioner, pharmacist or pharmacy that fails to comply with the requirements of this article is subject to disciplinary action by the medical practitioner's, pharmacist's or pharmacy's professional licensing board. The board of pharmacy shall report to the appropriate professional licensing board the failure of a licensed or permitted medical practitioner, pharmacist or pharmacy to comply with the requirements of this article.

### **36-2608. Reporting Requirements**

A. If a medical practitioner dispenses a controlled substance listed in section 36-2513, 36-2514 or 36-2515, or if a prescription for a controlled substance listed in any of those sections is dispensed by a pharmacy in this state, a health care facility in this state for outpatient use or a board-permitted nonresident pharmacy for delivery to a person residing in this state, the medical practitioner, health care facility or pharmacy must report the following information as applicable and as prescribed by the board by rule:

1. The name, address, telephone number, prescription number and drug enforcement administration controlled substance registration number of the dispenser.

2. The name, address and date of birth of the person or, if for an animal, the owner of the animal for whom the prescription is written.

3. The name, address, telephone number and drug enforcement administration controlled substance registration number of the prescribing medical practitioner.

4. The name, strength, quantity, dosage and national drug code number of the schedule II, III or IV controlled substance dispensed.

5. The date the prescription was dispensed.

6. The number of refills, if any, authorized by the medical practitioner.

B. Except as provided in subsection D of this section, a pharmacy must use the August 31, 2005 Version 003 release 000 standard implementation guide for prescription monitoring programs published by the American society for automation in pharmacy or any subsequent version or release of that guide to report the required information.

C. The board shall allow the reporter to transmit the required information by electronic data transfer if feasible or, if not feasible, on reporting forms as prescribed by the board. The board shall not require the reporter to submit the required information more frequently than once each week.

D. A dispenser who does not have an automated record keeping system capable of producing an electronic report in the established format may request a waiver from electronic reporting by submitting a written request to the board. The board shall grant the request if the dispenser agrees in writing to report the data by submitting a completed universal claim form as prescribed by board rule.

E. The board by rule may prescribe the prescription form to be used in prescribing a schedule II, III or IV controlled substance if the board determines that this would facilitate the reporting requirements of this section.

F. The reporting requirements of this section do not apply to the following:

1. A controlled substance administered directly to a patient.

2. A controlled substance dispensed by a medical practitioner at a health care facility licensed by this state if the quantity dispensed is limited to an amount adequate to treat the patient for maximum of seventy-two hours with not more than two seventy-two hour cycles within any fifteen day period.

3. A controlled substance sample.
4. The wholesale distribution of a schedule II, III or IV controlled substance. For the purposes of this paragraph, "wholesale distribution" has the same meaning prescribed in section 32-1981.
5. A facility that is registered by the drug enforcement administration as a narcotic treatment program and that is subject to the record keeping provisions of 21 code of federal regulations section 1304.24.

**36-2609. Use of information; civil immunity**

A. An individual or entity that complies with the reporting requirements of section 36-2608 is not subject to civil liability or other civil relief for reporting the information to the board.

B. Unless a court of competent jurisdiction makes a finding of malice or criminal intent, the board, any other state agency or any person or entity in proper possession of information pursuant to this article is not subject to civil liability or other legal or equitable relief for any of the following acts or omissions:

1. Furnishing information pursuant to this article.
2. Receiving, using or relying on, or not using or relying on, information received pursuant to this article.
3. Information that was not furnished to the board.
4. Information that was factually incorrect or that was released by the board to the wrong person or entity.

**36-2610. Prohibited acts; violation; classification**

A. A person who is subject to this article and who fails to report required information pursuant to section 36-2608 is guilty of a class 2 misdemeanor.

B. A person who is subject to this article and who knowingly fails to report required information to the board in violation of section 36-2608 is guilty of a class 1 misdemeanor.

C. A person who is subject to this article and who knowingly reports information to the board that the person knows to be false or fraudulent is guilty of a class 6 felony.

D. A person who is granted access to the information maintained by the board as required by this article and who knowingly discloses the information in a manner inconsistent with a legitimate professional or regulatory purpose, a legitimate law enforcement purpose, the terms of a court order or as otherwise expressly authorized by this article is guilty of a class 6 felony.

**TITLE 36  
PUBLIC HEALTH AND SAFETY  
CHAPTER 36  
TELEMEDICINE**

**ARTICLE 1  
GENERAL PROVISIONS**

**36-3601. Definitions**

For the purposes of this chapter:

1. "Health care decision maker" has the same meaning prescribed in section 12-2801.
2. "Health care provider" means a person licensed pursuant to title 32, chapter 7, 13, 15, 17, 18, 19.1, 25, 28, 29 or 33.
3. "Telemedicine" means the practice of health care delivery, diagnosis, consultation and treatment and the transfer of medical data through interactive audio, video or data communications that occur in the physical

presence of the patient, including audio or video communications sent to a health care provider for diagnostic or treatment consultation.

**36-3602. Delivery of health care through telemedicine; requirements; exceptions**

A. Except as provided in subsection E of this section, before a health care provider delivers health care through telemedicine, the treating health care provider shall obtain verbal or written informed consent from the patient or the patient's health care decision maker. If the informed consent is obtained verbally, the health care provider shall document the consent on the patient's medical record.

B. The patient is entitled to all existing confidentiality protections pursuant to section 12-2292.

C. All medical reports resulting from a telemedicine consultation are part of a patient's medical record as defined in section 12-2291.

D. Dissemination of any images or information identifiable to a specific patient for research or educational purposes shall not occur without the patient's consent, unless authorized by state or federal law.

E. The consent requirements of this section do not apply:

1. If the telemedicine interaction does not take place in the physical presence of the patient.

2. In an emergency situation in which the patient or the patient's health care decision maker is unable to give informed consent.

3. To the transmission of diagnostic images to a health care provider serving as a consultant or the reporting of diagnostic test results by that consultant.

**36-3603. State jurisdiction; scope**

The provisions of this article apply to the practice of telemedicine within the state of Arizona. Nothing in this article shall be construed to expand, reduce or otherwise amend the health care provider licensing requirements of title 32.

