Senate Engrossed House Bill

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JANICE K. BREWER
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CHAPTER 165

HOUSE BILL 2438

AN ACT

AMENDING SECTIONS 20-448.01, 23-908, 23-1021, 23-1043.02, 23-1043.03, 23-1061 AND 36-664, ARIZONA REVISED STATUTES; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 20-448.01, Arizona Revised Statutes, is amended to read:

20-448.01. Required insurance procedures relating to HIV information; confidentiality; violations; penalties; definitions

A. In this section unless the context otherwise requires:

1. "Confidential 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 which identifies or reasonably permits identification of that person or the person's contacts.

2. "HIV" means the human immunodeficiency virus.

3. "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.

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

5. "Person" includes all entities subject to regulation under title 20, the employees, contractors and agents thereof, and anyone performing insurance related tasks for such entities, employees, contractors or agents.

B. Except as otherwise specifically authorized or required by this state or by federal law, no person may require the performance of, or perform an HIV-related test 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 a person authorized pursuant to law to consent for that person. Written consent shall be in a form as prescribed by the director.

C. No person who obtains confidential HIV-related information in the course of processing insurance information or insurance applications or pursuant to a release of confidential HIV-related information may 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, a person authorized pursuant to law to consent for the protected person.

2. A person to whom disclosure is authorized in writing pursuant to a release as set forth in subsection E of this section, including but not limited to a physician designated by the insured or a medical information exchange for insurers operated under procedures intended to ensure confidentiality, provided that in the case of a medical information exchange:

(a) The insurer will not report that blood tests of an applicant showed the presence of the AIDS virus antibodies, but only that unspecified blood test results were abnormal.

(b) Reports must use a general code that also covers results of tests for many diseases or conditions, such as abnormal blood counts that are not related to HIV, AIDS, AIDS related complex or similar diseases.

3. A government agency specifically authorized by law to receive the information. The agency is authorized to redisclose the information only pursuant to this section or as otherwise permitted by law.

4. A person regulated by this title to which disclosure is ordered by a court or administrative body pursuant to section 36-665.

5. The industrial commission or parties to an industrial commission claim pursuant to the provisions of section 23-908, subsection ~~C~~ D and section 23-1043.02.

D. Test results and application responses may be shared with the underwriting departments of the insurer and reinsurers, or to those contractually retained medical personnel, laboratories, and insurance affiliates, excluding agents and brokers, which are involved in underwriting decisions regarding the individual's application if disclosure is reasonably necessary to make the underwriting decision regarding such application, and claims information may be shared with claims personnel and attorneys reviewing claims if disclosure is reasonably necessary to process and resolve claims.

E. A release of confidential HIV-related information pursuant to subsection C, paragraph 2 of this section shall be signed by the protected person or, if the protected person lacks capacity to consent, a person authorized pursuant to law to consent for the protected person. A release 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 is not a release of confidential HIV-related information unless the authorization specifically indicates its purpose as a general authorization and an authorization for the release of confidential HIV-related information and complies with the requirements of this section.

F. A person to whom confidential HIV-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 person who is authorized pursuant to law to consent for the protected person.

G. If a disclosure of confidential HIV-related information is made pursuant to the provisions of a written release as permitted by subsection C, paragraph 2 of this section, the disclosure shall be accompanied by a statement in writing which warns that the information is from confidential records which are protected by state law that prohibits further disclosure of the information without the specific written consent of the person to whom it pertains or as otherwise permitted by law.

H. The person making a disclosure in accordance with subsection C, paragraphs 3, 4 and 5, and subsection G of this section shall keep a record

of all disclosures for the time period prescribed by the director. On request, a protected person or his legal representative shall have access to the record.

I. Except as otherwise provided pursuant to this section or subject to an order or search warrant issued pursuant to section 36-665, no person who receives confidential HIV-related information pursuant to a release of confidential HIV-related information may 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.

J. The director shall adopt rules to implement the allowable tests and testing procedures, written consent to perform a human immunodeficiency virus related test, procedures for confidentiality and disclosure of medical information and procedures for gathering underwriting information and may adopt additional rules reasonable and necessary to implement this section.

