



STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

April 4, 2017

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 1st Regular Session, which I signed on April 4, 2017:

HB 2196 - residential care institutions; employment (Carter)
HB 2200 - community notification; form of notice (Carter)
HB 2205 - DHS; commission; task force; repeal (Carter)
SB 1098 - schools; statewide assessment (S. Allen)

Sincerely,

A handwritten signature in black ink that reads "Douglas A. Ducey".

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

House Engrossed

FILED

MICHELE REAGAN
SECRETARY OF STATE

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

CHAPTER 134
HOUSE BILL 2196

AN ACT

AMENDING SECTION 36-401, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-411.01; RELATING TO HEALTH CARE INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-401, Arizona Revised Statutes, is amended to
3 read:

4 36-401. Definitions; adult foster care

5 A. In this chapter, unless the context otherwise requires:

6 1. "Accredited health care institution" means a health care
7 institution, other than a hospital, that is currently accredited by a
8 nationally recognized accreditation organization.

9 2. "Accredited hospital" means a hospital that is currently
10 accredited by a nationally recognized organization on hospital
11 accreditation.

12 3. "Adult day health care facility" means a facility that provides
13 adult day health services during a portion of a continuous
14 twenty-four-hour period for compensation on a regular basis for five or
15 more adults who are not related to the proprietor.

16 4. "Adult day health services" means a program that provides
17 planned care supervision and activities, personal care, personal living
18 skills training, meals and health monitoring in a group setting during a
19 portion of a continuous twenty-four-hour period. Adult day health
20 services may also include preventive, therapeutic and restorative
21 health-related services that do not include behavioral health services.

22 5. "Adult foster care home" means a residential setting that
23 provides room and board and adult foster care services for at least one
24 and no more than four adults who are participants in the Arizona long-term
25 care system pursuant to chapter 29, article 2 of this title or contracts
26 for services with the United States department of veterans affairs and in
27 which the sponsor or the manager resides with the residents and integrates
28 the residents who are receiving adult foster care into that person's
29 family.

30 6. "Adult foster care services" means supervision, assistance with
31 eating, bathing, toileting, dressing, self-medication and other routines
32 of daily living or services authorized by rules adopted pursuant to
33 section 36-405 and section 36-2939, subsection C.

34 7. "Assisted living center" means an assisted living facility that
35 provides resident rooms or residential units to eleven or more residents.

36 8. "Assisted living facility" means a residential care institution,
37 including an adult foster care home, that provides or contracts to provide
38 supervisory care services, personal care services or directed care
39 services on a continuous basis.

40 9. "Assisted living home" means an assisted living facility that
41 provides resident rooms to ten or fewer residents.

42 10. "Behavioral health services" means services that pertain to
43 mental health and substance use disorders and that are either:

1 (a) Performed by or under the supervision of a professional who is
2 licensed pursuant to title 32 and whose scope of practice allows for the
3 provision of these services.

4 (b) Performed on behalf of patients by behavioral health staff as
5 prescribed by rule.

6 11. "Construction" means the building, erection, fabrication or
7 installation of a health care institution.

8 12. "Continuous" means available at all times without cessation,
9 break or interruption.

10 13. "Controlling person" means a person who:

11 (a) Through ownership, has the power to vote at least ten percent
12 of the outstanding voting securities.

13 (b) If the applicant or licensee is a partnership, is the general
14 partner or a limited partner who holds at least ten percent of the voting
15 rights of the partnership.

16 (c) If the applicant or licensee is a corporation, an association
17 or a limited liability company, is the president, the chief executive
18 officer, the incorporator or any person who owns or controls at least ten
19 percent of the voting securities. For the purposes of this subdivision,
20 corporation does not include nonprofit corporations.

21 (d) Holds a beneficial interest in ten percent or more of the
22 liabilities of the applicant or the licensee.

23 14. "Department" means the department of health services.

24 15. "Directed care services" means programs and services, including
25 supervisory and personal care services, that are provided to persons who
26 are incapable of recognizing danger, summoning assistance, expressing need
27 or making basic care decisions.

28 16. "Direction" means authoritative policy or procedural guidance
29 for the accomplishment of a function or activity.

30 17. "Director" means the director of the department of health
31 services.

32 18. "Facilities" means buildings that are used by a health care
33 institution for providing any of the types of services as defined in this
34 chapter.