**TITLE 44  
TRADE AND COMMERCE  
CHAPTER 1  
CONTRACTS**

**ARTICLE 3  
CAPACITY TO CONTRACT**

**44-132. Capacity of minor to obtain hospital, medical and surgical care; definition**

A. Notwithstanding any other provision of law except as provided in title 36, chapter 20, article 1, and without limiting cases in which consent may otherwise be obtained or is not required, any emancipated minor, any minor who has contracted a lawful marriage or any homeless minor may give consent to the furnishing of hospital, medical and surgical care to such minor, and such consent shall not be subject to disaffirmance because of minority. The consent of the parent, or parents, of such a person is not necessary in order to authorize hospital, medical and surgical care. For the purposes of this section only, subsequent judgment of annulment of such marriage or judgment of divorce shall not deprive such person of his adult status once attained.

B. A health care provider acting in reliance on the consent of a minor who has authority or apparent authority pursuant to this section to consent to health care is not subject to criminal and civil liability and professional disciplinary action on the ground that he or she failed to obtain consent of the minor's parent, parents or legal guardian. This subsection does not affect any other cause of action permitted under title 12, chapter 5.1.

C. For purposes of this section, a homeless minor is an individual under the age of eighteen years living apart from his parents and who lacks a fixed and regular nighttime residence or whose primary residence is either a supervised shelter designed to provide temporary accommodations, a halfway house or a place not designed for or ordinarily used for sleeping by humans.

**44-132.01. Capacity of minor to obtain treatment for venereal disease without consent of parent**

Notwithstanding any other provision of the law, a minor who may have contracted a venereal disease may give consent to the furnishing of hospital or medical care related to the diagnosis or treatment of such disease and such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents or legal guardian of such a person shall not be necessary in order to authorize hospital or medical care.

**44-133. Emergency consent for hospital care, medical attention or surgery by person in loco parentis**

Notwithstanding any other provision of the law, in cases of emergency in which a minor is in need of immediate hospitalization, medical attention or surgery and after reasonable efforts made under the circumstances, the parents of such minor cannot be located for the purpose of consenting thereto, consent for said emergency attention may be given by any person standing in loco parentis to said minor.

**44-133.01. Capacity of minor to consent to treatment for use of a dangerous drug or narcotic**

Notwithstanding any other provision of law, any minor twelve years of age or older who is found, upon diagnosis of a licensed physician or a registered nurse practitioner, to be under the influence of a dangerous drug or narcotic, which includes withdrawal symptoms, may be considered an emergency case and the minor is considered as having consented to hospital or medical care needed for treatment for that condition. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents or legal guardian of such minor is not necessary to authorize hospital or medical care, except that the consent is equally valid if obtained.

**TITLE 46  
WELFARE  
CHAPTER 4  
ADULT PROTECTIVE SERVICES**

**ARTICLE 1  
DUTY TO REPORT ABUSE OF INCAPACITATED OR VULNERABLE ADULTS**

**46-454. Duty to report abuse, neglect and exploitation of incapacitated or vulnerable adults, duty to make medical records available; violation; classification**

A. A physician, registered nurse practitioner, hospital intern or resident, surgeon, dentist, psychologist, social worker, peace officer or other person who has responsibility for the care of an incapacitated or vulnerable adult and who has a reasonable basis to believe that abuse or neglect of the adult has occurred or that exploitation of the adult's property has occurred shall immediately report or cause reports to be made of such reasonable basis to a peace officer or to a protective services worker. The guardian or conservator of an incapacitated or vulnerable adult shall immediately report or cause reports to be made of such reasonable basis to the superior court. All of the above reports shall be made immediately in person or by telephone and shall be followed by a written report mailed or delivered within forty-eight hours or on the next working day if the forty-eight hours expire on a weekend or holiday.

C. Reports pursuant to subsections A and B shall contain:

1. The names and addresses of the adult and any persons having control or custody of the adult, if known.
2. The adult's age and the nature and extent of his incapacity or vulnerability.
3. The nature and extent of the adult's injuries or physical neglect or of the exploitation of the adult's property.
4. Any other information that the person reporting believes might be helpful in establishing the cause of the adult's injuries or physical neglect or of the exploitation of the adult's property.

E. A person having custody or control of medical or financial records of an incapacitated or vulnerable adult for whom a report is required or authorized under this section shall make such records, or a copy of such records, available to a peace officer or adult protective services worker investigating the incapacitated or vulnerable adult's neglect, exploitation or abuse on written request for the records signed by the peace officer or adult protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

G. A person required to receive reports pursuant to subsection A, B or D may take or cause to be taken photographs of the abused adult and the vicinity involved. Medical examinations including radiological examinations of the involved adult may be performed. Accounts, inventories or audits of the exploited adult's property may be performed. The person, department, agency, or court that initiates such photographs, examinations, accounts, inventories or audits shall pay the associated costs in accordance with existing statutes and rules. If any person is found to be responsible for the abuse, neglect or exploitation of an incapacitated or vulnerable adult in a criminal or civil action, the court may order the person to make restitution as the court deems appropriate.

H. If psychiatric records are requested pursuant to subsection E, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.
2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

I. If any portion of a psychiatric record is excised pursuant to subsection H, a court, upon application of a peace officer or adult protective services worker, may order that the entire record or any portion of such record containing information relevant to the reported abuse or neglect be made available to the peace officer or adult protective services worker investigating the abuse or neglect.

K. A person who violates any provision of this section is guilty of a class 1 misdemeanor.

**A REFERENCE TO THE FEDERAL CONTROLLED  
SUBSTANCES ACT OF 1970  
21 U.S.C. 811  
COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT  
TITLE II  
CONTROLLED SUBSTANCE ACT**

The drugs that come under jurisdiction of the Drug Enforcement Administration (DEA) and the Controlled Substances Act are divided into five schedules. The schedules are as follows:

**SCHEDULE I (CI) SUBSTANCES**

The controlled substances in this schedule are those that have no accepted medical use in the United States (U.S.), are not accepted as safe for use under medical supervision, and have a high abuse potential. Some examples are heroin, marijuana, LSD, peyote, mescaline, psilocybin, MDA, MDMA, ketobemidone, acetylmethadol, fenethylline, tilidine, methaqualone and certain fentanyl analogs.

