HB 2406

Introduced by
Representative Mosley

AN ACT

REPEALING SECTION 9-499.12, ARIZONA REVISED STATUTES; AMENDING SECTIONS 13-1418, 20-3151, 28-3005, 32-3101 AND 32-3201, ARIZONA REVISED STATUTES; REPEALING TITLE 32, CHAPTER 33, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-509, 36-601.01, 36-2171, 36-2601, 36-3601, 38-672 AND 41-1092, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3025.14, ARIZONA REVISED STATUTES; AMENDING SECTION 42-3106, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF BEHAVIORAL HEALTH EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Repeal

Section 9-499.12, Arizona Revised Statutes, is repealed.

Sec. 2. Section 13-1418, Arizona Revised Statutes, is amended to read:

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

A. A behavioral health professional licensed 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.

Sec. 3. Section 20-3151, Arizona Revised Statutes, is amended to read:

20-3151. Definitions

For the purposes of this section, unless the context otherwise requires:

1. "Enrollee" means an individual who is enrolled in a health care plan provided by a health care insurer.

2. "Health care insurer" means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital and medical service corporation.

3. "Health care plan" means a policy, contract or evidence of coverage issued to an enrollee. Health care plan does not include limited benefit coverage as defined in section 20-1137.

4. "Health care professional" means a professional who is regulated pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 25, 28, 29, 34, 35, 39 or 41, title 36, chapter 6, article 7 or title 36, chapter 17.

Sec. 4. Section 28-3005, Arizona Revised Statutes, is amended to read:

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

A. For medical conditions, a physician or registered nurse practitioner, or for psychological conditions, a psychologist, physician, psychiatric mental health nurse practitioner or substance abuse counselor,
who provides information to the director 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 practitioner 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 by section 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 subsection. 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 subsection. The physician's, registered nurse
practitioner's or psychologist's report is subject to subpoena or order to
produce in an action except an action against the physician, registered
nurse practitioner or psychologist submitting the report.

C. For the purposes of 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, OSTEOPATHIC PHYSICIAN 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.
Sec. 5. Section 32-3101, Arizona Revised Statutes, is amended to
read:

32-3101. Definitions

In this chapter, unless the context otherwise requires:
1. "Applicant group" means any health professional group or
organization, any individual or any other interested party that proposes
that any health professional group not presently regulated be regulated or
that proposes to increase the scope of practice of a health profession.
2. "Certification" means a voluntary process by which a regulatory
entity grants recognition to an individual who has met certain
prerequisite qualifications specified by that regulatory entity and who
may assume or use the word "certified" in a title or designation to
perform prescribed health professional tasks.
3. "Grandfather clause" means a provision applicable to
practitioners actively engaged in the regulated health profession before
the effective date of a law that exempts the practitioners from meeting
the prerequisite qualifications set forth in the law to perform prescribed
occupational tasks.
4. "Health professions" means professions regulated pursuant to
chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29,
34, 35, 39 or 41 of this title, title 36, chapter 6, article 7 or
title 36, chapter 17.
5. "Increase the scope of practice" means to engage in conduct
beyond the authority granted to a health profession by law.
6. "Inspection" means the periodic examination of practitioners by
a state agency in order to ascertain whether the practitioners' occupation
is being carried out in a fashion consistent with the public health, 
safety and welfare.
7. "Legislative committees of reference" means joint subcommittees
composed of the members of the appropriate standing committees of the
house of representatives and senate appointed pursuant to section 41-2954.
8. "Licensure" or "license" means an individual, nontransferable
authorization to carry on a health activity that would otherwise be
unlawful in this state in the absence of the permission, and that is based
on qualifications that include graduation from an accredited or approved
program and acceptable performance on a qualifying examination or a series
of examinations.
9. "Practitioner" means an individual who has achieved knowledge
and skill by practice and who is actively engaged in a specified health
profession.
10. "Public member" means an individual who is not and never has
been a member or spouse of a member of the health profession being
regulated and who does not have and never has had a material financial
interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

11. "Registration" means the formal notification that, before rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner, the location, nature and operation of the health activity to be practiced and, if required by a regulatory entity, a description of the service to be provided.

12. "Regulatory entity" means any board, commission, agency or department of this state that regulates one or more health professions in this state.