K. Notwithstanding any other provision of law to the contrary, nothing in this section shall be interpreted to restrict the director's authority to full access to records of any entity subject to regulation under title 20, including but not limited to all records containing confidential HIV-related information. The director may only redisclose confidential HIV-related information in accordance with this section.

L. A protected person, whose rights provided in this section have been violated by a person or entity described in subsection A, paragraph 5 of this section, has those individual remedies specified in section 20-2118 against such a person or entity.

Sec. 2. Section 23-908, Arizona Revised Statutes, is amended to read:

23-908. Injury reports by employer and physician; schedule of fees; violation; classification

A. Every employer affected by ~~the provisions of~~ this chapter, and every physician who attends an injured employee of such employer, shall file with the commission and the employer's insurance carrier from time to time a full and complete report of every known injury to the employee arising out of or in the course of his employment and resulting in loss of life or injury. Such report shall be furnished to the commission and such insurance carrier at times and in the form and detail the commission prescribes, and the report shall make special answers to all questions required by the commission under its rules.

B. The commission shall fix a schedule of fees to be charged by physicians, physical therapists or occupational therapists attending injured employees~~, which~~ AND, SUBJECT TO SUBSECTION C OF THIS SECTION, FOR PRESCRIPTION MEDICINES REQUIRED TO TREAT AN INJURED EMPLOYEE UNDER THIS CHAPTER. THE COMMISSION shall ~~be reviewed~~ annually ~~by the commission~~ REVIEW THE SCHEDULE OF FEES.

C. IF A SCHEDULE OF FEES FOR PRESCRIPTION MEDICINES ADOPTED PURSUANT TO SUBSECTION B OF THIS SECTION INCLUDES PROVISIONS REGARDING THE USE OF

GENERIC EQUIVALENT DRUGS, THOSE PROVISIONS SHALL COMPLY WITH SECTION 32-1963.01, SUBSECTIONS A AND C THROUGH K. IF THE COMMISSION CONSIDERS THE ADOPTION OF FEE SCHEDULE PROVISIONS THAT INVOLVE SPECIFIC PRICES, VALUES OR REIMBURSEMENTS FOR PRESCRIPTION DRUGS, THE COMMISSION SHALL BASE THE ADOPTION ON STUDIES OR PRACTICES THAT ARE VALIDATED AND ACCEPTED IN THE INDUSTRY, INCLUDING THE APPLICABILITY OF FORMULAS THAT USE AVERAGE WHOLESALE PRICE, PLUS A DISPENSING FEE, AND THAT HAVE BEEN MADE PUBLICLY AVAILABLE FOR AT LEAST ONE HUNDRED EIGHTY DAYS BEFORE ANY HEARING CONDUCTED BY THE COMMISSION.

~~C.~~ D. Notwithstanding section 12-2235, information obtained by any physician or surgeon examining or treating an injured person shall not be considered a privileged communication, if such information is requested by interested parties for a proper understanding of the case and a determination of the rights involved. Hospital records of an employee concerning an industrial claim shall not be considered privileged if requested by an interested party in order to determine the rights involved. Medical information from any source pertaining to conditions unrelated to the pending industrial claim shall remain privileged.

~~D.~~ E. When an accident occurs to an employee, the employee shall forthwith report the accident and the injury resulting therefrom to the employer, and any physician employed by the injured employee shall forthwith report the accident and the injury resulting therefrom to the employer, the insurance carrier and the commission.

~~E.~~ F. When an accident occurs to an employee, the employer may designate in writing a physician chosen by the employer, who shall be permitted by the employee, or any person in charge of the employee, to make one examination of the injured employee in order to ascertain the character and extent of the injury occasioned by the accident. The physician so chosen shall forthwith report to the employer, the insurance carrier and the commission the character and extent of the injury as ascertained by him. If the accident is not reported by the employee or his physician forthwith, as required, or if the injured employee or those in charge of him refuse to permit the employer's physician to make the examination, and the injured employee is a party to the refusal, no compensation shall be paid for the injury claimed to have resulted from the accident. The commission may relieve the injured person or his dependents from the loss or forfeiture of compensation if it believes after investigation that the circumstances attending the failure on the part of the employee or his physician to report the accident and injury are such as to have excused them.