**SCHEDULE II (CII) SUBSTANCES**

The controlled substances in this schedule have a high abuse potential with severe psychological or physical dependence liability, but have accepted medical use in the U.S. CII controlled substances consist of certain narcotic, stimulant, and depressant drugs. Some examples of CII narcotics are: opium, morphine, codeine, hydromorphone (Dilaudid), methadone, meperidine (Demerol), cocaine, oxycodone (Percocet), anileridine (Leritine), the immediate precursor phenylacetone (P-2-P), and oxymorphone (Numorphan). Also in CII are the stimulants amphetamine (Dexedrine) methamphetamine (Desoxyn), phenmetrazine (Preludin), and methylphenidate (Ritalin); the depressants amobarbital, pentobarbital, secobarbital, and fentanyl (Sublimaze), etorphine hydrochloride, and phencyclidine (PCP).

**SCHEDULE III (CIII) SUBSTANCES**

The controlled substances in this schedule have an abuse potential and dependence liability less than those in CI and CII, and have an accepted medical use in the U.S. They include preparations containing limited quantities of certain narcotic drugs, and other non-narcotic drugs such as: derivatives of barbituric acid except those that are listed in another schedule, methyprylon (Nodular), nalorphine, benzphetamine, chlorphentermine, clortermine, and phendimetrazine.

**SCHEDULE IV (CIV) SUBSTANCES**

The controlled substances in this schedule have an abuse potential and dependence liability less than those listed in CIII and have an accepted medical use in the U.S. They include such drugs as: barbital, phenobarbital, methylphenobarbital, chloral hydrate, ethchlorvynol (Placidyl), ethinamate (Valmid), paraldehyde, methohexital, fenfluramine, diethylpropion, phentermine, chlordiazepoxide (Librium), diazepam (Valium), oxazepam (Serax), clorazepate (Tranxene), flurazepam (Dalmane), lorazepam (Ativan), alprazolam (Xanax), temazepam (Restoril), triazolam (Halcion), mebutamate, dextropropoxyphene (Darvon) and Pentazocine (Talwin).

## SCHEDULE V (CV) SUBSTANCES

The controlled substances in this schedule have an abuse potential and dependence liability less than those listed in CIV and have an accepted medical use in the U.S. They are often available without prescription, and include preparations containing limited quantities of certain narcotic drugs generally for antitussive and antidiarrheal purposes.

### **21 U.S.C. 1306 PRESCRIPTIONS**

#### **21 C.F.R. § 1306.04. Purpose of issue of prescription.**

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

(b) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.

(c) A prescription may not be issued for “detoxification treatment” or “maintenance treatment,” unless the prescription is for a Schedule III, IV, or V narcotic drug approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment and the practitioner is in compliance with the requirements in § 1301.28 of this chapter.

#### **21 C.F.R. § 1306.05. Manner of issuance of prescriptions.**

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address and registration number of the practitioner. In addition, a prescription for a Schedule III, IV, or V narcotic drug approved by FDA specifically for “detoxification treatment” or “maintenance treatment” must include the identification number issued by the Administrator under § 1301.28(d) of this chapter or a written notice stating that the practitioner is acting under the good faith exception of § 1301.28(e). Where a prescription is for gammahydroxybutyric acid, the practitioner shall note on the face of the prescription the medical need of the patient for the prescription. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g. J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by the secretary or agent for the signature of the practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist, including a pharmacist employed by a central fill pharmacy, who fills a prescription not prepared in the form prescribed by DEA regulations.

(b) An individual practitioner exempted from registration under § 1301.22(c) of this chapter shall include on all prescriptions issued by him or her the registration number of the hospital or other institution and the special internal code number assigned to him or her by the hospital or other institution as provided in § 1301.22(c) of this chapter, in lieu of the registration number of the practitioner required by this section. Each written prescription shall have the name of the physician stamped, typed, or handprinted on it, as well as the signature of the physician.

(c) An official exempted from registration under § 1301.22(c) shall include on all prescriptions issued by him his branch of service or agency (e.g., “U.S. Army” or “Public Health Service”) and his service identification number in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee is his social security identification number. Each prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer.

**21 C.F.R. § 1306.07.      Administering or dispensing of narcotic drugs.**

(a) A practitioner may administer or dispense directly (but not prescribe) a narcotic drug listed in any schedule to a narcotic dependent person for the purpose of maintenance or detoxification treatment if the practitioner meets both of the following conditions:

(1) The practitioner is separately registered with DEA as a narcotic treatment program.

(2) The practitioner is in compliance with DEA regulations regarding treatment qualifications, security, records, and unsupervised use of the drugs pursuant to the Act.

(b) Nothing in this section shall prohibit a physician who is not specifically registered to conduct a narcotic treatment program from administering (but not prescribing) narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three days and may not be renewed or extended.

(c) This section is not intended to impose any limitations on a physician or authorized hospital staff to administer or dispense narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction, or to administer or dispense narcotic drugs to persons with intractable pain in which no relief or cure is possible or none has been found after reasonable efforts.

(d) A practitioner may administer or dispense (including prescribe) any Schedule III, IV, or V narcotic drug approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment to a narcotic dependent person if the practitioner complies with the requirements of § 1301.28 of the chapter.

**21 C.F.R. § 1306.12.      Refilling prescriptions.**

The refilling of a prescription for a controlled substance listed in Schedule II is prohibited.

**ARIZONA ADMINISTRATIVE CODE**  
**TITLE 9**  
**HEALTH SERVICES**  
**CHAPTER 4**  
**DEPARTMENT OF HEALTH SERVICES – NON-COMMUNICABLE DISEASES**

**ARTICLE 2**  
**PESTICIDE ILLNESS**  
**ARTICLE 3**  
**BLOOD LEAD LEVELS**

Pesticide Illnesses and Elevated Blood Lead Levels are reportable by physicians to the Arizona Department of Health Services, Office of Environmental Health (OEH). Reports may be written on forms supplied by ADHS or by phone. To obtain report forms or to report a case, call the OEH at 230-5865 or 1-800-367-6412, 3815 N. Black Canyon Hwy., Phoenix, Arizona 85015.

