

Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 66

# **HOUSE BILL 2366**

AN ACT

AMENDING SECTIONS 36-422, 36-424, 36-425, 36-882, 36-883.02, 36-893, 36-897.01, 36-897.03 AND 36-897.10, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-422, Arizona Revised Statutes, is amended to  
3 read:

4 36-422. Application for license; notification of proposed  
5 change in status; joint licenses; definitions

6 A. A person who wishes to ~~be licensed under this chapter~~ APPLY FOR AN  
7 INITIAL LICENSE OR TO RENEW A LICENSE to operate a health care institution  
8 PURSUANT TO THIS CHAPTER shall file with the department an application on a  
9 WRITTEN OR ELECTRONIC form prescribed, prepared and furnished by the  
10 department. The application shall contain the following:

11 1. The name and location of the health care institution.

12 2. Whether it is to be operated as a proprietary or nonproprietary  
13 institution.

14 3. The name of the governing authority. The applicant shall be the  
15 governing authority having the operative ownership of, or the governmental  
16 agency charged with the administration of, the health care institution sought  
17 to be licensed.

18 4. The name and business or residential address of each controlling  
19 person and an affirmation that none of the controlling persons has been  
20 denied a license or certificate ~~issued~~ by a health profession regulatory  
21 board pursuant to title 32 or ~~issued~~ by a state agency pursuant to chapter 6,  
22 article 7 or chapter 17 of this title or a license to operate a health care  
23 institution in this state or another state or has had a license or  
24 certificate issued by a health profession regulatory board pursuant to title  
25 32 or issued by a state agency pursuant to chapter 6, article 7 or chapter 17  
26 of this title or a license to operate a health care institution revoked. If  
27 a controlling person has been denied a license or certificate ~~issued~~ by a  
28 health profession regulatory board pursuant to title 32 or ~~issued~~ by a state  
29 agency pursuant to chapter 6, article 7 or chapter 17 of this title or a  
30 license to operate a health care institution in this state or another state  
31 or has had a health care professional license or a license to operate a  
32 health care institution revoked, the controlling person shall include in the  
33 application a comprehensive description of the circumstances for the denial  
34 or the revocation.

35 5. The class or subclass of health care institution to be established  
36 or operated.

37 6. The types and extent of the health care services to be provided,  
38 including emergency services, community health services and services to  
39 indigent patients.

40 7. The name and qualifications of the chief administrative officer  
41 implementing direction in that specific health care institution.

42 8. Other pertinent information required by the department for the  
43 proper administration of this chapter and department rules.

44 B. An application filed pursuant to this section shall ~~be signed as~~  
45 ~~follows~~ CONTAIN THE WRITTEN OR ELECTRONIC SIGNATURE OF:

1           1. If the applicant is an individual, by the owner of the health care  
2 institution.

3           2. If the applicant is a partnership or corporation, by two of the  
4 partnership's or corporation's officers.

5           3. If the applicant is a governmental unit, by the head of the  
6 governmental unit.

7           C. An application for licensure or relicensure shall be filed at least  
8 sixty but not more than one hundred twenty days before the anticipated  
9 operation or the expiration date of the current license. An application for  
10 a substantial compliance survey submitted pursuant to section 36-425,  
11 subsection ~~D~~ G shall be filed at least thirty days before the date on which  
12 the substantial compliance survey is requested.

13           D. If a current licensee intends to terminate the operation of a  
14 licensed health care institution or if a change of ownership is planned  
15 either during or at the expiration of the term of the license, the current  
16 licensee shall notify the director in writing at least thirty days before the  
17 termination of operation or change in ownership is to take place. The  
18 current licensee is responsible for preventing any interruption of services  
19 required to sustain the life, health and safety of the patients or residents.  
20 A new owner shall not begin operating the health care institution until the  
21 director issues a license.

22           E. A licensed health care institution for which operations have not  
23 been terminated for more than thirty days may be relicensed pursuant to the  
24 standards that were applicable under its most recent license.

25           F. If a person operates a hospital in a setting that includes  
26 facilities of the hospital that are located separately from the main hospital  
27 building, the department at the request of the applicant or licensee shall  
28 issue a single group license to the hospital and its designated facilities  
29 located within one-half mile of the main hospital building if all of the  
30 facilities meet or exceed department licensure requirements for the  
31 designated facilities. At the request of the applicant or licensee, the  
32 department shall also issue a single group license that includes the hospital  
33 and not more than five of its designated satellite facilities that are  
34 located farther than one-half mile from the main hospital building if all of  
35 these facilities meet or exceed applicable department licensure requirements.  
36 Each facility included under a single group license is subject to the  
37 department's licensure requirements that are applicable to that category of  
38 facility. Subject to compliance with applicable licensure or accreditation  
39 requirements, the department shall reissue individual licenses for the  
40 facility of a hospital located in separate buildings from the main hospital  
41 building when requested by the hospital. This subsection does not apply to  
42 nursing care institutions and residential care institutions. The department  
43 is not limited in conducting inspections of an accredited health care  
44 institution to ensure that the institution meets department licensure  
45 requirements.