~~F.~~ G. Within ten days after receiving notice of an accident, the employer shall inform his insurance carrier and the commission on such forms and in such manner as may be prescribed by the commission.

~~G.~~ H. Immediately upon notice to the employer of an accident resulting in an injury to an employee, the employer shall provide the employee with the name and address of the employer's insurance carrier, the policy number~~,~~ and the expiration date.

~~H.~~ I. Any person failing or refusing to comply with ~~the provisions of~~ this section is guilty of a petty offense.

Sec. 3. Section 23-1021, Arizona Revised Statutes, is amended to read:

23-1021. Right of employee to compensation; definitions

A. Every employee coming within the provisions of this chapter who is injured, and the dependents of every such employee who is killed by accident arising out of and in the course of his employment, wherever the injury occurred, unless the injury was purposely self-inflicted, shall be entitled to receive and shall be paid such compensation for loss sustained on account of the injury or death, such medical, nurse and hospital services and medicines, and such amount of funeral expenses in the event of death, as are provided by this chapter.

B. Every employee who is covered by insurance in the state compensation fund and who is injured by accident arising out of and in the course of employment, and the dependents of every such employee who is killed, provided the injury was not purposely self-inflicted, shall be paid such compensation from the state compensation fund for loss sustained on account of the injury and shall receive such medical, nurse and hospital services and medicines, and such amount of funeral expenses in event of death, as provided in this chapter.

C. An employee's injury or death shall not be considered a personal injury by accident arising out of and in the course of employment and is not compensable pursuant to this chapter if the impairment of the employee is due to the employee's use of alcohol or the unlawful use of any controlled substance proscribed by title 13, chapter 34 and is a substantial contributing cause of the employee's personal injury or death. This subsection does not apply if the employer had actual knowledge of and permitted, or condoned, the employee's use of alcohol or the unlawful use of the controlled substance proscribed by title 13, chapter 34.

D. Notwithstanding subsection C of this section, if the employer has established a policy of drug testing or alcohol impairment testing in accordance with chapter 2, article 14 of this title, is maintaining that policy on an ongoing manner and, before the date of the employee's injury, the employer files the written certification with the industrial commission as required by subsection F of this section, an employee's injury or death shall not be considered a personal injury by accident arising out of and in the course of employment and is not compensable pursuant to this chapter, if the employee of such an employer fails to pass, refuses to cooperate with or refuses to take a drug test for the unlawful use of any controlled substance proscribed by title 13, chapter 34 or fails to pass, refuses to cooperate with or refuses to take an alcohol impairment test that is administered by or at the request of the employer not more than twenty-four hours after the employer receives actual notice of the injury, unless the employee proves any of the following:

1. The employee's use of alcohol or the employee's use of any unlawful substance proscribed by title 13, chapter 34 was not a contributing cause of the employee's injury or death.

2. The alcohol impairment test indicates that the employee's alcohol concentration was lower than the alcohol concentration that would constitute a violation of section 28-1381, subsection A and would not create a presumption that the employee was under the influence of intoxicating liquor pursuant to section 28-1381, subsection G.

3. The drug test or alcohol impairment test used cutoff levels for the presence of alcohol, drugs or metabolites that were lower than the cutoff levels prescribed at the time of the testing for transportation workplace drug and alcohol testing programs under 49 Code of Federal Regulations part 40.

E. Subsection D of this section does not apply if the employer had actual knowledge of and permitted or condoned the employee's use of alcohol or the employee's unlawful use of any controlled substance proscribed by title 13, chapter 34.

F. An employer that establishes a policy of drug testing or alcohol impairment testing in accordance with chapter 2, article 14 of this title shall file a written certification to that effect with the industrial commission and provide notification to its employees in a manner consistent with section 23-493.04, subsection A that the employer is maintaining that policy.