13. "State agency" means any department, board, commission or agency of this state.

Sec. 6. Section 32-3201, Arizona Revised Statutes, is amended to read:

32-3201. Definitions
In this chapter, unless the context otherwise requires:

1. "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.

2. "Health profession regulatory board" means any board that regulates one or more health professionals in this state.

3. "Medical records" has the same meaning prescribed in section 12-2291 but does not include prescription orders.

Sec. 7. Repeal
Title 32, chapter 33, Arizona Revised Statutes, is repealed.

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

36-509. Confidential records; immunity; definition
A. A health care entity must keep records and information contained in records confidential and not as public records, except as provided in this section. Records and information contained in records may only be disclosed to:

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

2. Individuals to whom the patient or the patient's health care decision maker has given authorization to have information disclosed.

3. Persons authorized by a court order.

4. Persons doing research only if the activity is conducted pursuant to applicable federal or state laws and regulations governing research.
5. The state department of corrections in cases in which prisoners confined to the state prison are patients in the state hospital on authorized transfers either by voluntary admission or by order of the court.

6. Governmental or law enforcement agencies if necessary to:
   (a) Secure the return of a patient who is on unauthorized absence from any agency where the patient was undergoing evaluation and treatment.
   (b) Report a crime on the premises.
   (c) Avert a serious and imminent threat to an individual or the public.

7. Persons, including family members, other relatives, close personal friends or any other person identified by the patient, as otherwise authorized or required by state or federal law, including the health insurance portability and accountability act of 1996 privacy standards (45 Code of Federal Regulations part 160 and part 164, subpart E), or pursuant to one of the following:
   (a) If the patient is present or otherwise available and has the capacity to make health care decisions, the health care entity may disclose the information if one of the following applies:
      (i) The patient agrees verbally or agrees in writing by signing a consent form that permits disclosure.
      (ii) The patient is given an opportunity to object and does not express an objection.
      (iii) The health care entity reasonably infers from the circumstances, based on the exercise of professional judgment, that the patient does not object to the disclosure.
   (b) If the patient is not present or the opportunity to agree or object to the disclosure of information cannot practicably be provided because of the patient's incapacity or an emergency circumstance, the health care entity may disclose the information if the entity determines that the disclosure of the information is in the best interests of the patient. In determining whether the disclosure of information is in the best interests of the patient, in addition to all other relevant factors, the health care entity shall consider all of the following:
      (i) The patient's medical and treatment history, including the patient's history of compliance or noncompliance with an established treatment plan based on information in the patient's medical record and on reliable and relevant information received from the patient's family members, friends or others involved in the patient's care, treatment or supervision.
      (ii) Whether the information is necessary or, based on professional judgment, would be useful in assisting the patient in complying with the care, treatment or supervision prescribed in the patient's treatment plan.
      (iii) Whether the health care entity has reasonable grounds to believe that the release of the information may subject the patient to
domestic violence, abuse or endangerment by family members, friends or other persons involved in the patient's care, treatment or supervision.

(c) The health care entity believes the patient presents a serious and imminent threat to the health or safety of the patient or others, and the health care entity believes that family members, friends or others involved in the patient's care, treatment or supervision can help to prevent the threat.

(d) In order for the health care entity to notify a family member, friend or other person involved in the patient's care, treatment or supervision of the patient's location, general condition or death.

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

9. A state or federal agency that licenses health care providers.

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

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

12. A patient or the patient's health care decision maker.

13. The department of public safety or another law enforcement agency by the court to comply with the requirements of section 36-540, subsections 0 and P.

14. A third-party payor or the payor's contractor as permitted by the health insurance portability and accountability act privacy standards, 45 Code of Federal Regulations part 160 and part 164, subpart E.

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

16. The legal representative of a health care entity in possession of the record for the purpose of securing legal advice.

17. A person or entity as otherwise required by state or federal law.
18. A person or entity as permitted by the federal regulations on alcohol and drug abuse treatment (42 Code of Federal Regulations part 2).