1 G. If a county with a population of more than one million persons or a  
2 special health care district in a county with a population of more than one  
3 million persons operates an accredited hospital that includes the hospital's  
4 accredited facilities that are located separately from the main hospital  
5 building and the accrediting body's standards as applied to all facilities  
6 meet or exceed the department's licensure requirements, the department shall  
7 issue a single license to the hospital and its facilities if requested to do  
8 so by the hospital. If a hospital complies with applicable licensure or  
9 accreditation requirements, the department shall reissue individual licenses  
10 for each hospital facility that is located in a separate building from the  
11 main hospital building if requested to do so by the hospital. This  
12 subsection does not limit the department's duty to inspect a health care  
13 institution to determine its compliance with department licensure standards.  
14 This subsection does not apply to nursing care institutions and residential  
15 care institutions.

16 H. An applicant or licensee must notify the department within thirty  
17 days after any change regarding a controlling person and provide the  
18 information and affirmation required pursuant to subsection A, paragraph 4 of  
19 this section.

20 I. This section does not limit the application of federal laws and  
21 regulations to an applicant or licensee certified as a medicare or an Arizona  
22 health care cost containment system provider under federal law.

23 J. For the purposes of this section:

24 1. "Accredited" means accredited by a nationally recognized  
25 accreditation organization.

26 2. "Satellite facility" means an outpatient facility at which the  
27 hospital provides outpatient medical services.

28 Sec. 2. Section 36-424, Arizona Revised Statutes, is amended to read:

29 36-424. Inspections; suspension or revocation of license;  
30 report to board of examiners of nursing care  
31 institution administrators

32 A. Every applicant for initial licensure or relicensure as a health  
33 care institution shall submit to the director a properly completed  
34 application for a license accompanied by the necessary fee.

35 B. Subject to the limitation prescribed by subsection C of this  
36 section, the director shall inspect the premises of the health care  
37 institution and investigate the character and other qualifications of the  
38 applicant to ascertain whether the applicant and the health care institution  
39 are in substantial compliance with the requirements of this chapter and the  
40 rules established pursuant to this chapter. The director may prescribe rules  
41 regarding department background investigations into an applicant's character  
42 and qualifications.

43 C. The director shall accept proof that a health care institution is  
44 an accredited hospital or is an accredited health care institution in lieu of  
45 all ~~licensing~~ COMPLIANCE inspections required by this chapter if the director

1 receives a copy of the institution's accreditation report FOR THE LICENSURE  
2 PERIOD. IF THE HEALTH CARE INSTITUTION'S ACCREDITATION REPORT IS NOT VALID  
3 FOR THE ENTIRE LICENSURE PERIOD, THE DEPARTMENT MAY CONDUCT A COMPLIANCE  
4 INSPECTION OF THE HEALTH CARE INSTITUTION DURING THE TIME PERIOD THE  
5 DEPARTMENT DOES NOT HAVE A VALID ACCREDITATION REPORT FOR THE HEALTH CARE  
6 INSTITUTION.

7 D. ~~Upon~~ ON a determination by the director that there is reasonable  
8 cause to believe a health care institution is not adhering to the licensing  
9 requirements ~~established pursuant to~~ OF this chapter, the director and any  
10 duly designated employee or agent ~~thereof~~ OF THE DIRECTOR, including county  
11 health representatives and county or municipal fire inspectors, ~~shall,~~  
12 consistent with standard medical practices, ~~have the right to~~ MAY enter ~~upon~~  
13 ON and into the premises of any health care institution ~~which~~ THAT is  
14 licensed, ~~or required to be licensed,~~ pursuant to this chapter at any  
15 reasonable time for the purpose of determining the state of compliance with  
16 ~~the provisions of this chapter, the rules of the department adopted pursuant~~  
17 ~~thereto,~~ TO THIS CHAPTER and local fire ordinances or rules. Any application  
18 for licensure under this chapter ~~shall constitute~~ CONSTITUTES permission for  
19 and complete acquiescence in any ~~such~~ entry or inspection of the premises  
20 during the pendency of the application and, if licensed, during the term of  
21 the license. If an inspection reveals that the health care institution is  
22 not adhering to the licensing requirements established pursuant to this  
23 chapter, the director may take action authorized by this chapter. Any health  
24 care institution, including an accredited hospital, whose license has been  
25 suspended or revoked in accordance with this section is subject to inspection  
26 ~~upon~~ ON application for relicensure or reinstatement of license.

