

REFERENCE TITLE: emergency contraception

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

## **HB 2737**

Introduced by  
Representatives Tovar, Ableser, Cajero Bedford, Chabin, Garcia M, Heinz,  
Meza, Pancrazi, Patterson, Sinema: Campbell CH, Campbell CL, Deschene

AN ACT

AMENDING TITLE 32, CHAPTER 18, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1977; AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3213; AMENDING SECTION 36-132, ARIZONA REVISED STATUTES; RELATING TO EMERGENCY CONTRACEPTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 32, chapter 18, article 3, Arizona Revised Statutes,  
3 is amended by adding section 32-1977, to read:

4 32-1977. Duty to fill prescriptions; notification;  
5 accommodation; exceptions; definition

6 A. A PHARMACY LICENSED PURSUANT TO THIS CHAPTER MUST PROPERLY FILL  
7 VALID PRESCRIPTION ORDERS PRESENTED TO THE PHARMACY BY OR FOR A CUSTOMER.

8 B. A PHARMACY LICENSED PURSUANT TO THIS CHAPTER MUST REQUIRE ITS  
9 EMPLOYEES TO NOTIFY IT IN WRITING OF ALL CATEGORIES OR TYPES OF PRESCRIPTION  
10 DRUGS AND DEVICES THAT THE EMPLOYEE WOULD DECLINE TO FILL BECAUSE OF THE  
11 EMPLOYEE'S SINCERELY HELD RELIGIOUS BELIEFS. ON RECEIVING THIS NOTIFICATION,  
12 THE PHARMACY MUST ATTEMPT TO ACCOMMODATE THE EMPLOYEE IF THE ACCOMMODATION  
13 CAN BE MADE WITHOUT CAUSING UNDUE HARDSHIP TO THE PHARMACY OR ITS CUSTOMERS.  
14 IN DETERMINING IF A PROPOSED ACCOMMODATION WOULD CAUSE AN UNDUE HARDSHIP, THE  
15 PHARMACY MAY CONSIDER:

16 1. WHETHER THE PROPOSED ACCOMMODATION WOULD DELAY THE FILLING OF  
17 PRESCRIPTION ORDERS AND RESULT IN THE PHARMACY NOT BEING ABLE TO FILL CERTAIN  
18 PRESCRIPTIONS IN THE EQUIVALENT TIME AS THE PHARMACY IS FILLING OTHER  
19 PRESCRIPTIONS OF IN-STOCK DRUGS OR DEVICES AT THAT TIME.

20 2. THE PHARMACY'S ABILITY TO FILL THE CUSTOMER'S PRESCRIPTION AT THAT  
21 PHARMACY LOCATION.

22 3. THE PHARMACY'S FINANCIAL COSTS IN IMPLEMENTING THE ACCOMMODATION.

23 4. THE DAMAGE TO THE PHARMACY'S REPUTATION OR GOOD WILL IN THE  
24 COMMUNITY DUE TO ITS FAILURE TO PROVIDE TIMELY PRESCRIPTION SERVICES.

25 C. IF A CUSTOMER ASKS FOR A PRESCRIPTION DRUG OR DEVICE THAT IS NOT IN  
26 STOCK, THE PHARMACY MUST OFFER THE CUSTOMER EACH OF THE FOLLOWING OPTIONS AND  
27 PERFORM THE CHOSEN OPTION WITHOUT DELAY:

28 1. OBTAIN THE DRUG OR DEVICE UNDER THE PHARMACY'S STANDARD PROCEDURES  
29 FOR EXPEDITED ORDERING OF ANY DRUG OR DEVICE THAT IS NOT IN STOCK.

30 2. TRANSFER THE PRESCRIPTION ORDER TO ANOTHER LOCAL PHARMACY OF THE  
31 CUSTOMER'S CHOICE UNDER THE PHARMACY'S STANDARD PROCEDURES FOR TRANSFERRING  
32 PRESCRIPTION ORDERS FOR DRUGS OR DEVICES.

33 3. RETURN THE UNFILLED PRESCRIPTION ORDER TO THE CUSTOMER AND REFER  
34 THE CUSTOMER TO ANOTHER LOCAL PHARMACY. THE PHARMACY MUST MAKE A REASONABLE  
35 EFFORT TO REFER THE CUSTOMER TO A PHARMACY THAT STOCKS THE DRUG OR DEVICE AND  
36 THAT IS NEAR ENOUGH TO THE REFERRING SITE TO ENSURE THAT THE CUSTOMER HAS  
37 TIMELY ACCESS TO THE DRUG OR DEVICE.

