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House of Representatives
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FILED

**Jane Dee Hull
Secretary of State**

CHAPTER 329

HOUSE BILL 2133

AN ACT

AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10; AMENDING SECTION 36-2939, ARIZONA REVISED STATUTES; AMENDING LAWS 1993, CHAPTER 163, SECTION 3, AS AMENDED BY LAWS 1994, CHAPTER 322, SECTION 15; AMENDING LAWS 1993, CHAPTER 163, SECTION 4; RELATING TO SUPPORTIVE RESIDENTIAL LIVING CENTERS.

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

Section 1. Title 36, Arizona Revised Statutes, is amended by adding chapter 10, to read:

CHAPTER 10

SUPPORTIVE RESIDENTIAL LIVING CENTERS

ARTICLE 1. GENERAL PROVISIONS

36-1301. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ARIZONA LONG-TERM CARE SYSTEM" MEANS THE SYSTEM ESTABLISHED PURSUANT TO CHAPTER 29, ARTICLE 2 OF THIS TITLE.
2. "CENTER" MEANS A SUPPORTIVE RESIDENTIAL LIVING CENTER.
3. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES.
4. "RESIDENT" MEANS A PERSON WHO IS ADMITTED TO AND RESIDING IN A SUPPORTIVE RESIDENTIAL LIVING CENTER. RESIDENT DOES NOT INCLUDE THE OWNER, MANAGER OR STAFF OF THE CENTER.
5. "RESIDENTIAL UNIT" MEANS AN INDIVIDUAL APARTMENT FOR LODGING A RESIDENT.

1 6. "SUPPORTIVE RESIDENTIAL LIVING CENTER" MEANS A CENTER THAT PROVIDES
2 OR COORDINATES SUPPORTIVE RESIDENTIAL LIVING SERVICES ON A TWENTY-FOUR HOUR
3 BASIS IN PRIVATE RESIDENTIAL UNITS.

4 7. "SUPPORTIVE RESIDENTIAL LIVING SERVICES" MEANS SERVICES OFFERED
5 PURSUANT TO SECTION 36-2939, SUBSECTION C, NURSING AND HOSPICE SERVICES
6 PURSUANT TO SECTION 36-401 AND OTHER SERVICES AS PRESCRIBED BY THIS CHAPTER.

7 36-1302. Regulation

8 THE LICENSURE, INSPECTION AND VIOLATION PROVISIONS FOR HEALTH CARE
9 INSTITUTIONS PRESCRIBED IN CHAPTER 4, ARTICLE 2 OF THIS TITLE APPLY TO
10 SUPPORTIVE RESIDENTIAL LIVING CENTERS EXCEPT AS OTHERWISE PROVIDED IN THIS
11 CHAPTER.

12 36-1303. Rules; admission and retention

13 A. THE DIRECTOR SHALL ADOPT RULES FOR ADMISSION AND RETENTION OF
14 RESIDENTS IN SUPPORTIVE RESIDENTIAL LIVING CENTERS.

15 B. RULES ESTABLISHING ADMISSION STANDARDS SHALL INCLUDE THE FOLLOWING:

16 1. CONSIDERATION FOR INDIVIDUALS WHO REQUIRE MORE THAN ONE PERSON FOR
17 ASSISTANCE WITH CERTAIN ACTIVITIES OF DAILY LIVING.

18 2. PROVISIONS FOR FACILITIES FOR POPULATIONS WITH SPECIAL NEEDS.

19 C. RULES ESTABLISHING RETENTION STANDARDS SHALL INCLUDE:

20 1. APPROPRIATE CRITERIA TO PERMIT RESIDENTS TO AGE IN THE FACILITY.

21 2. PROVISIONS FOR THE RELEASE OR TRANSFER TO AN APPROPRIATE LEVEL OF
22 CARE FOR RESIDENTS WHO ARE DETERMINED TO NO LONGER MEET THE CRITERIA FOR
23 RETENTION ESTABLISHED BY RULE PURSUANT TO THIS SECTION.