27 E. The director shall immediately report to the board of examiners of  
28 nursing care institution administrators information identifying that a  
29 nursing care institution administrator's conduct may be grounds for  
30 disciplinary action ~~as defined~~ pursuant to section 36-446.07.

31 Sec. 3. Section 36-425, Arizona Revised Statutes, is amended to read:

32 36-425. Inspections; issuance of license; posting of  
33 deficiencies; provisional license; denial of license

34 A. On receipt of a properly completed application for initial  
35 licensure ~~or relicensure~~, the director shall conduct an inspection of the  
36 health care institution as prescribed by this chapter. If an application for  
37 ~~a~~ AN INITIAL license is submitted due to a planned change of ownership, the  
38 director shall determine the need for an inspection of the health care  
39 institution. Based on the results of the inspection, the director shall  
40 either deny the license or issue a regular or provisional license. A license  
41 issued by the department shall be conspicuously posted in the reception area  
42 of that institution. UNLESS THE HEALTH CARE INSTITUTION IS AN ACCREDITED  
43 HOSPITAL AT THE TIME OF LICENSURE, AN INITIAL LICENSE IS VALID FOR ONE YEAR  
44 AFTER THE DATE THE INITIAL LICENSE IS ISSUED. If the health care institution  
45 is an accredited hospital at the time of licensure, the licensure term is

1 three years from the expiration date of the hospital's current license, or in  
2 the case of an initial license based on a change of ownership, the licensure  
3 term is three years beginning on the effective date of the hospital's current  
4 accreditation.

5 B. The director shall issue a ~~regular~~ AN INITIAL license if the  
6 director determines that an applicant and the health care institution for  
7 which the license is sought substantially comply with the requirements of  
8 this chapter and rules adopted pursuant to this chapter and the applicant  
9 agrees to carry out a plan acceptable to the director to eliminate any  
10 deficiencies. ~~The license is valid for up to two years from the date it is~~  
11 ~~issued if the facility, on expiration of the initial one year license, has no~~  
12 ~~deficiencies at the time the department conducts the subsequent licensing~~  
13 ~~inspections.~~ The director shall not require a health care institution that  
14 was designated as a critical access hospital to make any modifications  
15 required by this chapter or rules adopted pursuant to this chapter in order  
16 to obtain an amended license with the same licensed capacity the health care  
17 institution had before it was designated as a critical access hospital if all  
18 of the following are true:

19 1. The health care institution has subsequently terminated its  
20 critical access hospital designation.

21 2. The licensed capacity of the health care institution does not  
22 exceed its licensed capacity prior to its designation as a critical access  
23 hospital.

24 3. The health care institution remains in compliance with the  
25 applicable codes and standards that were in effect at the time the facility  
26 was originally licensed with the higher licensed capacity.

27 C. ON RECEIPT OF AN APPLICATION FOR A RENEWAL OF A HEALTH CARE  
28 INSTITUTION'S LICENSE THAT COMPLIES WITH THE REQUIREMENTS OF THIS CHAPTER AND  
29 RULES ADOPTED PURSUANT TO THIS CHAPTER, THE DEPARTMENT SHALL ISSUE A RENEWAL  
30 LICENSE TO THE HEALTH CARE INSTITUTION. AN ACCREDITED HOSPITAL'S RENEWAL  
31 LICENSE IS VALID FOR THREE YEARS AFTER THE EXPIRATION DATE OF THE ACCREDITED  
32 HOSPITAL'S CURRENT LICENSE. ALL OTHER HEALTH CARE INSTITUTION RENEWAL  
33 LICENSES ARE VALID FOR ONE YEAR AFTER THE EXPIRATION DATE OF THE HEALTH CARE  
34 INSTITUTION'S CURRENT LICENSE.

35 D. EXCEPT AS PROVIDED IN SECTION 36-424, SUBSECTIONS C AND E OF THIS  
36 SECTION, THE DEPARTMENT SHALL CONDUCT A COMPLIANCE INSPECTION OF A HEALTH  
37 CARE INSTITUTION TO DETERMINE COMPLIANCE WITH THIS CHAPTER AND RULES ADOPTED  
38 PURSUANT TO THIS CHAPTER AT LEAST ONCE DURING EACH LICENSE PERIOD.