Physicians are encouraged to read the entirety of A.A.C. R9-4-101 through 302.

**ARIZONA ADMINISTRATIVE CODE**  
**TITLE 9**  
**HEALTH SERVICES**  
**CHAPTER 4**  
**DEPARTMENT OF HEALTH SERVICES – NON-COMMUNICABLE DISEASES**

**ARTICLE 4**  
**CANCER REGISTRY**

**R9-4-403. Case Reports**

- A. A physician, doctor of naturopathic medicine, dentist, registered nurse practitioner, or the designee of a clinic shall:
1. Prepare a case report in a format provided by the Department;
  2. Include the following information in the case report:
    - a. The name, address, and telephone number, or the identification number assigned by the Department to the reporting facility;
    - b. The patient's name, and if applicable, the patient's maiden name and any other name by which the patient is known;
    - c. The patient's address at the date of last contact, and address at diagnosis of cancer;
    - d. The patient's date of birth, Social Security number, sex, race, and ethnicity;
    - e. The date of first contact with the patient for the cancer being reported;
    - f. The patient's usual industry and usual occupation, if the patient is an adult;
    - g. The patient's medical record number, if assigned;
    - h. The date of diagnosis of the cancer being reported;
    - i. If the diagnosis was not made at the reporting facility, the name and address of the facility at which the diagnosis was made;
    - j. The primary site and subsite of the cancer being reported;
    - k. The tumor size, histology, grade, and laterality at diagnosis;
    - l. A code that describes the presence or absence of malignancy in a tumor;
    - m. Whether the cancer had spread from the primary site at the time of diagnosis and if so, to where;
    - n. The extent to which the cancer has spread from the primary site;
    - o. A narrative description of the extent to which the cancer had spread at diagnosis;
    - p. Whether the diagnosis was made by histology, cytology, clinical evaluation, diagnostic x-ray, or any other method, or whether the method by which the diagnosis was made is unknown;
    - q. For each treatment the patient received, the type of treatment, date of treatment, and the name of the facility where the treatment was performed;

- r. Whether any residual tumor cells were left at the edges of a surgical site, after surgery to remove a tumor at the primary site;
  - s. Whether the patient is alive or dead, including the date of last contact if the patient is alive, and the date, place, and cause of death if the patient is dead;
  - t. Whether or not the patient has evidence of a current cancer, carcinoma in situ, or benign tumor of the central nervous system as of the date of last contact or death, or whether this information is unknown;
  - u. The name of the physician, nurse practitioner, or doctor of naturopathic medicine providing medical services, as defined in A.R.S. § 36-401, to the patient;
  - v. The name of the individual or the code that identifies the individual completing the case report;
  - w. The date the case report was completed; and
  - x. Whether the patient has a history of other cancers, and if so, identification of the primary site and the date the other cancer was diagnosed; and
3. Use codes and a coding format supplied by the Department for data items specified in subsection (A)(2) that require codes on the case report.

The forms for reporting of cancer are available from the Arizona Cancer Registry, Arizona Department of Health Services (542-7320).

Physicians are encouraged to read the entirety of A.A.C. R9-4-401 through 405.

**ARIZONA ADMINISTRATIVE CODE**  
**TITLE 9**  
**HEALTH SERVICES**  
**CHAPTER 6**  
**DEPARTMENT OF HEALTH SERVICES-COMMUNICABLE DISEASES**

**ARTICLE 2**  
**COMMUNICABLE DISEASE AND INFESTATION REPORTING**

**R9-6-201. Definitions**

In this Article, unless otherwise specified:

- 1. "Clinical laboratory" has the same meaning as in A.R.S. § 36-451.
- 2. "Drug" has the same meaning as in A.R.S. § 32-1901.
- 3. "Epidemiologic curve" means a graphic display of the number of cases over time.
- 4. "Normally sterile site" means an anatomic location, or tissue or body fluid from an anatomic location, in which microorganisms are not found in the absence of disease and includes:
  - a. The lower respiratory tract;
  - b. Blood;
  - c. Bone marrow;
  - d. Cerebrospinal fluid;
  - e. Pleural fluid;
  - f. Peritoneal fluid;
  - g. Synovial fluid;
  - h. Pericardial fluid;
  - i. Urine;
  - j. A closed abscess; or

- k. Another anatomic location other than the skin, upper respiratory tract, middle ear, vaginal tract, or gastrointestinal tract.
- 5. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.
- 6. "Point of contact" means an individual through whom the Department or a local health agency can obtain information upon request.
- 7. "Whole blood" means human blood from which plasma, erythrocytes, leukocytes, and thrombocytes have not been separated.

**R9-6-202. Reporting Requirements for a Health Care Provider or an Administrator of a Health Care Institution or Correctional Facility**

- A. A health care provider who diagnoses, treats, or detects a case or suspect case of a communicable disease listed in Table 1 or detects an occurrence listed in Table 1 shall, either personally or through a representative, submit a report to the local health agency within the time limitation in Table 1 and as specified in subsection (C), (D), or (E).
- B. An administrator of a health care institution or correctional facility in which a case or suspect case of a communicable disease listed in Table 1 is diagnosed, treated, or detected or an occurrence listed in Table 1 is detected shall, either personally or through a representative, submit a report to the local health agency within the time limitation in Table 1 and as specified in subsection (C), (D), or (E).
- C. Except as described in subsections (D) and (E), for each case, suspect case, or occurrence for which a report is required by subsection (A) or (B) and Table 1, a health care provider or an administrator of a health care institution or correctional facility shall submit a report that includes:
  - 1. The following information about the case or suspect case:
    - a. Name;
    - b. Residential and mailing addresses;
    - c. Whether the individual resides on or off an Indian reservation and, if on, the name of the reservation;
    - d. Telephone number;
    - e. Date of birth;
    - f. Race and ethnicity;
    - g. If Native American, tribal affiliation, if known;
    - h. Gender;
    - i. If known, whether the individual is pregnant;
    - j. Occupation;
    - k. If known, whether the individual is attending a school or a child care establishment and, if so, the name of the school or child care establishment; and
    - l. For a case or suspect case who is a child requiring parental consent for treatment, the name, residential address, and telephone number of the child's parent or guardian, if known;
  - 2. The following information about the disease:
    - a. The name of the disease;
    - b. The date of onset of symptoms;
    - c. The date of diagnosis;
    - d. The date of specimen collection;
    - e. Each type of specimen collected;
    - f. Each type of laboratory test completed;