19. A person or entity to conduct utilization review, peer review and quality assurance pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

20. A person maintaining health statistics for public health purposes as authorized by law.

21. A grand jury as directed by subpoena.

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

B. Information disclosed pursuant to subsection A, paragraph 7 of this section may include only information that is directly relevant to the person's involvement with the patient's health care or payment related to the patient's health care. Subsection A, paragraph 7 of this section does not prevent a health care entity from obtaining or receiving information about the patient from a family member, friend or other person involved in the patient's care, treatment or supervision. A health care entity shall keep a record of the name and contact information of any person to whom any patient information is released pursuant to subsection A, paragraph 7 of this section. A decision to release or withhold information pursuant to subsection A, paragraph 7 of this section is subject to review pursuant to section 36-517.01.

C. Information and records obtained in the course of evaluation, examination or treatment and submitted in any court proceeding pursuant to this chapter or title 14, chapter 5 are confidential and are not public records unless the hearing requirements of this chapter or title 14, chapter 5 require a different procedure. Information and records that are obtained pursuant to this section and submitted in a court proceeding pursuant to title 14, chapter 5 and that are not clearly identified by the parties as confidential and segregated from nonconfidential information and records are considered public records.

D. Notwithstanding subsections A, B and C of this section, the legal representative of a patient who is the subject of a proceeding conducted pursuant to this chapter and title 14, chapter 5 has access to the patient's information and records in the possession of a health care entity or filed with the court.

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

F. For the purposes of this section, "information" means records and the information contained in records.

Sec. 9. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 36-601.01, Arizona Revised Statutes, is amended to read:

36-601.01. Smoke-free Arizona act

A. Definitions. The following words and phrases, whenever used in this section, shall be construed as defined in this section:

1. "Employee" means any person who performs any service on a full-time, part-time or contracted basis whether or not the person is denominated an employee, independent contractor or otherwise and whether or not the person is compensated or is a volunteer.

2. "Employer" means a person, A business, A partnership, AN association, the state of Arizona and its political subdivisions, corporations, including municipal corporations, A trust, or non-profit A NONPROFIT entity that employs the services of one or more individual persons.

3. "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling. Enclosed area includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means.

4. "Health care facility" means any enclosed area utilized by any health care institution licensed according to title 36, chapter 4, chapter 6 article 7, OF THIS CHAPTER or chapter 4 OR 17 OF THIS TITLE, or any health care professional licensed according to title 32, chapters 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.

5. "Person" means an individual, partnership, corporation, limited liability company, entity, association, governmental subdivision or unit of a governmental subdivision, or a public or private organization of any character.

6. "Physically separated" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageway) and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas.

7. "Places of employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas,
auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private residence is not a “place of employment” unless it is used as a child care, adult day care, or health care facility.

8. “Public place” means any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

9. “Retail tobacco store” means a retail store that derives the majority of its sales from tobacco products and accessories.

10. “Smoking” means inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product.

11. “Sports facilities” means enclosed areas of sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, billiard halls, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sporting events.

12. “Veteran and fraternal clubs” means a club as defined in A.R.S. 4-101(7)(a)(b) or (c) SECTION 4-101, PARAGRAPH 7, SUBDIVISION (a), (b) OR (c).

B. Smoking is prohibited in all public places and places of employment within the state of Arizona, except the following:

1. Private residences, except when used as a licensed child care, adult day care, or health care facility.

2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms, provided, however, that IF not more than fifty percent of rooms rented to guests in a hotel or motel are so designated.

3. Retail tobacco stores that are physically separated so that smoke from retail tobacco stores does not infiltrate into areas where smoking is prohibited under the provisions of this section.

4. Veterans and fraternal clubs when they are not open to the general public.
5. Smoking when associated with a religious ceremony practiced pursuant to the American Indian religious freedom act of 1978.

6. Outdoor patios so long as tobacco smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.

7. A theatrical performance upon a stage or in the course of a film or television production if the smoking is part of the performance or production.

C. The prohibition on smoking in places of employment shall be communicated to all existing employees by the effective date of this section and to all prospective employees upon their application for employment.

D. Notwithstanding any other provision of this section, an owner, operator, manager, or other person or entity in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.

E. Posting of signs and ashtray removal.

1. “No smoking” signs or the international “no smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted by the owner, operator, manager, or other person in control of that place identifying where smoking is prohibited by this section and where complaints regarding violations may be registered.

2. Every public place and place of employment where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

3. All ashtrays shall be removed from any area where smoking is prohibited by this section by the owner, operator, manager, or other person having control of the area.