39 E. AFTER THE INITIAL LICENSE PERIOD ENDS AND AFTER THE DEPARTMENT  
40 DETERMINES A FACILITY TO BE DEFICIENCY FREE ON A COMPLIANCE SURVEY, THE  
41 DEPARTMENT SHALL NOT CONDUCT A COMPLIANCE SURVEY OF THAT FACILITY FOR  
42 TWENTY-FOUR MONTHS FROM THE DATE OF THE DEFICIENCY FREE SURVEY. THIS  
43 SUBSECTION DOES NOT PROHIBIT THE DEPARTMENT FROM ENFORCING LICENSING  
44 REQUIREMENTS AS AUTHORIZED BY SECTION 36-424.

1           ~~E~~. F. A hospital licensed as a rural general hospital may provide  
2 intensive care services.

3           ~~D~~. G. The director shall issue a provisional license for a period of  
4 not more than one year if an inspection or investigation of a currently  
5 licensed health care institution or a health care institution for which an  
6 applicant is seeking initial licensure reveals that the institution is not in  
7 substantial compliance with department licensure requirements and the  
8 director believes that the immediate interests of the patients and the  
9 general public are best served if the institution is given an opportunity to  
10 correct deficiencies. The applicant or licensee shall agree to carry out a  
11 plan to eliminate deficiencies that is acceptable to the director. The  
12 director shall not issue consecutive provisional licenses to a single health  
13 care institution. The director shall not issue a ~~regular~~ license to the  
14 current licensee or a successor applicant before the expiration of the  
15 provisional license unless the health care institution submits an application  
16 for a substantial compliance survey and is found to be in substantial  
17 compliance. The director may issue a ~~regular~~ license only if the director  
18 determines that the institution is in substantial compliance with the  
19 licensure requirements of the department and this chapter. This subsection  
20 does not prevent the director from taking action to protect the safety of  
21 patients pursuant to section 36-427.

22           ~~E~~. H. Subject to the confidentiality requirements of articles 4 and 5  
23 of this chapter, title 12, chapter 13, article 7.1 and section 12-2235, the  
24 licensee shall keep current department inspection reports at the health care  
25 institution. Unless federal law requires otherwise, the licensee shall  
26 conspicuously post a notice that identifies the location at that institution  
27 where the inspection reports are available for review.

28           ~~F~~. I. A health care institution shall immediately notify the  
29 department in writing when there is a change of the chief administrative  
30 officer specified in section 36-422, subsection A, paragraph 7.

31           ~~G~~. J. When the department issues an original ~~regular~~ license or an  
32 original provisional license to a health care institution, it shall notify  
33 the owners and lessees of any agricultural land within one-fourth mile of the  
34 health care institution. The health care institution shall provide the  
35 department with the names and addresses of owners or lessees of agricultural  
36 land within one-fourth mile of the proposed health care institution.

37           ~~H~~. K. In addition to the grounds for denial of licensure prescribed  
38 pursuant to subsection A of this section, the director may deny a license  
39 because an applicant or anyone in a business relationship with the applicant,  
40 including stockholders and controlling persons, has had a license to operate  
41 a health care institution denied, revoked or suspended or a license or  
42 certificate issued by a health profession regulatory board pursuant to title  
43 32 or issued by a state agency pursuant to chapter 6, article 7 or chapter 17  
44 of this title denied, revoked or suspended or has a licensing history of

1 recent serious violations occurring in this state or in another state that  
2 posed a direct risk to the life, health or safety of patients or residents.

3 ~~I~~ L. In addition to the requirements of this chapter, the director  
4 may prescribe by rule other licensure requirements and may prescribe  
5 procedures for conducting investigations into an applicant's character and  
6 qualifications.

7 Sec. 4. Section 36-882, Arizona Revised Statutes, is amended to read:  
8 36-882. License; posting; transfer prohibited; fee; provisional  
9 license; renewal

10 A. A child care facility shall not receive any child for care,  
11 supervision or training unless the facility is licensed by the department of  
12 health services.

13 B. An application for a license shall be made on a WRITTEN OR  
14 ELECTRONIC form prescribed by the department and shall include all  
15 information required by the department including:

16 1. INFORMATION REQUIRED BY THE DEPARTMENT FOR THE PROPER  
17 ADMINISTRATION OF THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

18 ~~I~~ 2. The name and business or residential address of each  
19 controlling person. ~~and~~

20 3. An affirmation by the applicant that no controlling person has been  
21 denied a certificate to operate a child care group home or a license to  
22 operate a child care facility for the care of children in this state or  
23 another state or has had a license to operate a child care facility or a  
24 certificate to operate a child care group home revoked for reasons that  
25 relate to the endangerment of the health and safety of children.