38 D. THIS SECTION DOES NOT PROHIBIT A PHARMACY FROM REFUSING TO DISPENSE  
39 A PRESCRIPTION DRUG OR DEVICE IF THERE IS A VALID MEDICAL CONCERN THAT THE  
40 DRUG OR DEVICE WILL CAUSE PROBLEMS DUE TO THERAPEUTIC DUPLICATIONS,  
41 CONTRAINDICATIONS, DRUG INTERACTIONS, INCORRECT DOSAGE OR DURATION OF DRUG  
42 TREATMENT OR ABUSE OR MISUSE.

43 E. A PHARMACY MUST TREAT EACH CUSTOMER WITH RESPECT AND DIGNITY, MAKE  
44 GOOD FAITH EFFORTS NOT TO EMBARRASS OR Demean THE CUSTOMER AND ATTEMPT TO  
45 ENSURE A SEAMLESS DELIVERY OF PRESCRIPTION SERVICES, REGARDLESS OF WHETHER

1 THE PHARMACY HAS MADE AN ACCOMMODATION FOR AN EMPLOYEE PURSUANT TO  
2 SUBSECTION B.

3 F. A PHARMACY THAT VIOLATES THIS SECTION COMMITS AN ACT OF  
4 UNPROFESSIONAL CONDUCT AND IS SUBJECT TO DISCIPLINARY ACTION PURSUANT TO THIS  
5 CHAPTER.

6 G. THE BOARD SHALL INITIATE AN INVESTIGATION OF ANY ALLEGATION OF A  
7 VIOLATION OF THIS SECTION WITHIN SEVEN DAYS AFTER RECEIVING A COMPLAINT.

8 H. FOR THE PURPOSES OF THIS SECTION, "EMPLOYEE" INCLUDES A CURRENT  
9 EMPLOYEE AND AN APPLICANT FOR EMPLOYMENT.

10 Sec. 2. Title 32, chapter 32, article 1, Arizona Revised Statutes, is  
11 amended by adding section 32-3213, to read:

12 32-3213. Rape victims; emergency contraception; definitions

13 A. A HEALTH PROFESSIONAL WHO PROVIDES CARE TO A FEMALE PATIENT OF  
14 REPRODUCTIVE AGE WHO STATES THAT SHE IS THE VICTIM OF RAPE AT A MINIMUM MUST:

15 1. PROVIDE THE PATIENT WITH MEDICAL INFORMATION ABOUT EMERGENCY  
16 CONTRACEPTION.

17 2. VERBALLY INFORM THE PATIENT THAT THE HEALTH PROFESSIONAL WILL  
18 PROVIDE OR PRESCRIBE EMERGENCY CONTRACEPTION ON THE REQUEST OF THE PATIENT.

19 3. PROVIDE OR PRESCRIBE EMERGENCY CONTRACEPTION ON REQUEST OF THE  
20 PATIENT. IF THE HEALTH PROFESSIONAL PROVIDES AN EMERGENCY CONTRACEPTION DRUG,  
21 THE HEALTH PROFESSIONAL MUST PROVIDE THE PATIENT WITH AN INITIAL DOSE AND ANY  
22 FOLLOW-UP DOSES THAT THE PATIENT CAN SELF-ADMINISTER OR PRESCRIBE THE ENTIRE  
23 COURSE OF TREATMENT.

24 B. THIS SECTION MAY BE SATISFIED BY REFERRING THE PATIENT TO ANOTHER  
25 PROVIDER FOR FORENSIC MEDICAL CARE AND EMERGENCY CONTRACEPTION.

26 C. A HEALTH PROFESSIONAL WHOSE RELIGIOUS TENETS PROHIBIT THE USE OF  
27 CONTRACEPTIVE METHODS MAY SATISFY THE REQUIREMENTS OF THIS SECTION BY  
28 IMMEDIATELY REFERRING THE PATIENT TO ANOTHER HEALTH PROFESSIONAL WHO IS  
29 IMMEDIATELY AVAILABLE AND WHO WILL COMPLY WITH THE REQUIREMENTS OF THIS  
30 SECTION.

31 D. FOR THE PURPOSES OF THIS SECTION:

32 1. "CARE" MEANS MEDICAL EXAMINATIONS, PROCEDURES AND SERVICES PROVIDED  
33 WITHIN SEVENTY-TWO HOURS AFTER THE RAPE.

34 2. "EMERGENCY CONTRACEPTION" MEANS A DRUG OR DEVICE THAT PREVENTS  
35 PREGNANCY AFTER SEXUAL INTERCOURSE.

36 3. "HEALTH PROFESSIONAL" MEANS A PERSON WHO IS LICENSED TO PRESCRIBE  
37 MEDICATION PURSUANT TO CHAPTER 13, 15, 17, 25 OR 29 OF THIS TITLE.

