

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 42
HOUSE BILL 2382

AN ACT

AMENDING TITLE 32, CHAPTER 18, ARTICLE 4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 32-1997; RELATING TO PHARMACEUTICAL PRODUCTS.

(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 4, Arizona Revised
3 Statutes, is amended by adding section 32-1997, to read:
4 32-1997. Misbranding; promotion of off-label use; definitions
5 A. NOTWITHSTANDING ANY OTHER LAW, A PHARMACEUTICAL MANUFACTURER OR
6 ITS REPRESENTATIVE MAY ENGAGE IN TRUTHFUL PROMOTION OF AN OFF-LABEL USE OF
7 A DRUG, BIOLOGICAL PRODUCT OR DEVICE.
8 B. THIS SECTION DOES NOT REQUIRE A HEALTH CARE INSURER, OTHER
9 THIRD-PARTY PAYOR OR OTHER HEALTH PLAN SPONSOR TO PROVIDE COVERAGE FOR THE
10 COST OF ANY OFF-LABEL USE OF A DRUG, BIOLOGICAL PRODUCT OR DEVICE AS A
11 TREATMENT.
12 C. NOTWITHSTANDING ANY OTHER LAW, AN OFFICIAL, EMPLOYEE OR AGENT OF
13 THIS STATE MAY NOT ENFORCE OR APPLY SECTION 32-1967 AGAINST OR OTHERWISE
14 PROSECUTE A PHARMACEUTICAL MANUFACTURER OR ITS REPRESENTATIVE FOR ENGAGING
15 IN TRUTHFUL PROMOTION OF AN OFF-LABEL USE OF A DRUG, BIOLOGICAL PRODUCT OR
16 DEVICE.
17 D. NOTWITHSTANDING ANY OTHER LAW, THE ARIZONA STATE BOARD OF
18 PHARMACY, THE ARIZONA MEDICAL BOARD, THE ARIZONA BOARD OF OSTEOPATHIC
19 EXAMINERS IN MEDICINE AND SURGERY AND THE DEPARTMENT OF HEALTH SERVICES
20 MAY NOT REVOKE, FAIL TO RENEW OR TAKE ANY OTHER ACTION AGAINST THE LICENSE
21 OF A PHARMACEUTICAL MANUFACTURER OR ITS REPRESENTATIVE, A HEALTH CARE
22 INSTITUTION OR A PHYSICIAN SOLELY FOR ENGAGING IN TRUTHFUL PROMOTION OF AN
23 OFF-LABEL USE OF A DRUG, BIOLOGICAL PRODUCT OR DEVICE.
24 E. FOR THE PURPOSES OF THIS SECTION:
25 1. "BIOLOGICAL PRODUCT" HAS THE SAME MEANING PRESCRIBED IN 42
26 UNITED STATES CODE SECTION 262.
27 2. "MISBRANDING" HAS THE SAME MEANING DESCRIBED IN SECTION 32-1967
28 OR 21 UNITED STATES CODE SECTION 352.
29 3. "OFF-LABEL USE" MEANS THE USE OF A UNITED STATES FOOD AND DRUG
30 ADMINISTRATION-APPROVED DRUG, BIOLOGICAL PRODUCT OR DEVICE IN A MANNER
31 OTHER THAN THE USE APPROVED BY THE UNITED STATES FOOD AND DRUG
32 ADMINISTRATION.
33 4. "TRUTHFUL PROMOTION" MEANS THE SHARING OF INFORMATION THAT IS
34 NOT MISLEADING, NOT CONTRARY TO FACT, AND CONSISTENT WITH GENERALLY
35 ACCEPTED SCIENTIFIC PRINCIPLES, BETWEEN PHARMACEUTICAL MANUFACTURERS AND
36 LICENSED PROFESSIONALS WHO CAN PRESCRIBE MEDICATION WITHIN THE PROVIDER'S
37 SCOPE OF PRACTICE.
38 Sec. 2. Short title
39 This act may be cited as the "Free Speech in Medicine Act".

APPROVED BY THE GOVERNOR MARCH 21, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 21, 2017.