26 ~~2. The names and addresses of the owners and lessees of any~~  
27 ~~agricultural land within one fourth mile of the facility. Within ten days of~~  
28 ~~receipt of an application for a license, the department shall notify the~~  
29 ~~owners and lessees of agricultural land as listed on the application.~~

30 ~~C. On application for a license the department shall investigate the~~  
31 ~~applicant's physical space, activities and standards of care. If the~~  
32 ~~department is satisfied that the applicant and the applicant's facility are~~  
33 ~~in substantial compliance with the requirements of this article and the~~  
34 ~~facility agrees to carry out a plan acceptable to the director to eliminate~~  
35 ~~any deficiencies, the department shall issue a regular license. If the~~  
36 ~~facility's director changes, the department may require the regular license~~  
37 ~~to revert to a provisional license for a period of not to exceed six months.~~  
38 ~~The department shall issue a regular license on satisfactory completion of~~  
39 ~~the provisional period for the remainder of the licensure period. The~~  
40 ~~department may issue a provisional license for a period not to exceed six~~  
41 ~~months to a child care facility that is temporarily unable to maintain~~  
42 ~~substantial compliance with the established standards and does not threaten~~  
43 ~~the health or safety of children. A provisional license shall state the~~  
44 ~~reason for provisional status.~~

1 C. AN APPLICATION FOR AN INITIAL LICENSE SHALL INCLUDE:

2 1. THE FORM REQUIRED PURSUANT TO SECTION 36-883.02, SUBSECTION C THAT  
3 IS COMPLETED BY THE APPLICANT.

4 2. A COPY OF A VALID FINGERPRINT CLEARANCE CARD ISSUED TO THE  
5 APPLICANT PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

6 3. IF THE APPLICANT'S FACILITY IS LOCATED WITHIN ONE-FOURTH MILE OF  
7 ANY AGRICULTURAL LAND, THE NAMES AND ADDRESSES OF THE OWNERS AND LESSEES OF  
8 THE AGRICULTURAL LAND AND A COPY OF THE AGREEMENT REQUIRED PURSUANT TO  
9 SUBSECTION D OF THIS SECTION.

10 D. The department shall deny any license that affects agricultural  
11 land regulated pursuant to section 3-365, except that the owner of the  
12 agricultural land may agree to comply with the buffer zone requirements of  
13 section 3-365. If the owner agrees in writing to comply with the buffer zone  
14 requirements and records the agreement in the office of the county recorder  
15 as a restrictive covenant running with the title to the land, the department  
16 may license the child care facility to be located within the affected buffer  
17 zone. The agreement may include any stipulations regarding the child care  
18 facility, including conditions for future expansion of the facility and  
19 changes in the operational status of the facility that will result in a  
20 breach of the agreement. This subsection shall not apply to the issuance or  
21 renewal of a license for a child care facility located in the same location  
22 for which a child care facility license was previously issued.

23 ~~E. An applicant for a license shall submit the notarized form required~~  
24 ~~pursuant to section 36-883.02 with the application and shall have a valid~~  
25 ~~fingerprint clearance card issued pursuant to title 41, chapter 12, article~~  
26 ~~3.1.~~

27 E. ON RECEIPT OF AN APPLICATION FOR AN INITIAL LICENSE, THE DEPARTMENT  
28 SHALL INSPECT THE APPLICANT'S PHYSICAL SPACE, ACTIVITIES AND STANDARDS OF  
29 CARE. IF THE DEPARTMENT DETERMINES THAT THE APPLICANT AND THE APPLICANT'S  
30 FACILITY ARE IN SUBSTANTIAL COMPLIANCE WITH THIS CHAPTER AND RULES ADOPTED  
31 PURSUANT TO THIS CHAPTER AND THE APPLICANT AGREES TO CARRY OUT A PLAN  
32 ACCEPTABLE TO THE DEPARTMENT TO ELIMINATE ANY DEFICIENCIES, THE DEPARTMENT  
33 SHALL ISSUE AN INITIAL LICENSE TO THE APPLICANT.

34 F. The fee for an initial application for licensure is one hundred  
35 fifty dollars and is not refundable. The application fee is for the first  
36 full licensure period, including any provisional period. The application fee  
37 for renewal of a license is one hundred fifty dollars and is not refundable.  
38 An applicant for renewal who fails to submit the application forty-five days  
39 before the expiration of the license is subject to a fifty dollar late filing  
40 fee. The department shall deposit, pursuant to sections 35-146 and 35-147,  
41 late filing fees in the state general fund.

42 G. A license is valid for three years from the date of issuance and  
43 shall specify the following:

44 1. The name of the applicant.

45 2. The exact address where the applicant will locate the facility.

1           3. The maximum number and age limitations of children that shall be  
2     cared for at any one time.