24 36-1304. Rules; regulation

25 THE DIRECTOR SHALL ADOPT RULES FOR THE REGULATION OF SUPPORTIVE
26 RESIDENTIAL LIVING CENTERS WHICH SHALL PROMOTE DIGNITY, INDEPENDENCE,
27 INDIVIDUALITY, PRIVACY AND CHOICE FOR THEIR RESIDENTS. THESE RULES SHALL
28 INCLUDE:

29 1. QUALIFICATIONS FOR STAFF.

30 2. THE EXCLUSION OF ANY PERSON WHOSE PRESENCE IN THE CENTER MAY BE
31 DETRIMENTAL TO THE WELFARE OF THE RESIDENTS, INCLUDING A PERSON WHO HAS BEEN
32 CONVICTED OF A FELONY WITHIN TEN YEARS THAT INVOLVES PHYSICAL VIOLENCE, A
33 DRUG OFFENSE, PHYSICAL ABUSE, SEXUAL ABUSE, THEFT, EXTORTION, NEGLIGENCE OR
34 EXPLOITATION OF AN ADULT OR A CHILD. ANY TIME SPENT INCARCERATED SHALL NOT
35 BE INCLUDED IN CALCULATING THE TEN-YEAR PERIOD.

36 3. REQUIREMENTS FOR THE DEVELOPMENT OF RESIDENT CARE PLANS BY
37 INTERDISCIPLINARY TEAMS.

38 4. PHYSICAL PLANT, SAFETY AND FOOD SERVICE STANDARDS INCLUDING THE
39 REQUIREMENT THAT EACH RESIDENT, UNLESS OTHERWISE REQUESTED BY THE RESIDENT,
40 SHALL LIVE IN A SINGLE RESIDENTIAL UNIT. EACH RESIDENTIAL UNIT SHALL BE
41 CONSTRUCTED AS A PRIVATE APARTMENT AND SHALL INCLUDE A LIVING AND SLEEPING
42 SPACE, KITCHEN AREA, PRIVATE BATHROOM AND STORAGE AREA.

1 36-1305. Staff training requirements

2 A. THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES IN CONSULTATION
3 WITH THE DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
4 ADMINISTRATION AND PROGRAM CONTRACTORS OF THE ARIZONA LONG-TERM CARE SYSTEM
5 SHALL ADOPT RULES FOR TRAINING PROGRAMS FOR MANAGERS AND EMPLOYEES OF CENTERS
6 WHO ARE RESPONSIBLE FOR DIRECT CARE OF RESIDENTS.

7 B. MANAGERS AND OTHER STAFF SHALL MAINTAIN WRITTEN EVIDENCE OF
8 COMPLETIONS OF THE TRAINING REQUIREMENTS OF THIS SECTION AT THE CENTER.

9 36-1306. Records

10 THE DIRECTOR SHALL ADOPT RULES FOR RESIDENT RECORDS THAT INCLUDE
11 DOCUMENTATION OF ANY CHANGES IN A RESIDENT'S BEHAVIOR OR CONDITION, INCLUDING
12 ACUTE ILLNESS, EMERGENCY INTERVENTION, INJURIES AND ACCIDENTS AND
13 NOTIFICATION OF THE RESIDENT'S PRIMARY CARE PROVIDER, RESIDENT'S FAMILY OR
14 REPRESENTATIVE AND, IF APPLICABLE, THE RESIDENT'S CASE MANAGER.

15 36-1307. County delegation

16 THE DIRECTOR MAY DELEGATE THE AUTHORITY TO ENFORCE THIS CHAPTER TO
17 COUNTIES THAT ACCEPT THE DELEGATION AND THAT SERVE AS LONG-TERM CARE SYSTEM
18 PROGRAM CONTRACTORS.