G. Nothing contained in this section shall be construed to enhance or expand the reporting requirements prescribed in section 23-908, subsection ~~D~~ E.

H. For the purposes of this section:

1. "Refuses to cooperate" means that the employee engages in any act or omission that impedes the ability of the employer, the insurance carrier or the agents of the employer or insurance carrier to obtain an accurate result on a drug test or an alcohol impairment test.

2. "Substantial contributing cause" means anything more than a slight contributing cause.

Sec. 4. Section 23-1043.02, Arizona Revised Statutes, is amended to read:

23-1043.02. <u>Human immunodeficiency virus; establishing exposure; definition</u>

A. A claim for a condition, infection, disease or disability involving or related to the human immunodeficiency virus or acquired immune deficiency syndrome shall include the occurrence of a significant exposure as defined in this section and, except as provided in subsection B of this section, shall be processed and determined under the provisions of this chapter and applicable principles of law.

B. Notwithstanding any other law, an employee who satisfies the following conditions presents a prima facie claim for a condition, infection,

disease or disability involving or related to the human immunodeficiency virus or acquired immune deficiency syndrome if the medical evidence shows to a reasonable degree of medical probability that the employee sustained a significant exposure within the meaning of this section:

1. The employee's regular course of employment involves handling or exposure to blood or body fluids, other than tears, saliva or perspiration, including health care providers as defined in title 36, chapter 6, article 4, forensic laboratory workers, fire fighters, law enforcement officers, emergency medical technicians, paramedics and correctional officers.

2. Within ten calendar days after a possible significant exposure which arises out of and in the course of his employment, the employee reports in writing to the employer the details of the exposure. The employer shall notify its insurance carrier or claims processor of the report. Failure of the employer to notify the insurance carrier is not a defense to a claim by the employee.

3. The employee has blood drawn within ten days after the possible significant exposure, the blood is tested for the human immunodeficiency virus by antibody testing within thirty days after the exposure and the test results are negative.

4. The employee is tested or diagnosed, according to clinical standards established by the centers for disease control of the United States public health service, as positive for the presence of the human immunodeficiency virus within eighteen months after the date of the possible significant exposure.

C. On presentation or showing of a prima facie claim under this section, the employer may produce specific, relevant and probative evidence to dispute the underlying facts, to contest whether the exposure was significant as defined in this section, or to establish an alternative significant exposure involving the presence of the human immunodeficiency virus.

D. A person alleged to be a source of a significant exposure shall not be compelled by subpoena or other court order to release confidential human immunodeficiency virus related information either by document or by oral testimony. Evidence of the alleged source's human immunodeficiency virus status may be introduced by either party if the alleged source knowingly and willingly consents to the release of that information.

E. Notwithstanding title 36, chapter 6, article 4, medical information regarding the employee obtained by a physician or surgeon is subject to the provisions of section 23-908, subsection ~~C~~ D.

F. The commission by rule shall prescribe requirements and forms regarding employee notification of the requirements of this section and the proper documentation of a significant exposure.

G. For the purposes of this section, "significant exposure" means contact of an employee's ruptured or broken skin or mucous membrane with a person's blood or body fluids, other than tears, saliva or perspiration, of

a magnitude that the centers for disease control have epidemiologically demonstrated can result in transmission of the human immunodeficiency virus. For purposes of filing a claim under this section, significant exposure does not include sexual activity or illegal drug use.

Sec. 5. Section 23-1043.03, Arizona Revised Statutes, is amended to read:

23-1043.03. Hepatitis C; establishing exposure; definition

A. A claim for a condition, infection, disease or disability involving or related to hepatitis C shall include the occurrence of a significant exposure as defined in this section and, except as provided in subsection B of this section, shall be processed and determined under this chapter and applicable principles of law.