- g. The date of laboratory confirmation; and
  - h. A description of the laboratory test results, including quantitative values if available;
3. If reporting a case or suspect case of chancroid, gonorrhea, syphilis, or genital Chlamydia infection, a description of the treatment prescribed, if any, including:
    - a. The name of each drug prescribed,
    - b. The dosage prescribed for each drug, and
    - c. The date of prescription for each drug; and
  4. The name, address, and telephone number of the individual making the report.
- D. For each unexplained death with a history of fever, a health care provider or an administrator of a health care institution or correctional facility shall submit a report that includes:
1. The following information about the deceased individual:
    - a. Name;
    - b. Residential address;
    - c. Telephone number; and
    - d. If known, medical history;
  2. A description of the clinical course of the illness that resulted in death;
  3. A list of the laboratory tests completed on the deceased individual and, if available, the laboratory test results, including quantitative values;
  4. The suspected cause or causes of death;
  5. If known, the status of the autopsy;
  6. The name, residential address, and telephone number of a family member of the deceased individual who can serve as a point of contact; and
  7. The name, address, and telephone number of the individual making the report.
- E. For each outbreak for which a report is required by subsection (A) or (B) and Table 1, a health care provider or an administrator of a health care institution or correctional facility shall submit a report that includes:
1. A description of the signs and symptoms;
  2. If possible, a diagnosis and identification of suspected sources;
  3. The number of known cases and suspect cases;
  4. A description of the setting of the outbreak; and
  5. The name, address, and telephone number of the individual making the report.
- F. A health care provider who orders an HIV-related test on an infant who was perinatally exposed to HIV to determine whether the infant is infected with HIV or an administrator of a health care institution in which an HIV-related test is ordered on an infant who was perinatally exposed to HIV to determine whether the infant is infected with HIV shall, either personally or through a representative, report the following to the Department within five working days after receiving the results of the HIV-related test:
1. The name of the infant;
  2. The name of the infant's mother;
  3. The infant's date of birth;
  4. The type of HIV-related test ordered;
  5. The date of the HIV-related test;
  6. The results of the HIV-related test; and

7. The ordering health care provider's name, address, and telephone number.
- G. Except as provided in Table 1, a health care provider or an administrator of a health care institution or correctional facility shall, either personally or through a representative, submit a report required under this Section:
  1. By telephone;
  2. In a document sent by fax, delivery service, or mail; or
  3. Through an electronic reporting system authorized by the Department.

Physicians are encouraged to read the entirety of A.A.C. R9-6-201 through 207.

**ARIZONA ADMINISTRATIVE CODE**  
**TITLE 9**  
**HEALTH SERVICES**  
**CHAPTER 6**  
**DEPARTMENT OF HEALTH SERVICES-COMMUNICABLE DISEASES**  
  
**ARTICLE 9**  
**HIV-RELATED TESTING**

**R9-6-901. Definitions**

In this Article, unless otherwise specified:

1. "Health professional" has the same meaning as "health care provider" in A.R.S. § 36-661.
2. "Hospital" means a health care institution licensed by the Department as a general hospital, a rural general hospital, or a special hospital under 9 A.A.C. 10.
3. "Informed consent" means permission to conduct an HIV-related test obtained from a subject who has capacity to consent or an individual authorized by law to consent for a subject without capacity to consent after an explanation that complies with A.R.S. § 36-663(B).

**R9-6-902. Consent for HIV-related Testing**

- A. An individual ordering an HIV-related test shall obtain consent for the test, unless the test has been ordered by a court under A.R.S. §§ 8-341, 13-1210, or 13-1415 or falls under A.R.S. § 36-663(D).
  1. If the test is ordered in a hospital, the individual ordering the test shall obtain written informed consent as specified in subsection (B).
  2. If the test is ordered outside a hospital by a physician, a registered nurse practitioner, or a physician's assistant, the individual ordering the test shall obtain either written informed consent as specified in subsection (B) or oral informed consent.
  3. If the test is ordered outside a hospital by a health professional licensed under A.R.S. Title 32, but not listed in subsection (A)(2), who is authorized to provide HIV-related tests within the health professional's scope of practice, the individual ordering the test shall obtain written informed consent as specified in subsection (B).
  4. If the HIV-related test is performed anonymously, the individual ordering the test shall obtain oral consent and shall not make a record containing personal identifying information about the subject.
- B. An individual obtaining written, informed consent for an HIV-related test shall use the form shown in Exhibit A (English) or Exhibit B (Spanish).
  1. Except as described in subsection (A)(4), an individual using the consent form may add the following information in the Identifying Information section of the form:

- a. The subject's name and identifying number,
- b. Facility identifying information,
- c. Facility processing codes,
- d. The subject's race and ethnicity,
- e. The subject's address, and
- f. The subject's date of birth and sex.

2. This form may be reproduced to accommodate a multiple copy or carbonless form.

**R9-6-903. Court-ordered HIV-related Testing**

- A. An individual who tests a specimen of blood or another body fluid to detect HIV antibody under court order issued under A.R.S. §§ 8-341 or 13-1415 shall use a test licensed by the United States Food and Drug Administration for use in HIV screening. If a specimen is reactive two or more times according to the test manufacturer's recommendations, the individual shall retest the specimen using a licensed supplemental or confirmatory assay or as recommended by the original test manufacturer's package insert.
- B. The individual shall report each test result for each subject directly to the Department.