F. No employer may NOT discharge or retaliate against an employee because that employee exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section.

G. The law shall be implemented and enforced by the department of health services as follows:

1. The department shall design and implement a program, including the establishment of an internet website, to educate the public regarding the provisions of this section.

2. The department shall inform persons who own, manage, operate or otherwise control a public place or place of employment of the requirements of this section and how to comply with its provisions, including making information available and providing a toll-free telephone number and e-mail address to be used exclusively for this purpose.
3. Any member of the public may report a violation of this law to the department. The department shall accept oral and written reports of violation and establish an e-mail address(es) and toll-free telephone number(s) to be used exclusively for the purpose of reporting violations. A person shall not be required to disclose the person's identity when reporting a violation.

4. If the department has reason to believe a violation of this law exists, the department may enter upon and into any public place or place of employment for purposes of determining compliance with this law. However, the department may inspect public places where food or alcohol is served at any time to determine compliance with this law.

5. If the department determines that a violation of this law exists at a public place or place of employment, the department shall issue a notice of violation to the person who owns, manages, operates or otherwise controls the public place or place of employment. The notice shall include the nature of each violation, date and time each violation occurred, and department contact person.

6. The department shall impose a civil penalty on the person in an amount of not less than $100, but not more than $500 for each violation. In considering whether to impose a fine and the amount of the fine, the department may consider whether the person has been cited previously and what efforts the person has taken to prevent or cure the violation, including reporting the violation or taking action under subsection J of this section. Each day that a violation occurs constitutes a separate violation. The director may issue a notice that includes the proposed amount of the civil penalty assessment. A person may appeal the assessment of a civil penalty by requesting a hearing. If a person requests a hearing to appeal an assessment, the director shall not take further action to enforce and collect the assessment until the hearing process is complete. The director shall impose a civil penalty only for those days on which the violation has been documented by the department.

7. If a civil penalty imposed by this section is not paid, the attorney general or a county attorney shall file an action to collect the civil penalty in a justice court or the superior court in the county in which the violation occurred.

8. The department may apply for injunctive relief to enforce these provisions in the superior court in the county in which the violation occurred. The court may impose appropriate injunctive relief and impose a penalty of not less than $100 but not more than $500 for each violation. Each day that a violation occurs constitutes a separate violation. If the superior court finds the violations are willful or evidence a pattern of noncompliance, the court may impose a fine up to $5000 per violation.
9. The department may contract with a third party to determine compliance with this law.

10. The department may delegate to a state agency or political subdivision of this state any functions, powers or duties under this law.

11. The director of the department may promulgate rules for the implementation and enforcement of this law. The department is exempt from the rulemaking procedures in A.R.S. § 41.6 except the department shall publish draft rules and thereafter take public input, including hold at least two public hearings prior to implementing the rules. This exemption expires May 1, 2007.

H. Beginning on June 1, 2008 and every other June 1 thereafter, the director of the Arizona department of health services shall issue a report analyzing its activities to enforce this law, including the activities of all of the state agencies or political subdivisions to whom the department has delegated responsibility under this law.

I. An owner, manager, operator or employee of place regulated by this law shall inform any person who is smoking in violation of this law that smoking is illegal and request that the illegal smoking stop immediately.

J. This law does not create any new private right of action nor does it extinguish any existing common law causes of action.

K. A person who smokes where smoking is prohibited is guilty of a petty offense with a fine of not less than fifty dollars and not more than three hundred dollars.

L. Smoke-free Arizona fund

1. The smoke-free Arizona fund is established consisting of all revenues deposited in the fund pursuant to §42-3251.02 and interest earned on those monies. The Arizona department of health services shall administer the fund. On notice from the department, the state treasurer shall invest and divest monies in the fund as provided by §35-313 and monies earned from investment shall be credited to the fund.

2. All money in the smoke-free Arizona fund shall be used to enforce the provisions of this section, provided however EXCEPT that if there is money remaining after the department has met its enforcement obligations, that remaining money shall be deposited in the tobacco products tax fund and used for education programs to reduce and eliminate tobacco use and for no other purpose.

3. Monies in this fund are continuously appropriated, are not subject to further approval, do not revert to the general fund and are exempt from the provisions of §36-190 relating to the lapsing of appropriations.
M. This section does not prevent a political subdivision of the state from adopting ordinances or regulations that are more restrictive than this section nor does this section repeal any existing ordinance or regulation that is more restrictive than this section.

