

HIGHWAY SAFETY AND SECURITY ACT

SENATE AMENDMENTS TO S.B. 1258

(Reference to printed bill)

1 Page 13, strike lines 10 through 35, insert:

2 "Sec. 9. Title 36, Arizona Revised Statutes, is amended by adding  
3 chapter 38, to read:

4 CHAPTER 38

5 HEALTH INFORMATION ORGANIZATIONS

6 ARTICLE 1. GENERAL PROVISIONS

7 36-3801. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "CLINICAL LABORATORY" HAS THE SAME MEANING PRESCRIBED IN SECTION  
10 36-451.

11 2. "HEALTH CARE DECISION MAKER" HAS THE SAME MEANING PRESCRIBED IN  
12 SECTION 12-2291.

13 3. "HEALTH CARE PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION  
14 12-2291.

15 4. "HEALTH INFORMATION ORGANIZATION" MEANS A PERSON OR ENTITY THAT  
16 STORES OR FACILITATES THE TRANSFER OF ELECTRONIC INDIVIDUALLY IDENTIFIABLE  
17 HEALTH INFORMATION FOR TREATMENT OF INDIVIDUALS AND OTHER PURPOSES PERMITTED  
18 BY THIS CHAPTER. HEALTH INFORMATION ORGANIZATION DOES NOT INCLUDE A HEALTH  
19 CARE PROVIDER OR AN ELECTRONIC HEALTH RECORD MAINTAINED BY OR ON BEHALF OF A  
20 HEALTH CARE PROVIDER AND DOES NOT INCLUDE ENTITIES SUBJECT TO TITLE 20.

21 5. "INDIVIDUAL" MEANS THE PERSON WHO IS THE SUBJECT OF THE  
22 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.

23 6. "INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION" HAS THE SAME MEANING  
24 PRESCRIBED IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY  
25 STANDARDS, 45 CODE OF FEDERAL REGULATIONS PART 160 AND PART 164, SUBPART E.

26 7. "MEDICAL RECORDS" HAS THE SAME MEANING PRESCRIBED IN SECTION  
27 12-2291.

28 8. "OPT OUT OF THE HEALTH INFORMATION ORGANIZATION" MEANS AN  
29 INDIVIDUAL'S DECISION IN WRITING THAT INDIVIDUALLY IDENTIFIABLE HEALTH  
30 INFORMATION CANNOT BE SHARED THROUGH A HEALTH INFORMATION ORGANIZATION.

1           9. "PERSON" HAS THE SAME MEANING PRESCRIBED IN SECTION 1-215.

2           10. "TREATMENT" HAS THE SAME MEANING PRESCRIBED IN THE HEALTH INSURANCE  
3           PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS, 45 CODE OF FEDERAL  
4           REGULATIONS PART 160 AND PART 164, SUBPART E.

5           11. "WRITTEN" OR "IN WRITING" MEANS IN HANDWRITING OR THROUGH AN  
6           ELECTRONIC TRANSACTION THAT MEETS THE REQUIREMENTS OF TITLE 44, CHAPTER 26.

7           36-3802. Notice of health information practices

8           A. A HEALTH INFORMATION ORGANIZATION MUST MAINTAIN A WRITTEN NOTICE OF  
9           HEALTH INFORMATION PRACTICES DESCRIBING THE FOLLOWING:

10          1. THE INFORMATION, INCLUDING INDIVIDUALLY IDENTIFIABLE HEALTH  
11          INFORMATION, THE HEALTH INFORMATION ORGANIZATION COLLECTS ABOUT INDIVIDUALS.

12          2. THE CATEGORIES OF PERSONS WHO HAVE ACCESS TO INFORMATION, INCLUDING  
13          INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION, THROUGH THE HEALTH INFORMATION  
14          ORGANIZATION.