3           4. The classification of services that the facility is licensed to  
4     provide.

5           H. THE DEPARTMENT MAY ISSUE A PROVISIONAL LICENSE, NOT TO EXCEED SIX  
6     MONTHS, TO AN APPLICANT OR A LICENSED CHILD CARE FACILITY IF:

7           1. THE FACILITY CHANGES DIRECTOR.

8           2. THE DEPARTMENT DETERMINES THAT AN APPLICANT FOR AN INITIAL LICENSE  
9     OR A LICENSED CHILD CARE FACILITY IS NOT IN SUBSTANTIAL COMPLIANCE WITH THIS  
10    CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER AND THE IMMEDIATE  
11    INTERESTS OF CHILDREN, FAMILIES AND THE GENERAL PUBLIC ARE BEST SERVED IF THE  
12    CHILD CARE FACILITY OR THE APPLICANT IS GIVEN AN OPPORTUNITY TO CORRECT  
13    DEFICIENCIES.

14          I. A PROVISIONAL LICENSE SHALL STATE THE REASON FOR THE PROVISIONAL  
15     STATUS.

16          J. ON THE EXPIRATION OF A PROVISIONAL LICENSE, THE DEPARTMENT SHALL  
17     ISSUE A REGULAR LICENSE FOR THE REMAINDER OF THE LICENSE PERIOD IF THE  
18     DEPARTMENT DETERMINES THAT THE LICENSEE AND THE CHILD CARE FACILITY ARE IN  
19     SUBSTANTIAL COMPLIANCE WITH THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS  
20     CHAPTER AND THE APPLICANT AGREES TO CARRY OUT A PLAN ACCEPTABLE TO THE  
21     DEPARTMENT TO ELIMINATE ANY DEFICIENCIES.

22          K. EXCEPT AS PROVIDED IN SECTION 36-893, SUBSECTION A, ON RECEIPT OF A  
23     RENEWAL APPLICATION THAT COMPLIES WITH THIS CHAPTER AND RULES ADOPTED  
24     PURSUANT TO THIS CHAPTER, THE DEPARTMENT SHALL ISSUE A RENEWAL LICENSE TO THE  
25     CHILD CARE FACILITY.

26          ~~H~~ L. The licensee shall notify the department in writing within ten  
27     days of any change in the child care facility's director.

28          ~~I~~ M. The license is not transferable from person to person and is  
29     valid only for the quarters occupied at the time of issuance.

30          ~~J~~ N. The license shall be conspicuously posted in the child care  
31     facility.

32          ~~K~~ O. The licensee shall conspicuously post a schedule of fees  
33     charged for services and the established policy for a refund of fees for  
34     services not rendered.

35          ~~L~~ P. The licensee shall keep current department inspection reports  
36     at the child care facility and shall make them available to parents on  
37     request. The licensee shall conspicuously post a notice that identifies the  
38     location where these inspection reports are available for review.

39          ~~M~~ Q. The department of health services shall notify the department  
40     of public safety if the department of health services receives credible  
41     evidence that a licensee who possesses a valid fingerprint clearance card  
42     either:

43           1. Is arrested for or charged with an offense listed in section  
44     41-1758.03, subsection B.

1           2. Falsified information on the ANY form required by ~~subsection E of~~  
2 ~~this~~ section 36-883.02.

3           Sec. 5. Section 36-883.02, Arizona Revised Statutes, is amended to  
4 read:

5           36-883.02. Child care personnel; fingerprints; exemptions;  
6                                   definition

7           A. Except as provided in subsection B of this section, child care  
8 personnel, including volunteers, shall submit the form prescribed in  
9 subsection C of this section to the employer and shall have valid fingerprint  
10 clearance cards issued pursuant to title 41, chapter 12, article 3.1 or shall  
11 apply for a fingerprint clearance card within seven working days of  
12 employment or beginning volunteer work.

13           B. Exempt from the fingerprinting requirements of subsection A of this  
14 section are parents, including foster parents and guardians, who are not  
15 employees of the child care facility and who participate in activities with  
16 their children under the supervision of and in the presence of child care  
17 personnel.

18           C. APPLICANTS, LICENSEES AND child care personnel shall ~~certify~~ ATTEST  
19 on forms that are provided by the department and ~~notarized~~ that:

20           1. They are not awaiting trial on or have never been convicted of or  
21 admitted in open court or pursuant to a plea agreement committing any of the  
22 offenses listed in section 41-1758.03, subsection B in this state or similar  
23 offenses in another state or jurisdiction.

24           2. They are not parents or guardians of a child adjudicated to be a  
25 dependent child as defined in section 8-201.