**ARIZONA ADMINISTRATIVE CODE  
TITLE 17  
TRANSPORTATION  
CHAPTER 4  
DEPARTMENT OF TRANSPORTATION**

**ARTICLE 5  
SAFETY**

**R17-4-501. Definitions**

The following definitions apply to this Article unless otherwise specified:

- 1. "Adaptation" means a modification of or addition to the standard operating controls or equipment of a motor vehicle.
- 2. "Applicant" or "licensee" means a person:
  - a. Applying for an Arizona driver license or driver license renewal, or
  - b. Required by the Division to complete an examination successfully or to obtain an evaluation.
- 3. "Application" means the Division form required to be completed by or for an applicant for a driver license or driver license renewal.
- 4. "Arizona Driver License Manual" or "manual" means the reference booklet for applicants, issued by the Division, containing non-technical explanations of the Arizona motor vehicle laws.
- 5. "Aura" means a sensation experienced before the onset of a neurological disorder.
- 6. "Certified substance abuse counselor" is defined in A.R.S. § 28-3005(C)(4).
- 7. "Commercial Driver License physical qualifications" or "CDL physical qualifications" means driver medical qualification standards for a person licensed in class A, B, or C to operate a commercial vehicle as prescribed under 49 CFR 391, incorporated by reference under R17-5-202 and R17-5-204.
- 8. "Director" means the Division Director or the Division Director's designee.
- 9. "Disqualifying medical condition" means a visual, physical, or psychological condition, including substance abuse, that impairs functional ability.

10. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
11. "Driver license" is defined in A.R.S. § 28-101(19).
12. "Evaluation" means a medical assessment of an applicant or licensee by a specialist as defined under subsection (22) to determine whether a disqualifying medical condition exists.
13. "Examination" means testing or evaluating an applicant's or licensee's:
  - a. Ability to read and understand official traffic control devices,
  - b. Knowledge of safe driving practices and the traffic laws of this state, and
  - c. Functional ability.
14. "Functional ability" means the ability to operate safely a motor vehicle of the type permitted by an Arizona driver license class or endorsement.
15. "Identification number" means a distinguishing number assigned by the Division to a person for a license or instruction permit.
16. "Licensee" means a person issued a driver license by this state.
17. "Licensing action" means an action by the Division to:
  - a. Issue, deny, suspend, revoke, cancel, or restrict a driver license; or
  - b. Require an examination or evaluation of an applicant or licensee.
18. "Medical screening questions and certification" means the questions and certification on the application, as shown in Exhibit A following R17-4-502.
19. "Neurological disorder" means a malfunction or disease of the nervous system.
20. "Physician" means a person licensed to practice medicine or osteopathy in any state, territory, or possession of the United States or the Commonwealth of Puerto Rico.
21. "Seizure" means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.
22. "Specialist" means:
  - a. A physician who is a surgeon or a psychiatrist;
  - b. A physician whose practice is limited to:
    - i. A particular anatomical or physiological area or function of the human body, or
    - ii. Patients within a specific age range; or
  - c. A psychologist.
23. "Substance abuse" means:
  - a. Use of alcohol in a manner that makes the user an alcoholic as defined in A.R.S. § 36-2021(1), or
  - b. Drug dependency as described in A.R.S. § 36-2501(A)(5).
24. "Substance abuse evaluation" means an assessment by a physician, specialist, or certified substance abuse counselor to determine whether the use of alcohol or a drug impairs functional ability.
25. "Successful completion of an examination" means an applicant or licensee:
  - a. Establishes the visual, physical, and psychological ability to operate a motor vehicle safely, or
  - b. Achieves a score of at least 80 percent on a written test and road test.

**R17-4-502. General Provisions for Visual, Physical, and Psychological Ability to Operate a Motor Vehicle Safely**

- A. Applicant's or licensee's responsibility. To comply with the Division's screening process for safe operation of a motor vehicle, an applicant or licensee shall:
1. Provide the Division with all requested information about the applicant's or licensee's visual, physical, or psychological condition;
  2. Successfully complete all required examinations;
  3. Obtain all required evaluations;
  4. Ensure timely submission of evaluation reports to the Division; and
  5. Appear at all required interviews.
- B. Screening process for safe operation of a motor vehicle. This subsection and subsections (C) through subsection (E) state the screening process for safe operation of a motor vehicle.
1. An applicant shall complete the application, including the medical screening questions and certification.
  2. An applicant without a valid driver license, who successfully completes all required examinations, shall obtain an evaluation if:
    - a. The Division informs the applicant that the applicant's responses to the medical screening questions indicate the existence of a disqualifying medical condition; or
    - b. The applicant comes under subsection (C)(1)(a), subsection (C)(1)(c), or subsection (C)(1)(d).
  3. An applicant for license renewal shall successfully complete an examination if the applicant's responses to the medical screening questions indicate that since the applicant's last driver license renewal:
    - a. The applicant has developed a visual, physical, or psychological condition that may constitute a disqualifying medical condition; or
    - b. There has been a change in an existing visual, physical, or psychological condition that may constitute a disqualifying medical condition.
  4. As soon as an applicant's medical condition allows, the applicant shall notify the Division, in writing or by telephone, that the applicant has or may have a medical condition not previously reported to the Division that affects the applicant's functional ability.
  5. Upon receipt of the notification required under subsection (B)(4), the Division shall require the applicant to:
    - a. Complete the medical screening questions and certification on the application, and
    - b. Continue with the screening process for safe operation of a motor vehicle.
- C. Evaluation, interview, and additional evaluation. An applicant or licensee shall submit to an evaluation, attend an interview, or submit to an additional evaluation as required by the Division.
1. The Division shall require an evaluation if the Director notifies the applicant or licensee in writing that:
    - a. The applicant or licensee comes under the provisions of R17-4-503 or R17-4-506;
    - b. The applicant or licensee reports a possible disqualifying medical condition or fails to successfully complete an examination;
    - c. The applicant or licensee exhibits unexplained confusion, loss of consciousness, or incoherence that is observed by Division personnel; or
    - d. A person with direct knowledge submits to the Division written information about specific events or conduct indicating the applicant or licensee may have a disqualifying medical condition.
  2. The applicant or licensee shall have the physician, appropriate specialist, or certified substance abuse counselor who performs an evaluation submit, to the Division's Medical Review Program, an evaluation report on a Division-prescribed form.