15          3. THE PURPOSES FOR WHICH ACCESS TO THE INFORMATION, INCLUDING  
16          INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION, IS PROVIDED THROUGH THE HEALTH  
17          INFORMATION ORGANIZATION.

18          4. THE INDIVIDUAL'S RIGHT TO OPT OUT OF THE HEALTH INFORMATION  
19          ORGANIZATION.

20          5. AN EXPLANATION AS TO HOW AN INDIVIDUAL\_OPTS OUT OF THE HEALTH  
21          INFORMATION ORGANIZATION.

22          B. A HEALTH INFORMATION ORGANIZATION MUST POST ITS CURRENT NOTICE OF  
23          HEALTH INFORMATION PRACTICES ON ITS WEBSITE IN A CONSPICUOUS MANNER.

24          C. NOTWITHSTANDING ANY OTHER REQUIREMENT IN THIS SECTION, A HEALTH  
25          INFORMATION ORGANIZATION MUST PROVIDE AN INDIVIDUAL WITH A COPY OF THE NOTICE  
26          OF HEALTH INFORMATION PRACTICES WITHIN THIRTY DAYS AFTER RECEIVING A WRITTEN  
27          REQUEST FOR THAT INFORMATION.

28          D. A HEALTH CARE PROVIDER PARTICIPATING IN THE HEALTH INFORMATION  
29          ORGANIZATION MUST PROVIDE THE HEALTH INFORMATION ORGANIZATION'S NOTICE OF  
30          HEALTH INFORMATION PRACTICES TO THE PROVIDER'S PATIENTS BEFORE OR AT THE  
31          PROVIDER'S FIRST ENCOUNTER WITH A PATIENT, BEGINNING ON THE FIRST DAY OF THE  
32          PROVIDER'S PARTICIPATION IN THE HEALTH INFORMATION ORGANIZATION. A HEALTH  
33          CARE PROVIDER MUST DOCUMENT THAT IT HAS PROVIDED THE HEALTH INFORMATION  
34          ORGANIZATION'S NOTICE OF HEALTH INFORMATION PRACTICES TO A PATIENT.

35          E. IF THERE IS A MATERIAL CHANGE TO THE HEALTH INFORMATION  
36          ORGANIZATION'S NOTICE OF HEALTH INFORMATION PRACTICES, A HEALTH CARE PROVIDER  
37          MUST REDISTRIBUTE THE NOTICE OF HEALTH INFORMATION PRACTICES IN THE SAME  
38          MANNER AND WITHIN THE SAME TIME PERIOD AS IS REQUIRED BY 45 CODE OF FEDERAL

1 REGULATIONS SECTION 164.528 IN RELATION TO THE HEALTH CARE PROVIDER'S NOTICE  
2 OF PRIVACY PRACTICES.

3 36-3803. Voluntary participation in health information  
4 organizations

5 A. AN INDIVIDUAL HAS THE RIGHT TO OPT OUT OF A HEALTH INFORMATION  
6 ORGANIZATION. A DECISION TO OPT OUT OF A HEALTH CARE ORGANIZATION MAY BE  
7 CHANGED BY AN INDIVIDUAL AT ANY TIME BY PROVIDING WRITTEN NOTICE TO THE  
8 HEALTH INFORMATION ORGANIZATION.

9 B. A HEALTH CARE PROVIDER, CLINICAL LABORATORY OR OTHER HOLDER OF  
10 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION MAY CHOOSE WHETHER TO  
11 PARTICIPATE IN A HEALTH INFORMATION ORGANIZATION.

12 36-3804. Individual rights

13 A. A HEALTH INFORMATION ORGANIZATION MUST PROVIDE THE FOLLOWING RIGHTS  
14 TO INDIVIDUALS:

15 1. TO OPT OUT OF THE HEALTH INFORMATION ORGANIZATION PURSUANT TO  
16 SECTION 36-3803.