19 Sec. 2. Section 36-2939, Arizona Revised Statutes, is amended to read:

20 36-2939. Long-term care system services

21 A. The following services shall be provided by the program contractors
22 to members determined to need institutional services pursuant to this
23 article:

24 1. Nursing facility services other than services in an institution for
25 tuberculosis or mental disease.

26 2. Notwithstanding any other law, behavioral health services if these
27 services are not duplicative of long-term care services provided as of
28 January 30, 1993 under this subsection and are authorized by the program
29 contractor through the long-term care case management system. If the
30 administration is the program contractor, the administration may authorize
31 these services.

32 3. Hospice. For the purposes of this paragraph "hospice" means a
33 program of palliative and supportive care for terminally ill members and
34 their families or caregivers.

35 4. Case management services as provided in section 36-2938.

36 5. Health and medical services as provided in section 36-2907.

37 B. In addition to the services prescribed in subsection A of this
38 section, the department, as a program contractor, shall provide the following
39 services if appropriate to members who are defined as developmentally
40 disabled pursuant to section 36-551 and are determined to need institutional
41 services pursuant to this article:

42 1. Intermediate care facility for mental retardation services for a
43 member who has a developmental disability as defined in section 36-551. For
44 purposes of this article, such facility shall meet all federally approved

1 standards and may only include the Arizona training program facilities, a
2 state owned and operated service center, state owned or operated community
3 residential settings or existing licensed facilities operated by this state
4 or under contract with the department on or before July 1, 1988.

5 2. Home and community based services which may be provided in a
6 member's home or an alternative residential setting as prescribed in section
7 36-591 or other behavioral health alternative residential facilities licensed
8 by the department of health services and approved by the director of the
9 Arizona health care cost containment system administration and which may
10 include:

11 (a) Home health, which means the provision of nursing services or home
12 health aide services or medical supplies, equipment and appliances, which are
13 provided on a part-time or intermittent basis by a licensed home health
14 agency within a member's residence based on a physician's orders and in
15 accordance with federal law. Physical therapy, occupational therapy, or
16 speech and audiology services provided by a home health agency may be
17 provided in accordance with federal law.

18 (b) Home health aide, which means a service that provides intermittent
19 health maintenance, continued treatment or monitoring of a health condition
20 and supportive care for activities of daily living provided within a member's
21 residence.

22 (c) Homemaker, which means a service that provides assistance in the
23 performance of activities related to household maintenance within a member's
24 residence.

25 (d) Personal care, which means a service that provides assistance to
26 meet essential physical needs within a member's residence.

27 (e) Developmentally disabled day care which means a service that
28 provides planned care supervision and activities, personal care, activities
29 of daily living skills training and habilitation services in a group setting
30 during a portion of a continuous twenty-four hour period.

31 (f) Habilitation, which means the provision of physical therapy,
32 occupational therapy, speech or audiology services or training in independent
33 living, special developmental skills, sensory-motor development, behavior
34 intervention, and orientation and mobility in accordance with federal law.

35 (g) Respite care, which means a service that provides short-term care
36 and supervision available on a twenty-four hour basis.

37 (h) Transportation, which means a service that provides or assists in
38 obtaining transportation for the member.

39 (i) Other services approved by the director.

40 C. In addition to services prescribed in subsection A of this section,
41 home and community based services may be provided in a member's home, in an
42 adult foster care home as prescribed in section 36-401, IN A SUPPORTIVE
43 RESIDENTIAL LIVING CENTER AS PRESCRIBED IN CHAPTER 10 OF THIS TITLE or in a
44 level one or level two behavioral health alternative residential facility

1 approved by the director by program contractors to all members who are not
2 defined as developmentally disabled pursuant to section 36-551 and are
3 determined to need institutional services pursuant to this article. The
4 director may also approve other licensed residential facilities as
5 appropriate on a case by case basis for traumatic brain injured members.
6 Home and community based services may include the following:

7 1. Home health, which means the provision of nursing services or home
8 health aide services or medical supplies, equipment and appliances, which are
9 provided on a part-time or intermittent basis by a licensed home health
10 agency within a member's residence based on a physician's orders and in
11 accordance with federal law. Physical therapy, occupational therapy, or
12 speech and audiology services provided by a home health agency may be
13 provided in accordance with federal law.