N. Tribal sovereignty — this section has no application on Indian reservations as defined in ARS 42-3301(2) SECTION 42-3301.

Sec. 10. Section 36-2171, Arizona Revised Statutes, is amended to read:

**36-2171. Definitions**
In this chapter, unless the context otherwise requires:

1. "Advance practice provider" means a physician assistant as defined in section 32-2501 or a registered nurse practitioner as defined in section 32-1601.

2. "Behavioral health provider" means a physician who is a board-certified or board-eligible psychiatrist, a psychologist, a physician assistant or a registered nurse practitioner who is certified to practice as a behavioral health specialist or a person who is licensed pursuant to title 32 as a clinical social worker, professional counselor or marriage and family therapist.

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

4. "Pharmacist" has the same meaning prescribed in section 32-1901.

5. "Rural" means either of the following:
   (a) A county with a population of less than four hundred thousand persons according to the most recent United States decennial census.
   (b) A census county division with less than fifty thousand persons in a county with a population of four hundred thousand or more persons according to the most recent United States decennial census.

Sec. 11. Section 36-2601, Arizona Revised Statutes, is amended to read:

**36-2601. Definitions**
In this article, unless the context otherwise requires:

1. "Board" means the Arizona state board of pharmacy or its designee.

2. "Dispenser" means a medical practitioner or pharmacy that is authorized to dispense controlled substances.

3. "Licensed health care provider" means a person who is licensed pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 19.1, 25, OR 29 or 33.

4. "Medical practitioner" means any person who is licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or for the diagnosis or prevention of sickness in human beings in this state or any state, territory or district of the United States.

5. "Person" means an individual, partnership, corporation or association and the person's duly authorized agents.
1. "Program" means the controlled substances prescription monitoring program.

Sec. 12. Section 36-3601, Arizona Revised Statutes, is amended to read:

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, 14, 15, 17, 18, 19.1, 25, 28, or 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.

Sec. 13. Section 38-672, Arizona Revised Statutes, is amended to read:

38-672. Traumatic event counseling for peace officers, firefighters and public safety employees; exceptions; definitions
A. Notwithstanding any other law, this state or a political subdivision of this state shall establish a program to provide any of the following persons who are exposed to any one of the following events while in the course of duty up to twelve visits of licensed counseling, which may be provided via telemedicine, paid for by the employer:
1. In the case of a peace officer, the use of deadly force or subjection to deadly force in the line of duty, regardless of whether the officer was physically injured.
2. In the case of a firefighter, witnessing the death of another firefighter while engaged in the line of duty.
3. In the case of a public safety employee:
   (a) Visually witnessing the death or maiming or visually witnessing the immediate aftermath of such a death or maiming of one or more human beings.
   (b) Responding to or being directly involved in a criminal investigation of an offense involving a dangerous crime against a child punishable under children as defined in section 13-705.
   (c) Requiring rescue in the line of duty where one's life was endangered.
B. Payment by the employer for licensed counseling pursuant to this section does not create a presumption that a claim is compensable under section 23-1043.01, subsection B.
C. This section does not apply to a state employer that provides a program to its public safety employees that is characterized by all of the following:
1. The program is paid for by the employer.
2. The program provides licensed counseling for any issue. For licensed counseling related to trauma experienced while in the line of duty, the licensed counseling is provided on the request of the public safety employee and shall be in person.
3. Before July 1, 2017, the program offers at least six visits per year.
4. On or after July 1, 2017, the program offers at least twelve visits per year.

D. For the purposes of this section:
1. "Licensed counseling" means counseling provided by a licensed mental health professional pursuant to title 32, chapter 19.1 or chapter 33 if licensees under title 32, chapter 33 have training and expertise in treating trauma.
2. "Public safety employee" means:
   (a) An individual who is a member of the public safety personnel retirement system or the corrections officer retirement plan.
   (b) A probation officer, surveillance officer or juvenile detention officer who is employed by this state or a political subdivision of this state.