3. If the evaluation report on the applicant or licensee is inconclusive regarding the existence of a disqualifying medical condition, the Division shall require the applicant or licensee to appear for an interview to explain information in the evaluation report.
  4. If the Division is unable to determine whether a disqualifying medical condition exists after an interview with the applicant or licensee, the Division shall require an additional evaluation, performed by an appropriate specialist and reported to the Division's Medical Review Program on a Division-prescribed form.
  5. An applicant or licensee shall pay for any expense incurred by the applicant or licensee to show compliance with the visual, physical, and psychological standards for a driver license.
- D. Licensing action. The Division shall take a licensing action after requiring an applicant or licensee to complete an examination successfully, obtain an evaluation and submit an evaluation report, or appear at an interview.
1. The Division shall deny a driver license if an applicant:
    - a. Fails to complete successfully an examination; or
    - b. Fails to:
      - i. Obtain an evaluation;
      - ii. Have a physician, appropriate specialist, or certified substance abuse counselor submit an evaluation report to the Division within 30 days after the Division notifies the applicant that an evaluation is required; or
      - iii. Appear at an interview; or
    - c. Has an evaluation report submitted that indicates a disqualifying medical condition.

**Exhibit A. Medical Screening Questions and Certification**

**Medical Screening**  
(DRIVER APPLICANTS ONLY)

\_\_\_\_\_ YES \_\_\_\_\_ NO DO YOU HAVE AN ALCOHOL OR DRUG DEPENDENCY THAT MAY AFFECT YOUR ABILITY TO OPERATE A MOTOR VEHICLE SAFELY?

IF YES: \_\_\_\_\_ YES \_\_\_\_\_ NO HAVE YOU BEEN IN RECOVERY FOR ONE YEAR OR MORE?

\_\_\_\_\_ YES \_\_\_\_\_ NO DO YOU HAVE A COURT-APPOINTED GUARDIAN BECAUSE YOU ARE INCAPACITATED?

\_\_\_\_\_ YES \_\_\_\_\_ NO DO YOU HAVE A MEDICAL CONDITION (OTHER THAN A CONDITION REQUIRING VISION CORRECTION BY EYEGASSES OR CONTACT LENSES) THAT MAY AFFECT YOUR ABILITY TO OPERATE A MOTOR VEHICLE SAFELY?

IF YES, EXPLAIN BELOW.

MEDICAL CONDITIONS \_\_\_\_\_  
\_\_\_\_\_

**Certification**

ALL APPLICANTS: I CERTIFY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT. I UNDERSTAND THAT I MUST REPORT A CHANGE OF ADDRESS OR NAME TO THE DIVISION WITHIN TEN DAYS.

DRIVER APPLICANTS: I UNDERSTAND THE LAWS, RULES, AND REGULATIONS DESCRIBED IN THE ARIZONA DRIVER LICENSE MANUAL, AND THAT I AM REQUIRED TO REPORT TO THE DIVISION IN WRITING, WITHIN TEN DAYS, ANY MEDICAL CONDITION THAT DEVELOPS OR WORSENS THAT MAY AFFECT MY ABILITY TO OPERATE A MOTOR VEHICLE SAFELY.

APPLICANT SIGNATURE (IF UNDER 18, LEGAL GUARDIAN CERTIFICATE ON THE BACK MUST BE COMPLETED)

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**R17-4-503. Vision standards**

A. Definitions.

1. "Binocular vision" means the ability to see in both eyes.

2. "Biotopic Telescopic Lens System" means a biotopic, spectacle-mounted corrective lens prescribed by a physician or optometrist for meeting vision acuity requirements for driving that uses magnification as the main method of obtaining minimal visual acuity.
3. "Corrected visual acuity" means distance vision corrected by eyeglasses, contact lenses, or a biotopic telescopic lens system.
4. "Corrective lens" means eyeglasses, contact lenses, or a biotopic telescopic lens system used to correct distance vision.
5. "Diplopia" means double vision.
6. "Field of vision" means the area in which objects may be seen when the eye is fixed.
7. "Impaired night vision" means below normal ability to see in reduced light.
8. "Monocular vision" means the ability to see in one eye only.
9. "Optometrist" means a person licensed to practice optometry in any state, territory, or possession of the United States or the Commonwealth of Puerto Rico.
10. "Retinitis pigmentosa" means a chronic progressive inflammation of the retina with atrophy and pigmentary infiltration of the inner layers of the retina.
11. "Snellen Chart" means a chart imprinted with lines of black letters of decreasing size for testing visual acuity.
12. "Visual acuity" means the clarity of a person's vision.

#### B. Standard.

1. Visual acuity. A person shall have binocular or monocular vision and visual acuity of 20/40 in at least one eye.
2. Field of vision. Field of vision shall be 70 degrees temporally, and 35 degrees nasally, in at least one eye.

#### C. Restrictions.

1. A person with corrected vision shall wear corrective lenses at all times when driving if the corrective lens is required to achieve the vision standards in subsection (B).
2. The Division shall restrict a person with diagnosed impaired night vision to daytime driving only.
3. The Division shall restrict a person with binocular vision and corrected or uncorrected visual acuity of 20/50 or 20/60, when using both eyes, to daytime driving only.
4. The Division shall not license a person with monocular vision and visual acuity of 20/50 or greater.
5. The Division shall not license a person with binocular vision and visual acuity of 20/70 or greater.

#### D. Screening process.

1. The Division, a physician, or an optometrist may administer visual acuity and field of vision screening through the use of visual screening equipment to determine if a person's visual acuity and field of vision meets minimum standards.
2. A person may use a biotopic telescopic lens system during vision screening.
  - a. Beginning on the date of a initial application and every year thereafter, a person using a biotopic telescopic lens system shall submit to the Division an annual exam performed by a physician or optometrist to ascertain whether the person has a progressive eye disease.
  - b. The Division shall not license a person using a biotopic telescopic lens system unless the person submits to the Division a written statement from a physician or an optometrist that the individual meets the visual acuity standard as prescribed in subsection (B).
  - c. The Division shall not license a person using a biotopic telescopic lens system with magnification of the lens that is more than 4X.

3. The Division shall conduct visual acuity screening through the use of visual screening equipment or the Snellen Chart to determine whether a person's corrected vision is 20/40 in at least one eye.

E. Reporting requirements.

1. A person choosing to have initial visual acuity and visual field screening done by a physician or an optometrist shall submit the results to the Division.
2. If the Division does initial visual acuity and visual field screening and the person does not meet vision standards of subsection (B), the Division shall require the person to submit the results of the person's visual acuity and vision field screening by a physician or an optometrist.
3. The Division shall require a person diagnosed with any of the following conditions to file the results of the person's visual acuity and visual field screening completed by the physician or optometrist:
  - a. Any progressive eye disease,
  - b. Diplopia, or
  - c. Impaired night vision.