17 2. TO REQUEST A COPY OF THE INDIVIDUAL'S INDIVIDUALLY IDENTIFIABLE  
18 HEALTH INFORMATION THAT IS AVAILABLE THROUGH THE HEALTH INFORMATION  
19 ORGANIZATION. THE HEALTH INFORMATION ORGANIZATION MAY PROVIDE THIS RIGHT  
20 DIRECTLY OR MAY REQUIRE HEALTH CARE PROVIDERS PARTICIPATING IN THE HEALTH  
21 INFORMATION ORGANIZATION TO PROVIDE ACCESS TO INDIVIDUALS. THE COPY MAY BE  
22 PROVIDED ELECTRONICALLY, IF THE INDIVIDUAL REQUESTING THE COPY CONSENTS TO  
23 ELECTRONIC DELIVERY OF THE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION, AND  
24 MUST BE PROVIDED TO THE INDIVIDUAL WITHIN THIRTY DAYS AFTER THE INDIVIDUAL'S  
25 REQUEST. CHARGES FOR COPIES ARE GOVERNED BY SECTION 12-2295.

26 3. TO REQUEST AMENDMENT OF INCORRECT INDIVIDUALLY IDENTIFIABLE HEALTH  
27 INFORMATION AVAILABLE THROUGH THE HEALTH INFORMATION ORGANIZATION. THE  
28 HEALTH INFORMATION ORGANIZATION MUST PROVIDE THIS RIGHT BY REFERRING THE  
29 INDIVIDUAL TO THE ORIGINAL SOURCE OF THE INDIVIDUALLY IDENTIFIABLE HEALTH  
30 INFORMATION TO REQUEST AMENDMENT.

31 4. TO OBTAIN A LIST OF THE PERSONS WHO HAVE ACCESSED THE INDIVIDUAL'S  
32 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION THROUGH THE HEALTH INFORMATION  
33 ORGANIZATION FOR A PERIOD OF AT LEAST TWO YEARS BEFORE THE INDIVIDUAL'S  
34 REQUEST. THIS LIST MUST BE PROVIDED TO THE INDIVIDUAL WITHIN THIRTY DAYS  
35 AFTER THE INDIVIDUAL'S REQUEST.

36 5. TO BE NOTIFIED, PURSUANT TO SECTION 44-7501 AND 45 CODE OF FEDERAL  
37 REGULATIONS PART 164, SUBPART D, OF A BREACH AT THE HEALTH INFORMATION

1 ORGANIZATION THAT AFFECTS THE INDIVIDUAL'S INDIVIDUALLY IDENTIFIABLE HEALTH  
2 INFORMATION.

3 B. IF AN INDIVIDUAL DOES NOT HAVE HEALTH CARE DECISION-MAKING  
4 CAPACITY, THE INDIVIDUAL'S HEALTH CARE DECISION MAKER MAY EXERCISE ALL  
5 INDIVIDUAL RIGHTS IN THIS CHAPTER ON BEHALF OF THE INDIVIDUAL.

6 36-3805. Disclosure of individually identifiable health  
7 information

8 A. A HEALTH INFORMATION ORGANIZATION MAY DISCLOSE AN INDIVIDUAL'S  
9 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION ONLY IF:

10 1. THE INDIVIDUAL HAS NOT OPTED OUT OF THE HEALTH INFORMATION  
11 ORGANIZATION.

12 2. THE TYPE OF DISCLOSURE IS EXPLAINED IN THE HEALTH INFORMATION  
13 ORGANIZATION'S CURRENT NOTICE OF HEALTH INFORMATION PRACTICES.

14 3. THE DISCLOSURE COMPLIES WITH THE HEALTH INSURANCE PORTABILITY AND  
15 ACCOUNTABILITY ACT PRIVACY RULE, 45 CODE OF FEDERAL REGULATIONS PART 164,  
16 SUBPART D.