38 4. "NONCONSENSUAL" MEANS:

39 (a) THE PATIENT WAS COERCED BY THE IMMEDIATE USE OR THREATENED USE OF  
40 FORCE AGAINST THE PATIENT.

41 (b) THE PATIENT WAS INCAPABLE OF CONSENT BY REASON OF MENTAL DISORDER,  
42 MENTAL DEFECT, DRUGS, ALCOHOL, SLEEP OR ANY OTHER SIMILAR IMPAIRMENT OF  
43 COGNITION AND THE CONDITION IS KNOWN OR SHOULD REASONABLY HAVE BEEN KNOWN TO  
44 THE PERPETRATOR OF THE RAPE. FOR THE PURPOSES OF THIS SUBDIVISION, "MENTAL  
45 DEFECT" MEANS THE PATIENT IS UNABLE TO COMPREHEND THE DISTINCTLY SEXUAL

1 NATURE OF THE CONDUCT OR IS INCAPABLE OF UNDERSTANDING OR EXERCISING THE  
2 RIGHT TO REFUSE TO ENGAGE IN THE CONDUCT WITH ANOTHER.

3 5. "RAPE" MEANS NONCONSENSUAL SEXUAL INTERCOURSE INVOLVING PENETRATION  
4 OF THE VULVA.

5 Sec. 3. Section 36-132, Arizona Revised Statutes, is amended to read:  
6 36-132. Department of health services; functions; contracts

7 A. The department ~~shall~~, in addition to other powers and duties vested  
8 in it by law, **SHALL**:

9 1. Protect the health of the people of the state.

10 2. Promote the development, maintenance, efficiency and effectiveness  
11 of local health departments or districts of sufficient population and area  
12 that they can be sustained with reasonable economy and efficient  
13 administration, provide technical consultation and assistance to local health  
14 departments or districts, provide financial assistance to local health  
15 departments or districts and services that meet minimum standards of  
16 personnel and performance and in accordance with a plan and budget submitted  
17 by the local health department or districts to the department for approval,  
18 and recommend the qualifications of all personnel.

19 3. Collect, preserve, tabulate and interpret all information required  
20 by law in reference to births, deaths and all vital facts, and obtain,  
21 collect and preserve information relating to the health of the people of the  
22 state and the prevention of diseases as may be useful in the discharge of  
23 functions of the department not in conflict with ~~the provisions of~~ chapter 3  
24 of this title, ~~—~~ and sections 36-693, 36-694 and 39-122.

25 4. Operate such sanitariums, hospitals or other facilities assigned to  
26 the department by law or by the governor.

27 5. Conduct a statewide program of health education relevant to the  
28 powers and duties of the department, prepare educational materials and  
29 disseminate information as to conditions affecting health, including basic  
30 information for the promotion of good health on the part of individuals and  
31 communities, and prepare and disseminate technical information concerning  
32 public health to the health professions, local health officials and  
33 hospitals. In cooperation with the department of education, the department  
34 of health services shall prepare and disseminate materials and give technical  
35 assistance for the purpose of education of children in hygiene, sanitation  
36 and personal and public health, and provide consultation and assistance in  
37 community organization to counties, communities and groups of people.

38 6. Administer or supervise a program of public health nursing,  
39 prescribe the minimum qualifications of all public health nurses engaged in  
40 official public health work, and encourage and aid in coordinating local  
41 public health nursing services.

42 7. Encourage and aid in coordinating local programs concerning control  
43 of preventable diseases in accordance with statewide plans that shall be  
44 formulated by the department.