26           3. They have not been denied or had revoked a certificate to operate a  
27 child care group home or a license to operate a child care facility in this  
28 or any other state or that they have not been denied or had revoked a  
29 certification to work in a child care facility or child care group home.

30           D. Employers of child care personnel shall make documented, good faith  
31 efforts to contact previous employers of child care personnel to obtain  
32 information or recommendations that may be relevant to an individual's  
33 fitness for employment in a child care facility.

34           E. The ~~notarized~~ forms REQUIRED BY SUBSECTION C OF THIS SECTION are  
35 confidential.

36           F. A child care facility shall not allow a person to be employed or  
37 volunteer in the facility in any capacity if the person has been denied a  
38 fingerprint clearance card pursuant to title 41, chapter 12, article 3.1 or  
39 has not received an interim approval from the board of fingerprinting  
40 pursuant to section 41-619.55, subsection I.

41           G. The employer shall notify the department of public safety if the  
42 employer receives credible evidence that any child care personnel either:

43           1. Is arrested for or charged with an offense listed in section  
44 41-1758.03, subsection B.



1 agreement. This subsection applies to the renewal of a certification  
2 CERTIFICATE for a child care group home located in the same location if the  
3 child care group home ~~certification~~ CERTIFICATE was not previously issued  
4 under this subsection.

5 C. An application FOR AN INITIAL CERTIFICATE shall be accompanied by a  
6 nonrefundable application fee of thirty dollars.

7 D. The department shall issue ~~a~~ AN INITIAL certificate if the  
8 department determines that the applicant and the applicant's child care group  
9 home are in substantial compliance with the requirements of this article and  
10 department rules and the facility agrees to carry out a plan acceptable to  
11 the director to eliminate any deficiencies.

12 E. A certificate is valid for three years and may be renewed for  
13 successive three-year periods by submitting ~~an~~ A RENEWAL application ~~for~~  
14 ~~recertification~~ as prescribed by the department and submitting a  
15 nonrefundable renewal APPLICATION fee of thirty dollars. An applicant for  
16 ~~certification~~ renewal who fails to submit the application forty-five days  
17 before the expiration of the certificate is subject to a twenty-five dollar  
18 late filing fee. Late filing fees collected pursuant to this subsection  
19 shall be deposited, pursuant to sections 35-146 and 35-147, in the state  
20 general fund.

21 F. In order to ensure that the equipment and services of a child care  
22 group home and the good character of an applicant are conducive to the  
23 welfare of children, the department by rule shall establish the criteria for  
24 granting, denying, suspending and revoking a certificate.

25 G. The director shall adopt rules and prescribe forms as may be  
26 necessary for the proper administration and enforcement of this article.

27 H. The certificate shall be conspicuously posted in the child care  
28 group home for viewing by parents and the public.

29 I. Current department inspection reports shall be kept at the child  
30 care group home and shall be made available to parents on request.

31 J. A certificate is not transferable and is valid only for the  
32 location occupied at the time it is issued.

33 ~~K. An applicant for a child care group home certificate shall submit~~  
34 ~~the notarized form required pursuant to section 36-897.03, subsection B with~~  
35 ~~the application and shall have a valid fingerprint clearance card issued~~  
36 ~~pursuant to title 41, chapter 12, article 3.1. Certification of the home and~~  
37 ~~registration of the applicant are conditioned on receipt of the notarized~~  
38 ~~form and possession of a valid fingerprint clearance card by the applicant.~~

39 K. AN APPLICATION FOR AN INITIAL CERTIFICATE SHALL INCLUDE:

40 1. THE FORM REQUIRED PURSUANT TO SECTION 36-897.03, SUBSECTION B THAT  
41 IS COMPLETED BY THE APPLICANT.

42 2. A COPY OF A VALID FINGERPRINT CLEARANCE CARD ISSUED TO THE  
43 APPLICANT PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

44 L. EXCEPT AS PROVIDED IN SECTION 36-897.10, SUBSECTION A, ON RECEIPT  
45 OF A RENEWAL APPLICATION THAT COMPLIES WITH THIS CHAPTER AND RULES ADOPTED

1 PURSUANT TO THIS CHAPTER, THE DEPARTMENT SHALL ISSUE A RENEWAL CERTIFICATE TO  
2 THE CHILD CARE GROUP HOME.

3 ~~+~~ M. The department of health services shall notify the department  
4 of public safety if the department of health services receives credible  
5 evidence that a person who possesses a valid fingerprint clearance card  
6 either:

7 1. Is arrested for or charged with an offense listed in section  
8 41-1758.03, subsection B.