14 2. Home health aide, which means a service that provides intermittent
15 health maintenance, continued treatment or monitoring of a health condition
16 and supportive care for activities of daily living provided within a member's
17 residence.

18 3. Homemaker, which means a service that provides assistance in the
19 performance of activities related to household maintenance within a member's
20 residence.

21 4. Personal care, which means a service that provides assistance to
22 meet essential physical needs within a member's residence.

23 5. Adult day health, which means a service that provides planned care
24 supervision and activities, personal care, personal living skills training,
25 meals and health monitoring in a group setting during a portion of a
26 continuous twenty-four hour period. Adult day health may also include
27 preventive, therapeutic and restorative health related services that do not
28 include behavioral health services.

29 6. Habilitation, which means the provision of physical therapy,
30 occupational therapy, speech or audiology services or training in independent
31 living, special developmental skills, sensory-motor development, behavior
32 intervention, and orientation and mobility in accordance with federal law.

33 7. Respite care, which means a service that provides short-term care
34 and supervision available on a twenty-four hour basis.

35 8. Transportation, which means a service that provides or assists in
36 obtaining transportation for the member.

37 9. Home delivered meals, which means a service that provides for a
38 nutritious meal containing at least one-third of the recommended dietary
39 allowance for an individual and which is delivered to the member's residence.

40 10. Other services approved by the director.

41 D. The amount of money expended by program contractors on home and
42 community based services pursuant to subsection C of this section shall be
43 limited by the director in accordance with the federal monies made available
44 to this state for home and community based services pursuant to subsection

1 C of this section. The director shall establish methods for the allocation
2 of monies for home and community based services to program contractors and
3 shall monitor expenditures on home and community based services by program
4 contractors.

5 E. Notwithstanding subsections A, B, C and F of this section, no
6 service may be provided that does not qualify for federal monies available
7 under title XIX of the social security act.

8 F. In addition to services provided pursuant to subsections A, B and
9 C of this section, the director may implement a demonstration project to
10 provide home and community based services to special populations, including
11 disabled persons who are eighteen years of age or younger, medically fragile,
12 reside at home and would be eligible for supplemental security income for the
13 aged, blind or disabled or the state supplemental payment program, except for
14 the amount of their parent's income or resources. In implementing this
15 project, the director may provide for parental contributions for the care of
16 their child.

17 Sec. 3. Laws 1993, chapter 163, section 3, as amended by Laws 1994,
18 chapter 322, section 15, is amended to read:

19 Sec. 3. Long-term care; phased supportive residential living

20 A. For purposes of this section, the director of the department of
21 health services may certify facilities ~~located in counties of more than one~~
22 ~~million persons according to the most recent United States decennial census~~
23 which comply with the standards established in accordance with subsections
24 ~~B~~ C and ~~E~~ D of this section, for the delivery of home and community based
25 services to members of the Arizona long-term care system established by title
26 36, chapter 29, article 2, Arizona Revised Statutes.

27 B. Within twenty days of the effective date of this act, the director
28 of the department of health services shall, after a public hearing, publish
29 standards for facility certification. To implement the provisions of this
30 section, the department of health services is exempt from the requirements
31 of title 41, chapter 6, Arizona Revised Statutes.

32 C. The standards shall contain the following criteria:

33 1. Facilities shall be capable of providing or coordinating
34 appropriate home and community-based services provided in section 36-2939,
35 subsection C, Arizona Revised Statutes, on a twenty-four hour basis, for
36 support of resident independence in a residential setting.