- 1           8. Encourage and aid in coordinating local programs concerning  
2 maternal and child health, including midwifery, antepartum and postpartum  
3 care, infant and preschool health and the health of ~~school-children~~  
4 SCHOOLCHILDREN, including special fields such as the prevention of blindness  
5 and conservation of sight and hearing.
- 6           9. Encourage and aid in the coordination of local programs concerning  
7 nutrition of the people of the state.
- 8           10. Encourage, administer and provide dental health care services and  
9 aid in coordinating local programs concerning dental public health, in  
10 cooperation with the Arizona dental association. The department may bill and  
11 receive payment for costs associated with providing dental health care  
12 services and shall deposit the monies in the oral health fund established by  
13 section 36-138.
- 14           11. Establish and maintain adequate serological, bacteriological,  
15 parasitological, entomological and chemical laboratories with qualified  
16 assistants and facilities necessary for routine examinations and analyses and  
17 for investigations and research in matters affecting public health.
- 18           12. Supervise, inspect and enforce the rules concerning the operation  
19 of public bathing places and public and semipublic swimming pools adopted  
20 pursuant to section 36-136, subsection H, paragraph 10.
- 21           13. Take all actions necessary or appropriate to ensure that bottled  
22 water sold to the public and water used to process, store, handle, serve and  
23 transport food and drink are free from filth, disease-causing substances and  
24 organisms and unwholesome, poisonous, deleterious or other foreign  
25 substances. All state agencies and local health agencies involved with water  
26 quality shall provide to the department any assistance requested by the  
27 director to ensure that this paragraph is effectuated.
- 28           14. Enforce the state food, caustic alkali and acid laws in accordance  
29 with chapter 2, article 2 of this title, chapter 8, article 1 of this title  
30 and chapter 9, article 4 of this title, and collaborate in the enforcement of  
31 the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United  
32 States Code sections 1 through 905).
- 33           15. Recruit and train personnel for state, local and district health  
34 departments.
- 35           16. Conduct continuing evaluations of state, local and district public  
36 health programs, study and appraise state health problems and develop broad  
37 plans for use by the department and for recommendation to other agencies,  
38 professions and local health departments for the best solution of these  
39 problems.
- 40           17. License and regulate health care institutions according to chapter  
41 4 of this title.
- 42           18. Issue or direct the issuance of licenses and permits required by  
43 law.

1           19. Participate in the state civil defense program and develop the  
2 necessary organization and facilities to meet wartime or other disasters.

3           20. Subject to the availability of monies, develop and administer  
4 programs in perinatal health care, including:

5           (a) Screening in early pregnancy for detecting high risk conditions.

6           (b) Comprehensive prenatal health care.

7           (c) Maternity, delivery and postpartum care.

8           (d) Perinatal consultation, including transportation of the pregnant  
9 woman to a perinatal care center when medically indicated.

10          (e) Perinatal education oriented toward professionals and consumers,  
11 focusing on early detection and adequate intervention to avert premature  
12 labor and delivery.

13          21. License and regulate the health and safety of group homes for the  
14 developmentally disabled. The department shall issue a license to an  
15 accredited facility for a period of the accreditation, except that no  
16 licensing period shall be longer than three years. The department is  
17 authorized to conduct an inspection of an accredited facility to ensure that  
18 the facility meets health and safety licensure standards. The results of the  
19 accreditation survey shall be public information. A copy of the final  
20 accreditation report shall be filed with the department of health  
21 services. For the purposes of this paragraph, "accredited" means accredited  
22 by a nationally recognized accreditation organization.

23          22. SUBJECT TO THE AVAILABILITY OF MONIES, INCLUDING FEDERAL MONIES  
24 THAT ARE AVAILABLE FOR TEENAGER PREGNANCY PREVENTION PROGRAMS, ADMINISTER OR  
25 SUPERVISE A PROGRAM TO REDUCE THE RISKS OF UNINTENDED PREGNANCY BY IMPROVING  
26 AWARENESS OF EMERGENCY CONTRACEPTION. THE PROGRAM SHALL PROVIDE INFORMATION  
27 ON THE DEPARTMENT'S WEBSITE AND SOCIAL NETWORKING SITES ABOUT THE PURPOSE,  
28 RISKS AND AVAILABILITY OF EMERGENCY CONTRACEPTION.

29          B. The department may accept from the state or federal government, or  
30 any agency of the state or federal government, and from private donors,  
31 trusts, foundations or eleemosynary corporations or organizations grants or  
32 donations for or in aid of the construction or maintenance of any program,  
33 project, research or facility authorized by this title, or in aid of the  
34 extension or enforcement of any program, project or facility authorized,  
35 regulated or prohibited by this title, and enter into contracts with the  
36 federal government, or an agency of the federal government, and with private  
37 donors, trusts, foundations or eleemosynary corporations or organizations, to  
38 carry out such purposes. All monies made available under this section are  
39 special project grants. The department may also expend these monies to  
40 further applicable scientific research within this state.

41          C. The department, in establishing fees authorized by this section,  
42 shall comply with title 41, chapter 6. The department shall not set a fee at  
43 more than the department's cost of providing the service for which the fee is  
44 charged. State agencies are exempt from all fees imposed pursuant to this  
45 section.

1           D. The department may enter into contracts with organizations that  
2 perform nonrenal organ transplant operations and organizations that primarily  
3 assist in the management of end stage renal disease and related problems to  
4 provide, as payors of last resort, prescription medications necessary to  
5 supplement treatment and transportation to and from treatment facilities.  
6 The contracts may provide for department payment of administrative costs it  
7 specifically authorizes.