Sec. 14. Section 41-1092, Arizona Revised Statutes, is amended to read:
41-1092. Definitions
In this article, unless the context otherwise requires:
1. "Administrative law judge" means an individual or an agency head, board or commission that sits as an administrative law judge, that conducts administrative hearings in a contested case or an appealable agency action and that makes decisions regarding the contested case or appealable agency action.
2. "Administrative law judge decision" means the findings of fact, conclusions of law and recommendations or decisions issued by an administrative law judge.
3. "Appealable agency action" means an action that determines the legal rights, duties or privileges of a party and that is not a contested case. Appealable agency actions do not include interim orders by self-supporting regulatory boards, rules, orders, standards or statements of policy of general application issued by an administrative agency to implement, interpret or make specific the legislation enforced or administered by it or clarifications of interpretation, nor does it mean or include rules concerning the internal management of the agency that do not affect private rights or interests. For the purposes of this paragraph, administrative hearing does not include a public hearing held for the purpose of receiving public comment on a proposed agency action.
4. "Director" means the director of the office of administrative hearings.
5. "Final administrative decision" means a decision by an agency that is subject to judicial review pursuant to title 12, chapter 7, article 6.

6. "Office" means the office of administrative hearings.

7. "Self-supporting regulatory board" means any one of the following:
   (a) The Arizona state board of accountancy.
   (b) The board of barbers.
   (c) The Arizona state boxing and mixed martial arts commission.
   (d) The state board of chiropractic examiners.
   (e) The board of cosmetology.
   (f) The state board of dental examiners.
   (g) The state board of funeral directors and embalmers.
   (h) The Arizona game and fish commission.
   (i) The board of homeopathic and integrated medicine examiners.
   (j) The Arizona medical board.
   (k) The naturopathic physicians medical board.
   (l) The state board of nursing.
   (m) The board of examiners of nursing care institution administrators and adult care home managers.
   (n) The board of occupational therapy examiners.
   (o) The state board of dispensing opticians.
   (p) The state board of optometry.
   (q) The Arizona board of osteopathic examiners in medicine and surgery.
   (r) The Arizona peace officer standards and training board.
   (s) The Arizona state board of pharmacy.
   (t) The board of physical therapy.
   (u) The state board of podiatry examiners.
   (v) The state board for private postsecondary education.
   (w) The state board of psychologist examiners.
   (x) The board of respiratory care examiners.
   (y) The state board of technical registration.
   (z) The Arizona state veterinary medical examining board.
   (aa) The acupuncture board of examiners.
   (bb) The Arizona regulatory board of physician assistants.
   (cc) The board of athletic training.
   (dd) The board of massage therapy.

Sec. 15. Repeal

Section 41-3025.14, Arizona Revised Statutes, is repealed.
Sec. 16.  Section 42-3106, Arizona Revised Statutes, is amended to read:

42-3106.  Monies allocated to the drug treatment and education fund; state department of corrections revolving fund; exemption

A.  Notwithstanding any law to the contrary, seven percent of the monies collected pursuant to section 42-3052, paragraph 1 and eighteen percent of the monies collected pursuant to section 42-3052, paragraphs 2, 3 and 4 shall be deposited in the drug treatment and education fund established by section 13-901.02.

B.  Notwithstanding any law to the contrary, three percent of the monies collected pursuant to section 42-3052, paragraph 1 and seven percent of the monies collected pursuant to section 42-3052, paragraphs 2, 3 and 4 shall be deposited in a separate revolving fund of the state department of corrections.

C.  Monies in the separate revolving fund of the state department of corrections shall be used for the following purposes:

1.  Implementing section 31-411.01.

2.  Offender participation in appropriate drug treatment programs that are administered by the state department of corrections or by a qualified agency, organization or individual that is approved or licensed by the department of health services or the board of behavioral health examiners.

3.  Reentry, education or mental health assistance programs that are administered by the state department of corrections or by a qualified agency, organization or individual.

D.  Monies that are deposited in the state department of corrections revolving fund pursuant to subsection B of this section shall not revert to the state general fund if unexpended at the close of the fiscal year.

E.  If the state department of corrections receives a federal grant, any portion of the monies that are deposited pursuant to subsection B of this section may be used as a cash match.

Sec. 17.  Requirements for enactment; three-fourths vote

Pursuant to article IV, part 1, section 1, Constitution of Arizona, section 36-601.01, Arizona Revised Statutes, as amended by this act, is effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.