B. Notwithstanding any other law, an employee who satisfies the following conditions presents a prima facie claim for a condition, infection, disease or disability involving or related to hepatitis C if the medical evidence shows to a reasonable degree of medical probability that the employee sustained a significant exposure within the meaning of this section:

1. The employee's regular course of employment involves handling of or exposure to blood or body fluids, other than tears, saliva or perspiration, including health care providers as defined in section 36-661, forensic laboratory workers, fire fighters, law enforcement officers, emergency medical technicians, paramedics and correctional officers.

2. Within ten calendar days after a possible significant exposure that arises out of and in the course of his employment, the employee reports in writing to the employer the details of the exposure. The employer shall notify its insurance carrier or claims processor of the report. Failure of the employer to notify the insurance carrier is not a defense to a claim by the employee.

3. The employee has blood drawn within ten days after the possible significant exposure, the blood is tested for hepatitis C by antibody testing within thirty days after the exposure and the test results are negative.

4. The employee is tested or diagnosed, according to clinical standards established by the centers for disease control of the United States public health service, as positive for the presence of hepatitis C within seven months after the date of the possible significant exposure.

C. On presentation or showing of a prima facie claim under this section, the employer may produce specific, relevant and probative evidence to dispute the underlying facts, to contest whether the exposure was significant as defined in this section, or to establish an alternative significant exposure involving the presence of hepatitis C.

D. A person alleged to be a source of a significant exposure shall not be compelled by subpoena or other court order to release confidential hepatitis C related information either by document or by oral testimony. Evidence of the alleged source's hepatitis C status may be

introduced by either party if the alleged source knowingly and willingly consents to the release of that information.

E. Notwithstanding title 36, chapter 6, article 4, medical information regarding the employee obtained by a physician or surgeon is subject to section 23-908, subsection ~~C~~ D.

F. The commission by rule shall prescribe requirements and forms regarding employee notification of the requirements of this section and the proper documentation of a significant exposure.

G. For the purposes of this section, "significant exposure" means contact of an employee's ruptured or broken skin or mucous membrane or other significant unbroken surface area with a person's blood or body fluids, other than tears, saliva or perspiration, of a magnitude that the centers for disease control have epidemiologically demonstrated can result in transmission of hepatitis C. For purposes of filing a claim under this section, significant exposure does not include sexual activity or illegal drug use.

Sec. 6. Section 23-1061, Arizona Revised Statutes, is amended to read:

23-1061. Notice of accident; form of notice; claim for compensation; reopening; payment of compensation

A. Notwithstanding section 23-908, subsection ~~D~~ E, no claim for compensation shall be valid or enforceable unless the claim is filed with the commission by the employee, or if resulting in death by the parties entitled to compensation, or someone on their behalf, in writing within one year after the injury occurred or the right thereto accrued. The time for filing a compensation claim begins to run when the injury becomes manifest or when the claimant knows or in the exercise of reasonable diligence should know that the claimant has sustained a compensable injury. Except as provided in subsection B of this section, neither the commission nor any court shall have jurisdiction to consider a claim which is not timely filed under this subsection, except if the employee or other party entitled to file the claim has delayed in doing so because of justifiable reliance on a material representation by the commission, employer or insurance carrier or if the employee or other party entitled to file the claim is insane or legally incompetent or incapacitated at the time the injury occurs or the right to compensation accrues or during the one-year period thereafter. If the insanity or legal incompetence or incapacity occurs after the one-year period has commenced, the running of the remainder of the one-year period shall be suspended during the period of insanity or legal incompetence or incapacity. If the employee or other party is insane or legally incompetent or incapacitated when the injury occurs or the right to compensation accrues, the one-year period commences to run immediately upon the termination of insanity or legal incompetence or incapacity. The commission upon receiving a claim shall give notice to the carrier.

B. Failure of an employee or any other party entitled to compensation to file a claim with the commission within one year or to comply with section

23-908 shall not bar a claim if the insurance carrier or employer has commenced payment of compensation benefits under section 23-1044, 23-1045 or 23-1046, except that the payments provided for by section 23-1046, subsection A, paragraph 1 and section 23-1065, subsection A shall not be considered compensation benefits for the purposes of this section.