9 2. Falsified information on the ANY form required by ~~subsection K of~~  
10 ~~this~~ section 36-897.03.

11 Sec. 8. Section 36-897.03, Arizona Revised Statutes, is amended to  
12 read:

13 36-897.03. Child care group homes; child care personnel;  
14 fingerprints; definition

15 A. Child care personnel, including volunteers, shall submit the form  
16 prescribed in subsection B of this section to the employer and shall have  
17 valid fingerprint clearance cards issued pursuant to title 41, chapter 12,  
18 article 3.1 or shall apply for a fingerprint clearance card within seven  
19 working days of employment or beginning volunteer work.

20 B. APPLICANTS, CERTIFICATE HOLDERS AND child care personnel shall  
21 ~~certify~~ ATTEST on forms that are provided by the department ~~and notarized~~  
22 that:

23 1. They are not awaiting trial on or have never been convicted of or  
24 admitted in open court or pursuant to a plea agreement committing any of the  
25 offenses listed in section 41-1758.03, subsection B or C in this state or  
26 similar offenses in another state or jurisdiction.

27 2. They are not parents or guardians of a child adjudicated to be a  
28 dependent child as defined in section 8-201.

29 3. They have not been denied a certificate to operate a child care  
30 group home or a license to operate a child care facility for the care of  
31 children in this state or another state or had a license to operate a child  
32 care facility or a certificate to operate a child care group home revoked for  
33 reasons that relate to the endangerment of the health and safety of children.

34 C. The provider shall make documented, good faith efforts to contact  
35 previous employers of child care personnel to obtain information or  
36 recommendations that may be relevant to an individual's fitness to work in a  
37 certified child care group home.

38 D. The director may adopt rules prescribing the exclusion from child  
39 care group homes of individuals whose presence may be detrimental to the  
40 welfare of children.

41 E. The ~~notarized~~ forms REQUIRED BY SUBSECTION B OF THIS SECTION are  
42 confidential.

43 F. A person who is awaiting trial on or who has been convicted of or  
44 who has admitted in open court or pursuant to a plea agreement to committing  
45 a criminal offense listed in section 41-1758.03, subsection B or subsection

1 B, paragraph 2 or 3 of this section is prohibited from ~~being registered as~~  
2 ~~child care personnel and from~~ being employed in any capacity in a child care  
3 group home.

4 G. A person who is awaiting trial on or who has been convicted of or  
5 who has admitted in open court or pursuant to a plea agreement to committing  
6 a criminal offense listed in section 41-1758.03, subsection C shall not work  
7 in a child care group home without direct visual supervision unless the  
8 person has applied for and received the required fingerprint clearance card  
9 pursuant to section 41-1758 and is registered as child care personnel. A  
10 person who is subject to this subsection shall not be employed in any  
11 capacity in a child care group home if that person is denied the required  
12 fingerprint clearance card.

13 H. The employer shall notify the department of public safety if the  
14 employer receives credible evidence that any child care personnel either:

15 1. Is arrested for or charged with an offense listed in section  
16 41-1758.03, subsection B.

17 2. Falsified information on the form required by subsection B of this  
18 section.

19 I. For the purposes of this section, "child care personnel" means all  
20 employees of and persons who are eighteen years of age or older and who  
21 reside in a child care group home that is certified by the department.

22 Sec. 9. Section 36-897.10, Arizona Revised Statutes, is amended to  
23 read:

24 36-897.10. Pending action or sale; effect on licensure

25 A. The department shall not ~~accept~~ ACT ON an application for  
26 certification of a currently certified ~~day~~ CHILD care group home while any  
27 enforcement or court action related to ~~day~~ CHILD care group home ~~licensure~~  
28 CERTIFICATION is pending against that ~~center's~~ GROUP HOME'S current ~~licensee~~  
29 CERTIFICATE HOLDER.

30 B. The director may continue to pursue any court, administrative or  
31 enforcement action against the certificate holder even if the group home is  
32 in the process of being sold or transferred to a new owner.

33 C. The department shall not approve a change in group home ownership  
34 unless it determines that there has been a transfer of legal and equitable  
35 interests, control and authority in the group home so that persons other than  
36 the transferring ~~licensee~~ CERTIFICATE HOLDER, that ~~licensee's~~ CERTIFICATE  
37 HOLDER'S agent or other parties exercising authority or supervision over the  
38 ~~center's~~ GROUP HOME'S daily operations or staff are responsible for and have  
39 control over the group home.

40 Sec. 10. Emergency

41 This act is an emergency measure that is necessary to preserve the  
42 public peace, health or safety and is operative immediately as provided by  
43 law.

APPROVED BY THE GOVERNOR APRIL 22, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 2008.