17 B. A HEALTH INFORMATION ORGANIZATION MAY NOT SELL OR OTHERWISE MAKE  
18 COMMERCIAL USE OF AN INDIVIDUAL'S INDIVIDUALLY IDENTIFIABLE HEALTH  
19 INFORMATION WITHOUT THE WRITTEN CONSENT OF THE INDIVIDUAL.

20 C. THIS CHAPTER DOES NOT INTERFERE WITH ANY OTHER FEDERAL OR STATE  
21 LAWS OR REGULATIONS THAT PROVIDE MORE EXTENSIVE PROTECTION OF INDIVIDUALLY  
22 IDENTIFIABLE HEALTH INFORMATION THAN PROVIDED IN THIS CHAPTER.

23 36-3806. Required policies

24 A HEALTH INFORMATION ORGANIZATION MUST IMPLEMENT AND ENFORCE POLICIES  
25 GOVERNING THE PRIVACY AND SECURITY OF INDIVIDUALLY IDENTIFIABLE HEALTH  
26 INFORMATION AND COMPLIANCE WITH THIS CHAPTER. THESE POLICIES MUST:

27 1. ADDRESS THE CONTENT AND DISTRIBUTION OF THE NOTICE OF HEALTH  
28 INFORMATION PRACTICES PRESCRIBED IN SECTION 36-3802.

29 2. IMPLEMENT THE INDIVIDUAL RIGHTS PRESCRIBED IN SECTION 36-3804.

30 3. ADDRESS HOW INDIVIDUALS WILL BE ABLE TO INDICATE THAT INFORMATION  
31 ABOUT THEM AVAILABLE THROUGH THE HEALTH INFORMATION ORGANIZATION IS NOT  
32 CORRECT.

33 4. IMPLEMENT THE RESTRICTIONS ON DISCLOSURE OF INDIVIDUALLY  
34 IDENTIFIABLE HEALTH INFORMATION PRESCRIBED IN SECTION 36-3805.

35 5. ADDRESS SECURITY SAFEGUARDS TO PROTECT INDIVIDUALLY IDENTIFIABLE  
36 HEALTH INFORMATION, AS REQUIRED BY THE HEALTH INSURANCE PORTABILITY AND  
37 ACCOUNTABILITY ACT SECURITY RULE, 45 CODE OF FEDERAL REGULATIONS PART 164,  
38 SUBPART C.

1           6. PRESCRIBE THE APPOINTMENT AND RESPONSIBILITIES OF A PERSON OR  
2 PERSONS WHO HAVE RESPONSIBILITY FOR MAINTAINING PRIVACY AND SECURITY  
3 PROCEDURES FOR THE HEALTH INFORMATION ORGANIZATION

4           7. REQUIRE TRAINING OF EACH EMPLOYEE AND AGENT OF THE HEALTH  
5 INFORMATION ORGANIZATION ABOUT THE HEALTH INFORMATION ORGANIZATION'S  
6 POLICIES, INCLUDING THE NEED TO MAINTAIN THE PRIVACY AND SECURITY OF  
7 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION AND THE PENALTIES PROVIDED FOR  
8 THE UNAUTHORIZED ACCESS, RELEASE, TRANSFER, USE OR DISCLOSURE OF INDIVIDUALLY  
9 IDENTIFIABLE HEALTH INFORMATION. THE HEALTH INFORMATION ORGANIZATION MUST  
10 PROVIDE THIS TRAINING BEFORE AN EMPLOYEE OR AGENT MAY HAVE ACCESS TO  
11 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION AVAILABLE TO THE HEALTH  
12 INFORMATION ORGANIZATION, AND TWICE A YEAR FOR ALL EMPLOYEES AND AGENTS.