C. If the commission receives a notification of the injury, the commission shall send a claim form to the employee.

D. The issue of failure to file a claim must be raised at the first hearing on a claim for compensation in respect to the injury or death.

E. Within ten days after receiving notice of an accident, the employer shall inform his insurance carrier and the commission on such forms as may be prescribed by the commission.

F. Each insurance carrier and self-insuring employer shall report to the commission a notice of the first payment of compensation and shall promptly report to the commission and to the employee by mail at his last known address any denial of a claim, any change in the amount of compensation and the termination thereof, except that claims for medical, surgical and hospital benefits which are not denied shall be reported to the commission in the form and manner determined by the commission. In all cases where compensation is payable, the carrier or self-insuring employer shall promptly determine the average monthly wage pursuant to section 23-1041. Within thirty days of the payment of the first installment of compensation, the carrier or self-insuring employer shall notify the employee and commission of the average monthly wage of the claimant as calculated, and the basis for such determination. The commission shall then make its own independent determination of the average monthly wage pursuant to section 23-1041. The commission shall within thirty days after receipt of such notice notify the employee, employer and carrier of such determination. The amount determined by the commission shall be payable retroactive to the first date of entitlement. The first payment of compensation shall be accompanied by a notice on a form prescribed by the commission stating the manner in which the amount of compensation was determined.

G. Except as otherwise provided by law, the insurance carrier or self-insuring employer shall process and pay compensation and provide medical, surgical and hospital benefits, without the necessity for the making of an award or determination by the commission.

H. An employee may reopen the employee's claim to secure an increase or rearrangement of compensation or additional benefits by filing with the commission a petition requesting the reopening of the employee's claim upon the basis of a new, additional or previously undiscovered temporary or permanent condition, which petition shall be accompanied by a statement from a physician setting forth the physical condition of the employee relating to the claim. A claim shall not be reopened because of increased subjective pain if the pain is not accompanied by a change in objective physical findings. A claim shall not be reopened solely for additional diagnostic or

investigative medical tests, but expenses for any reasonable and necessary diagnostic or investigative tests that are causally related to the injury shall be paid by the employer or the employer's insurance carrier. Expenses for reasonable and necessary medical and hospital care and laboratory work shall be paid by the employer or the employer's insurance carrier if the claim is reopened as provided by law and if these expenses are incurred within fifteen days of the date that the petition to reopen is filed. The payment for such reasonable and necessary medical, hospital and laboratory work expense shall be paid for by the employer or the employer's insurance carrier if the claim is reopened as provided by law and if such expenses are incurred within fifteen days of the filing of the petition to reopen. Surgical benefits are not payable for any period prior to the date of filing a petition to reopen, except that surgical benefits are payable for a period prior to the date of filing the petition to reopen not to exceed seven days if a bona fide medical emergency precludes the employee from filing a petition to reopen prior to the surgery. No monetary compensation is payable for any period prior to the date of filing the petition to reopen.

I. Upon the filing of a petition to reopen a claim the commission shall in writing notify the employer's insurance carrier or the self-insuring employer, which shall in writing notify the commission and the employee within twenty-one days after the date of such notice of its acceptance or denial of the petition. The reopened claim shall be processed thereafter in like manner as a new claim.

J. The commission shall investigate and review any claim in which it appears to the commission that the claimant has not been granted the benefits to which such claimant is entitled. If the commission determines that payment or denial of compensation is improper in any way, it shall hold a hearing pursuant to section 23-941 within sixty days after receiving notice of such impropriety.

K. When there is a dispute as to which employer, or insurance carrier, is liable for the payment of a compensable claim, the commission may, by order, designate the employer or insurance carrier which shall pay the claim. Payment shall begin within fourteen days after the employer or insurance carrier has been ordered by the commission to commence payment. When a final determination has been made as to which employer or insurance carrier is actually liable, the commission shall direct any necessary monetary adjustment or reimbursement among the parties or carriers involved.