35 19. "Freestanding urgent care center":

36 (a) Means an outpatient treatment center that, regardless of its
37 posted or advertised name, meets any of the following requirements:

38 (i) Is open twenty-four hours a day, excluding at its option
39 weekends or certain holidays, but is not licensed as a hospital.

40 (ii) Claims to provide unscheduled medical services not otherwise
41 routinely available in primary care physician offices.

42 (iii) By its posted or advertised name, gives the impression to the
43 public that it provides medical care for urgent, immediate or emergency
44 conditions.

1 (iv) Routinely provides ongoing unscheduled medical services for
2 more than eight consecutive hours for an individual patient.

3 (b) Does not include the following:

4 (i) A medical facility that is licensed under a hospital's license
5 and that uses the hospital's medical provider number.

6 (ii) A qualifying community health center pursuant to section
7 36-2907.06.

8 (iii) Any other health care institution licensed pursuant to this
9 chapter.

10 (iv) A physician's office that offers extended hours or same-day
11 appointments to existing and new patients and that does not meet the
12 requirements of subdivision (a), item (i), (iii) or (iv) of this
13 paragraph.

14 20. "Governing authority" means the individual, agency, partners,
15 group or corporation, appointed, elected or otherwise designated, in which
16 the ultimate responsibility and authority for the conduct of the health
17 care institution are vested.

18 21. "Health care institution" means every place, institution,
19 building or agency, whether organized for profit or not, that provides
20 facilities with medical services, nursing services, behavioral health
21 services, health screening services, other health-related services,
22 supervisory care services, personal care services or directed care
23 services and includes home health agencies as defined in section 36-151,
24 outdoor behavioral health care programs and hospice service agencies.
25 Health care institution does not include a community residential setting
26 as defined in section 36-551.

27 22. "Health-related services" means services, other than medical,
28 that pertain to general supervision, protective, preventive and personal
29 care services, supervisory care services or directed care services.

30 23. "Health screening services" means the acquisition, analysis and
31 delivery of health-related data of individuals to aid in the determination
32 of the need for medical services.

33 24. "Hospice" means a hospice service agency or the provision of
34 hospice services in an inpatient facility.

35 25. "Hospice service" means a program of palliative and supportive
36 care for terminally ill persons and their families or caregivers.

37 26. "Hospice service agency" means an agency or organization, or a
38 subdivision of that agency or organization, that is engaged in providing
39 hospice services at the place of residence of its clients.

40 27. "Inpatient beds" or "resident beds" means accommodations with
41 supporting services, such as food, laundry and housekeeping, for patients
42 or residents who generally stay in excess of twenty-four hours.

1 28. "Licensed capacity" means the total number of persons for whom
2 the health care institution is authorized by the department to provide
3 services as required pursuant to this chapter if the person is expected to
4 stay in the health care institution for more than twenty-four hours. For
5 a hospital, licensed capacity means only those beds specified on the
6 hospital license.

7 29. "Medical services" means the services that pertain to medical
8 care and that are performed at the direction of a physician on behalf of
9 patients by physicians, dentists, nurses and other professional and
10 technical personnel.

11 30. "Modification" means the substantial improvement, enlargement,
12 reduction or alteration of or other change in a health care institution.

13 31. "Nonproprietary institution" means any health care institution
14 that is organized and operated exclusively for charitable purposes, no
15 part of the net earnings of which inures to the benefit of any private
16 shareholder or individual, or that is operated by the state or any
17 political subdivision of the state.

18 32. "Nursing care institution" means a health care institution that
19 provides inpatient beds or resident beds and nursing services to persons
20 who need continuous nursing services but who do not require hospital care
21 or direct daily care from a physician.

22 33. "Nursing services" means those services that pertain to the
23 curative, restorative and preventive aspects of nursing care and that are
24 performed at the direction of a physician by or under the supervision of a
25 registered nurse licensed in this state.

26 34. "Organized medical staff" means a formal organization of
27 physicians, and dentists where appropriate, with the delegated authority
28 and responsibility to maintain proper standards of medical care and to
29 plan for continued betterment of that care.