13           36-3807. Sharing of individually identifiable health  
14                         information; review

15           A HEALTH INFORMATION ORGANIZATION MUST REVIEW AT LEAST TWICE A YEAR THE  
16 TECHNICAL AND ECONOMIC FEASIBILITY OF NEW METHODS TO IMPLEMENT INDIVIDUAL  
17 PREFERENCES FOR SHARING OR SEGREGATING INDIVIDUALLY IDENTIFIABLE HEALTH  
18 INFORMATION. THE HEALTH INFORMATION ORGANIZATION MUST POST THE RESULTS OF  
19 ITS REVIEW ON ITS WEBSITE NOT LATER THAN THIRTY DAYS AFTER COMPLETION OF THE  
20 REVIEW.

21           36-3808. Subpoenas; certification requirements

22           A. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION THAT IS MAINTAINED BY  
23 A HEALTH INFORMATION ORGANIZATION IS NOT SUBJECT TO A SUBPOENA DIRECTED TO  
24 THE HEALTH INFORMATION ORGANIZATION UNLESS SECTION 12-2294.01 IS FOLLOWED AND  
25 A COURT HAS DETERMINED ON MOTION AND NOTICE TO THE HEALTH INFORMATION  
26 ORGANIZATION AND THE PARTIES TO THE LITIGATION IN WHICH THE SUBPOENA IS  
27 SERVED THAT THE INFORMATION SOUGHT FROM THE HEALTH INFORMATION ORGANIZATION  
28 IS NOT AVAILABLE FROM THE ORIGINAL SOURCE AND EITHER IS RELEVANT TO THE  
29 SUBJECT MATTER INVOLVED IN THE PENDING ACTION OR REASONABLY IS CALCULATED TO  
30 LEAD TO THE DISCOVERY OF ADMISSIBLE EVIDENCE IN THE PENDING ACTION.

31           B. A PERSON WHO ISSUES A SUBPOENA TO THE HEALTH INFORMATION  
32 ORGANIZATION PURSUANT TO THIS SECTION MUST CERTIFY BEFORE THE ISSUANCE OF THE  
33 SUBPOENA THAT THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION HAVE BEEN MET.

34           36-3809. Health care providers; duty to maintain medical  
35                         records

36           A. A HEALTH CARE PROVIDER WHO PARTICIPATES IN A HEALTH INFORMATION  
37 ORGANIZATION IS RESPONSIBLE FOR MAINTAINING THE PROVIDER'S OWN MEDICAL  
38 RECORDS PURSUANT TO TITLE 12, CHAPTER 13, ARTICLE 7.1.

1           B. PARTICIPATION IN A HEALTH INFORMATION ORGANIZATION DOES NOT IMPACT  
2 THE CONTENT OF OR USE OR DISCLOSURE OF MEDICAL RECORDS OR INFORMATION  
3 CONTAINED IN MEDICAL RECORDS THAT IS HELD IN LOCATIONS OTHER THAN THE HEALTH  
4 INFORMATION ORGANIZATION.

5           C. THIS CHAPTER DOES NOT LIMIT, CHANGE OR OTHERWISE AFFECT A HEALTH  
6 CARE PROVIDER'S RIGHT OR DUTY TO EXCHANGE MEDICAL RECORDS OR INFORMATION  
7 CONTAINED IN MEDICAL RECORDS IN ACCORDANCE WITH APPLICABLE LAW.

8           36-3810. Civil and criminal immunity for good faith reliance

9           A HEALTH CARE PROVIDER WHO RELIES IN GOOD FAITH ON ANY INFORMATION  
10 PROVIDED THROUGH A HEALTH INFORMATION ORGANIZATION TO TREAT A PATIENT IS  
11 IMMUNE FROM ANY CRIMINAL OR CIVIL LIABILITY ARISING FROM ANY DAMAGES CAUSED  
12 BY THAT GOOD FAITH RELIANCE. THE HEALTH CARE PROVIDER IS PRESUMED TO HAVE  
13 RELIED IN GOOD FAITH. THE PRESUMPTION MAY BE REBUTTED BY CLEAR AND  
14 CONVINCING EVIDENCE."

15 Amend title to conform

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