L. Upon application to the commission, and for good cause shown, the commission may direct that a document filed as a claim for compensation benefits be designated as a petition to reopen, effective as of the original date of filing. In like manner upon application and good cause shown the commission may direct that a document filed as a petition to reopen be designated a claim for compensation benefits, effective as of the original date of filing.

M. If the insurance carrier or self-insurer does not issue a notice of claim status denying the claim within twenty-one days from the date the carrier is notified by the commission of a claim or of a petition to reopen, the carrier shall pay immediately compensation as if the claim were accepted, from the date the carrier is notified by the commission of a claim or petition to reopen until the date upon which the carrier issues a notice of claim status denying such claim. Compensation includes medical, surgical and hospital benefits. This section shall not apply to cases involving seven days or less of time lost from work.

Sec. 7. Section 36-664, Arizona Revised Statutes, is amended to read:

36-664. Confidentiality; exceptions

A. A person who obtains confidential communicable disease related information in the course of providing a health service or pursuant to a release of confidential communicable disease related information 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, a person authorized pursuant to law to consent to health care for the person.

2. A person to whom disclosure is authorized pursuant to subsection D of this section or as otherwise allowed by law.

3. An agent or employee of a health facility or health care provider if the agent or employee is authorized to access medical records, the health facility or health care provider itself is authorized to obtain the communicable disease related information and the agent or employee provides health care to the protected individual or maintains or processes medical records for billing or reimbursement.

4. A health care provider or health facility if knowledge of the communicable disease related information is necessary to provide appropriate care or treatment to the protected person or the person's child.

5. 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.

6. A health facility, or an organization, committee or individual designated by the health facility, 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. Confidential communicable disease related information disclosed to these organizations, committees or individuals shall include only that information necessary for the authorized review and shall not include information directly identifying the protected person.

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

8. A government agency specifically 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. A person, health care provider or health care facility to which disclosure is ordered by a court or administrative body pursuant to section 36-665.

10. The department of economic security in conjunction with the placement of children for adoption.

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

12. Insurance entities pursuant to section 20-448.01.

B. A state, county or local health department or officer may disclose confidential 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 a release of confidential communicable disease related information.

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.

C. 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.

D. The department or a local health department shall disclose confidential 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.

E. A release of confidential communicable disease related information shall be signed by the protected person or, if the protected person lacks capacity to consent, a person authorized pursuant to law to consent to health care for the person. A release 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 confidential communicable disease related information, is not an authorization for the release of confidential HIV-related information unless the authorization specifically indicates its purpose as a general authorization and an authorization for the release of confidential HIV-related information and complies with the requirements of this section.

F. A person to whom confidential 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 person who is authorized pursuant to law to consent to health care for the protected person.

G. If a disclosure of confidential communicable disease related information is made pursuant to a release, the disclosure shall be accompanied by a statement in writing which warns that the information is from confidential records which are protected by state law that prohibits further disclosure of the information without the specific written consent of the person to whom it pertains or as otherwise permitted by law.

H. The person making a disclosure pursuant to a release of confidential communicable disease related information shall keep a record of all disclosures. On request, a protected person or a protected person's legal representative shall have access to the record.

I. A provider of a health service in possession of confidential communicable disease related information relating to a recipient of its service may disclose that information to an authorized employee or agent of a federal, state or local government agency which supervises or monitors the provider or administers the program under which the service is provided or to the private entity that accredits the provider. An authorized employee or agent includes only an employee or agent who, in the ordinary course of business of the government agency or entity, has access to records relating to the care or treatment of the protected person. The information shall not disclose the protected person's name.

J. 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 prepared pursuant to law to document the cause of death. This section does not modify a law or rule relating to access to death certificates, autopsy reports or other related documents.

K. If a person in possession of confidential 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.

L. Except as otherwise provided pursuant to this article or subject to an order or search warrant issued pursuant to section 36-665, a person who receives confidential HIV-related information in the course of providing a health service or pursuant to a release of confidential 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.

M. Nothing in this section or sections 36-663, 36-666, 36-667 and 36-668 shall apply to persons or entities subject to regulation under title 20.

APPROVED BY THE GOVERNOR APRIL 26, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2004.