37 2. Facilities shall maintain adequate staffing available at all times
38 to perform supervision and care as needed for each resident's needs.

39 3. Facilities shall meet all applicable zoning, building, housing,
40 water, sewer and fire safety codes, rules and regulations.

41 4. Facilities shall be deemed an appropriate setting for the delivery
42 of home and community-based services to an Arizona long-term care system
43 member by the director of the department of health services or a
44 ~~representative~~ THE DIRECTOR'S DESIGNEE in consultation with the director or

1 ~~a representative~~ THE DIRECTOR'S DESIGNEE of THE Arizona health care cost
2 containment system.

3 5. Facilities ~~shall~~ MAY provide ~~custodial~~ services pursuant to section
4 ~~36-448~~ TITLE 36, CHAPTER 10, ARTICLE 1, Arizona Revised Statutes, to persons
5 not eligible for the Arizona long-term care system pursuant to title 36,
6 chapter 29, article 2, Arizona Revised Statutes.

7 D. The director of the department of health services may deny
8 certification to facilities or revoke OR SUSPEND certification if violations
9 determined as a result of any type of inspection pose a direct risk to life,
10 health or safety of the residents OR THE GENERAL PUBLIC, OR CONSTITUTE A
11 VIOLATION OF THE RULES ADOPTED FOR SUPPORTIVE RESIDENTIAL LIVING CENTERS OR
12 IF ANY OWNER, OFFICER, AGENT OR EMPLOYEE OF A FACILITY KNOWINGLY AIDS,
13 PERMITS OR ABETS THE COMMISSION OF ANY CRIME INVOLVING MEDICAL OR HEALTH
14 RELATED SERVICES. The department shall utilize the enforcement remedies
15 identified in title 36, chapter 4, Arizona Revised Statutes.

16 E. Program contractors, ~~other than the department of economic~~
17 ~~security, as defined in section 36-2931, Arizona Revised Statutes, who are~~
18 ~~located in a county with a population of at least one million persons~~
19 ~~according to the most recent United States decennial census, may, if approval~~
20 ~~is received from the Arizona health care cost containment system and the~~
21 ~~health care finance administration of the United States department of health~~
22 ~~and human services, provide home and community-based services to members in~~
23 facilities certified pursuant to this section.

24 F. Subject to the approval of the director of the Arizona health care
25 cost containment system administration ~~and the health care financing~~
26 ~~administration of the United States department of health and human services.~~

27 ~~1. until September 30, 1995~~ DECEMBER 31, 1997, no more than one
28 hundred SEVEN HUNDRED members at any time may participate in the ~~pilot~~ PHASED
29 SUPPORTIVE RESIDENTIAL LIVING program provided by this section.

30 ~~2. After October 1, 1995 the number of participating members may be~~
31 ~~increased up to an additional one hundred members.~~

32 Sec. 4. Laws of 1993, chapter 163, section 4, is amended to read:

33 Sec. 4. Delayed repeal

34 A. Section 2 ~~and 3~~ of this act ~~are~~ IS repealed from and after
35 September 30, 1996.

36 B. SECTION 3 OF THIS ACT IS REPEALED FROM AND AFTER DECEMBER 31, 1997.

37 Sec. 5. Adoption of rules; exemption

38 On or before December 31, 1996 for section 36-1303, Arizona Revised
39 Statutes, as added by this act, and on and after December 31, 1997 for the
40 remainder of title 36, chapter 10, article 1, as added by this act, the
41 director of the department of health services shall, after a public hearing,
42 adopt standards for centers licensed pursuant to this act. To implement the
43 provisions of this section, the department of health services is exempt from

1 the requirements of title 41, chapter 6, Arizona Revised Statutes, for a
2 period of nineteen months from the effective date of this act.

3 Sec. 6. Delayed repeal

4 Section 5 of this act is repealed from and after nineteen months from
5 the effective date of this act.

APPROVED BY THE GOVERNOR MAY 1, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 1996