F. Results of visual acuity and visual field screening shall contain the following.

1. An examination date no more than three months before the submission date to the Division;
2. Visual acuity and field of vision;
3. If applicable, specification that the person is monocular;
4. If applicable, diagnosis of any condition described in subsection (E)(3);
5. Any recommendations on frequency of reporting requirements for the person, in addition to those required by the Division;
6. Suggested restrictions on driving, in addition to those required by the Division; and
7. Any recommendations on the person's ability to safely operate a motor vehicle.

- G. The Division shall require a driving test if a person's eye disease is determined by a physician or optometrist to be progressive.

**R17-4-506. Neurological Standards**

A. Driver license application.

1. A person who has a seizure in the three months before applying for a driver license shall undergo a medical examination as provided in R17-4-502.
2. After the medical examination under R17-4-502, the person or the person's physician shall submit the medical examination report to the Division.
3. The Division shall not issue a driver license to a person if the medical examination report shows that the person has a neurological disorder that affects the person's ability to operate a motor vehicle safely.

B. Driver license revocation.

1. A person with a driver license or non-resident driving privileges who experiences a seizure shall cease driving and:
  - a. Undergo a medical examination as provided in R17-4-502;
  - b. Submit the medical examination report to the Division; and
  - c. Undergo a follow-up medical examination within one year after the seizure or within a shorter time, as recommended by a physician.
2. After each medical examination, the person or the person's physician shall submit the applicable medical examination report to the Division.

3. The Division shall revoke a person's driver license or nonresident driver privileges if any medical examination report shows the person has a neurological disorder that affects the person's ability to operate a motor vehicle safely.
- C. Medical examination report. A medical examination report under this Section shall include the following information:
1. Age at onset of seizures, diagnosis, and history;
  2. Aftereffects of seizures;
  3. EEG findings, if any;
  4. Description, cause, frequency, duration, and date of most recent seizure;
  5. Current medications, including dosage, side effects, and serum level; and
  6. A physician's medical opinion as to whether the neurological disorder will affect the person's ability to operate a motor vehicle safely.
- D. Physician's medical opinion. A neurological disorder does not affect a person's ability to operate a motor vehicle safely if a physician concludes with reasonable medical certainty that:
1. Any seizure that occurred within the last three months was due to a change in anticonvulsant medication ordered by a physician and that seizures are under control after the change in medication;
  2. Any seizure that occurred within the last three months was a single event that will not recur in the future;
  3. Any seizure is likely to occur but has an established pattern of occurring only during sleep; or
  4. There is an established pattern of an aura of sufficient duration to allow the person to cease operating a motor vehicle immediately at the onset of the aura.

**R17-4-508. Commercial Driver License "CDL" Physical Qualifications**

A. Requirements.

1. A CDL applicant shall submit to the Division a U.S. Department of Transportation medical examination form completed as prescribed under 49 CFR 391.43:
    - a. By a professional licensed to practice by the federal government, any state, or U.S. territory with one of the following credentials:
      - i. Medical Doctor,
      - ii. Doctor of Osteopathy,
      - iii. Doctor of Chiropractic,
      - iv. Nurse Practitioner, or
      - v. Physician Assistant, and
    - b. Upon the applicant's initial application and at the time of each 24-month renewal.
  2. As prescribed under 49 CFR 391.41(a), a CDL licensee shall keep an original or photographic copy of the licensee's current medical examination form required under subsection (A)(1) available for law enforcement inspection upon request.
  3. A CDL licensee shall notify the Division of a physical condition that develops or worsens causing noncompliance with the CDL physical qualifications within 10 days after the condition develops or worsens.
- B. CDL suspension and revocation notification procedure. To notify a licensee of any CDL suspension and revocation under subsection (C), the Division shall simultaneously mail two notices within 15 days after a medical examination form's due or actual submission date to the licensee's address of record that:
1. Suspends the licensee's CDL beginning on the notice's date; and

2. Revokes the licensee's CDL 15 days after the date of the suspension notice issued under subsection (B)(1).

C. Noncompliance actions.

1. Initial application denial. If an applicant's initial medical examination form required under subsection (A)(1) shows that the applicant is not in compliance with the CDL physical qualifications, the Division shall immediately mail CDL denial notification to the applicant's address of record.

2. 24-month-renewal suspension and revocation. If a renewing CDL licensee submits:

a. No medical examination form required under subsection (A)(1) or a form indicating noncompliance with CDL physical qualifications, the Division shall follow the suspension and revocation notification procedure prescribed under subsection (B).

b. An incomplete medical examination form required under subsection (A)(1), the Division shall immediately return the incomplete form with a letter requesting that the licensee provide missing information to the Division within 45 days after the date of the Division's letter. The Division shall follow the suspension and revocation notification procedure prescribed under subsection (B) if the licensee fails to return requested information in the time-frame prescribed in this subsection.

c. A medical examination form required under subsection (A)(1) that indicates the licensee's blood pressure is greater than 140 systolic or 90 diastolic, the Division shall mail notice to the licensee requiring three additional blood pressure evaluations:

i. Made on three different days,

ii. Performed by a qualified professional as prescribed under subsection (A)(1)(a), and

iii. Returned to the Division within 90 days after the Division's written notification. The Division shall follow the suspension and revocation notification procedure prescribed under subsection (B) if the licensee fails to return requested information prescribed under this subsection.

d. A medical examination form required under subsection (A)(1) that indicates the licensee's blood pressure is greater than 180 systolic or 104 diastolic, the Division shall follow the suspension and revocation notification procedure prescribed under subsection (B).

D. A CDL that remains revoked for longer than 12 months expires. The holder of an expired CDL may obtain a new CDL by successfully completing all CDL original-application written, vision, and demonstration-skill testing and submitting the medical examination form prescribed under subsection (A)(1).

E. Administrative hearing. A person who is denied a CDL or whose CDL is suspended or revoked under this Section may request a hearing according to the procedure prescribed under 17 A.A.C. 1, Article 5.