30 35. "Outdoor behavioral health care program" means an agency that
31 provides behavioral health services in an outdoor environment as an
32 alternative to behavioral health services that are provided in a health
33 care institution with facilities. Outdoor behavioral health care programs
34 do not include:

35 (a) Programs, facilities or activities that are operated by a
36 government entity or that are licensed by the department as a child care
37 program pursuant to chapter 7.1 of this title.

38 (b) Outdoor activities for youth that are designated to be
39 primarily recreational and that are organized by church groups, scouting
40 organizations or similar groups.

41 (c) Outdoor youth programs licensed by the department of economic
42 security.

1 36. "Personal care services" means assistance with activities of
2 daily living that can be performed by persons without professional skills
3 or professional training and includes the coordination or provision of
4 intermittent nursing services and the administration of medications and
5 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or
6 as otherwise provided by law.

7 37. "Physician" means any person who is licensed pursuant to title
8 32, chapter 13 or 17.

9 38. "RECIDIVISM REDUCTION SERVICES" MEANS SERVICES THAT ARE
10 DELIVERED BY AN ADULT RESIDENTIAL CARE INSTITUTION TO ITS RESIDENTS TO
11 ENCOURAGE LAWFUL BEHAVIOR AND TO DISCOURAGE OR PREVENT RESIDENTS WHO ARE
12 SUSPECTED OF, CHARGED WITH OR CONVICTED OF ONE OR MORE CRIMINAL OFFENSES,
13 OR WHOSE MENTAL HEALTH AND SUBSTANCE USE CAN BE REASONABLY EXPECTED TO
14 PLACE THEM AT RISK FOR THE FUTURE THREAT OF PROSECUTION, DIVERSION OR
15 INCARCERATION, FROM ENGAGING IN FUTURE UNLAWFUL BEHAVIOR.

16 39. "RECIDIVISM REDUCTION STAFF" MEANS A PERSON WHO PROVIDES
17 RECIDIVISM REDUCTION SERVICES.

18 ~~38.~~ 40. "Residential care institution" means a health care
19 institution other than a hospital or a nursing care institution that
20 provides resident beds or residential units, supervisory care services,
21 personal care services, behavioral health services, directed care services
22 or health-related services for persons who do not need continuous nursing
23 services.

24 ~~39.~~ 41. "Residential unit" means a private apartment, unless
25 otherwise requested by a resident, that includes a living and sleeping
26 space, kitchen area, private bathroom and storage area.

27 ~~40.~~ 42. "Respite care services" means services that are provided by
28 a licensed health care institution to persons otherwise cared for in
29 foster homes and in private homes to provide an interval of rest or relief
30 of not more than thirty days to operators of foster homes or to family
31 members.

32 ~~41.~~ 43. "Substantial compliance" means that the nature or number of
33 violations revealed by any type of inspection or investigation of a health
34 care institution does not pose a direct risk to the life, health or safety
35 of patients or residents.

36 ~~42.~~ 44. "Supervision" means direct overseeing and inspection of the
37 act of accomplishing a function or activity.

38 ~~43.~~ 45. "Supervisory care services" means general supervision,
39 including daily awareness of resident functioning and continuing needs,
40 the ability to intervene in a crisis and assistance in the
41 self-administration of prescribed medications.

42 ~~44.~~ 46. "Temporary license" means a license that is issued by the
43 department to operate a class or subclass of a health care institution at
44 a specific location and that is valid until an initial licensing
45 inspection.

1 Sec. 3. Recidivism reduction staff; employment continued
2 Until the department of health services adopts rules required by
3 section 36-411.01, Arizona Revised Statutes, as added by this act, a
4 recidivism reduction staff member may continue to provide recidivism
5 reduction services at an adult residential care institution if the
6 institution complies with the requirements prescribed in section
7 36-411.01, Arizona Revised Statutes, as added by this act, and conducts a
8 background and screening evaluation on the recidivism reduction staff
9 member that demonstrates that the staff member is not a threat to the
10 health or safety of staff or residents of the adult residential care
11 institution.

APPROVED BY THE GOVERNOR APRIL 4, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 4, 2017.

Passed the House February 22, 2017

Passed the Senate March 30, 2017

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House
 Pro Tempore

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

30th day of March, 2017

at 1:11 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 4th day of

April, 2017

at 10:48 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 4 day of April, 2017

at 4:47 o'clock P. M.

[Signature]
Secretary of State

H.B. 2196